

WORLD TRADE ORGANIZATION

RESTRICTED

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Negotiating Group on Trade Facilitation

SUMMARY MINUTES OF THE MEETING

Held in the Centre William Rappard
on 15-16 February 2006

Chairman: Mr. Tony Miller (Hong Kong, China)

1. The Chairman explained that the main purpose of the meeting was to provide delegations with another opportunity to contribute on the agreed agenda of the Group, both in terms of offering new input and reacting to the contributions previously received. Furthermore, Members would be invited to admit relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank, to attend the next meeting of the Group on an ad hoc basis.
2. The agenda was adopted.
- A. CONTRIBUTIONS ON THE AGREED AGENDA OF THE NEGOTIATING GROUP
3. The Chairman said that under the first item, delegations were invited to contribute on the Group's agenda, as contained in the Work Plan and reflected in the airgram convening the session. Members would recall the agreement on it covering all elements of the negotiating mandate, with work proceeding on the basis of Members' contributions and other input that the Negotiating Group (NG) might request. He understood that his predecessor had paid great attention to the Member-driven nature of the body and its inclusive way of operation, and wished to take the opportunity to assure Members of that being his philosophy as well.
4. Members would have all seen the written contributions prepared for the present meeting, several of which had already been listed in the airgram (TN/TF/W/70, W/73-76). More submissions had been tabled the previous week, circulated as TN/TF/W/77-W/79. They would all be introduced by their sponsors at the beginning of the discussions, after which there would be time for Members to react.
5. In structuring the discussions, he wished to start with Members' new propositions on how to clarify and improve Articles V, VIII and X of the GATT before then taking up a national experience paper and input on technical assistance and S&D. Being aware of the cross-cutting nature of practically all contributions, he wished to allow for a maximum of flexibility and the addressing of multiple aspects at the same time.
6. The representative of Chile introduced Chile's submission TN/TF/W/70 that had first been presented in October 2005. The dynamics of the discussions prior to the Hong Kong Ministerial Conference had prevented the document from being discussed at that time. Given the current stage of the negotiations and also the fact that Members had to present specific texts rather than submissions containing general objectives, Chile had taken the decision not to formally present its submission at the present meeting of the Group. Chile's proposal did contain objectives that were of a more general

nature and Chile therefore did not wish to present its communication formally. Of course, if any delegation had comments or points to make on the communication, they would be transmitted to capital so that queries could quickly be responded to.

7. The representative of India thanked Chile for its paper and commented that several recent proposals were in fact reflections on or an echo of proposals that had already been made earlier by other Members. India sought clarification on two points. First, with reference to paragraph 4 and section III(a), where a suggestion was made to implement a public register of all administrative costs and transport charges and also a register of all services connected with important export operations, India wished to have more elaboration on the idea of a register. Was it a different way of conveying information on fees and charges that earlier proposals had said should be made available on the Internet, or was the idea something more than that. Second, India wished to have more clarification regarding the Single Window system to which some proposals referred. His delegation would appreciate if the proponents of a Single Window system, including Chile, could share their experience with regard to how they had implemented this sort of system and what challenges they had faced.

8. The representative of Argentina said that, despite the fact that Chile's contribution was of a general nature, Argentina considered it to be a very comprehensive and useful submission. Like India, Argentina also wanted to know a bit more about how a public register would work and what the link was with the possibility of publishing this on the Internet. His delegation also had two further requests for clarification. The first related to the website referred to in Section IV:A:1 of TN/TF/W/70. Argentina wanted to know whether, when mention was made of the creation of an international coordination centre and a national coordination point, Chile was speaking about creating a system similar to that existing in other trade agreements – such as that on technical barriers to trade – or whether it was something in addition to that. Would the national coordination point be prescribed by a multilateral standard or would it be left to the discretion of each Member in terms of implementation. Argentina also wished to know whether there was any connection between this national centre and having interested Members raise questions or comments. Was there any connection with advance rulings and how would that link operate?

9. On the establishment of a register and confidentiality (section IV:A:3), Members had already discussed publishing regulations, formats and specific procedures which fell into this area. Mention was made of non-disclosure of a publication, but it was not really clear what that signified. It would seem to be a contradiction if legislation was not made public. How was that confidentiality established and what type of information was confidential?

10. The representative of Bolivia said that Bolivia's authorities had some concerns regarding Chile's submission that they wished to be conveyed to the Chilean authorities. First, regarding the public register, as also addressed by India and Argentina, Bolivia wished to know a bit more about how the proposal would actually work. On import and export procedures (section III:B:6), the question was whether this suggestion was just for import or export or whether it also applied to customs transit. As for section IV, like Argentina, Bolivia was concerned about the characteristics of a national coordination centre. In Section IV:2, paragraph 9, reference was made to the establishment of contact points and consultation mechanisms and to the laying down of procedures and timeframes for responses. Would these procedures take place prior to the adoption of the rule or afterwards, in other words, *ex ante* or *ex post*?

11. The representative of Korea said that the TF negotiations were one of the crucial parts of the DDA negotiations. Chile's proposal covered most of the pertinent issues of GATT Articles V, VIII and X, which had also previously been raised by other Members, including Korea. In general, Korea supported the proposal, which appropriately addressed many concerns and difficulties faced by ordinary traders. Korea, however, wished to make some comments and also raise questions on the proposal. Concerning paragraph 2 on the establishment of precise routes and periods for transit

within entry and exit points, Korea believed that, as described in the paper, this was very useful and practical in terms of increasing predictability and transparency while controlling cross-border traffic. Korea looked forward to discussing these issues in more detail. There should be some publication of specific routes, periods and fees for transit. However, once the routes were established and published, traders should be given the freedom to choose the specific route, taking into account the urgency and causes, and the period for transit should be reasonably long enough.

12. Korea also had a question similar to the one raised by India and Argentina regarding the operation of a public register. Another question concerned paragraph 5 of Chile's submission concerning international cooperation assistance agreements. Korea believed that coordination and cooperation assistance among Members' authorities, especially customs, clearly contributed to facilitating trade. Many bilateral and multilateral channels had already been established, including in the WCO, and Korea would appreciate receiving more information on the character and the relationship the proposed international cooperation assistance agreements would have with existing agreements. Finally, Korea wished to seek some clarification on the difference between the national coordination point and contact point referred to in paragraph 9 of Chile's submission.

13. The representative of Hong Kong, China (HKC) appreciated the fact that Chile's submission TN/TF/W/70 covered various technical and practical issues with respect to proposals relating to Articles V, VIII and X.

14. With respect to Article V and the question of transit periods and routes, Hong Kong China was of the view that how traders chose their transit routes was solely a commercial decision. As circumstances might vary from one case to another, it would not be practical to establish precise routes and periods for transit between an entry and exit point. HKC believed Members were best placed to design their own domestic systems to cater for their individual transit needs.

15. On coordination, cooperation and assistance among agencies involved with transit, Chile had suggested that Members should work to conclude international cooperation and assistance agreements as a mechanism for achieving more efficient trade and increasing the ability to control illicit activities. HKC welcomed further discussion on this issue among Members' authorities, especially customs, to facilitate the flow of international trade. Nevertheless, HKC wished to have more details of whether it was appropriate to make accession to other international agreements a WTO commitment.

16. On Article VIII regarding fees and formalities, Chile had made a proposal on the cost of services rendered. Hong Kong China had some concerns regarding an obligation to notify all import and export-related fees charged by Members in connection with GATT Article VIII. This would create a considerable burden for Members. Hong Kong China felt that it would be more realistic and effective if Members notified their enquiry points and provided information regarding applicable fees.

17. As for the establishment of a register which was also connected with import and export operations, while HKC supported the proposal for periodic review of all services connected with import and export operations, it would also appreciate if more details on the objectives, criteria and administrative costs could be provided. HKC would also appreciate if the actual commitments could be more clearly defined to see whether they were practical.

18. On advance processing of customs declarations, Hong Kong China generally agreed that risk assessment could expedite customs clearance and enhance administrative efficiency. However, in order to facilitate further discussion, HKC looked forward to Chile providing more concrete, meaningful and enforceable commitments for clearance procedures based on risk assessment and other factors. In order to facilitate further discussion, HKC would appreciate if Chile could provide more concrete examples of the "other factors" mentioned in its submission.

19. Regarding the idea of a web page, which fell under Article X, HKC could generally support the idea of publishing trade regulations and procedures on Members' official websites and of establishing a national coordination point to enhance transparency and efficiency. HKC was willing to explore the idea of whether a reasonable, meaningful and enforceable WTO commitment could be established.

20. Finally, on commenting and consultation, and the proposal for the establishment of contact points, Hong Kong China could see the rationale for this but was wary that having too many contact points would simply defeat the purpose. A fine balance therefore had to be struck between operational efficiency and convenience to traders. HKC believed that the contact points should be officially designated points and that the contact details, the scope of responsibility, and type of information provided should be made known publicly. HKC would also appreciate Members sharing their experiences in implementing the relevant articles in the SPS and TBT Agreements.

21. The representative of China said that Chile's submission was very useful in the sense that it tried to reflect some of the important ideas and proposals already contained in other Members' submissions. As far as comments on the paper were concerned, China shared some of the points and concerns raised by previous delegations. From China's perspective, for example, one point of great interest was that the paper mentioned S&D treatment (SDT). Although this was an important aspect that should be appropriately addressed under each element of the proposal, it had not been taken up detail. China therefore wished to ask Chile to elaborate further on what specific ideas it had on S&D and how they could be appropriately addressed under each element of the proposal. China was aware of Members' various and diverse needs, priorities and capacities. Efforts towards SDT would be conducive to better understanding a possible commitment in the future.

22. Another question concerned the third bullet point of Section III:A on fees and charges, cost of services rendered and the establishment of a register of all services connected with import and export operations that would increase transparency and predictability of trade. Since similar or identical practices might exist in China already, in order to better understand the rationale for establishing such a register and the future requirements of other Members in this respect, China would appreciate if Chile could share its own experience on how this was being handled in Chile.

23. A final point concerned section III:C on advance processing of customs declarations. This concept was not completely new in the sense that similar concepts had been mentioned in some previous proposals by Members. The EU, for instance, had issued a paper on bound or guaranteed systems. What was needed were details of the concept proposed by Chile. For example, what conditions or pre-conditions were necessary for the establishment and normal operation and functioning of such a system?

24. The representative of the European Communities said that the Communities strongly supported virtually all of the proposals and ideas contained in Chile's submission. The paper presented many of the previously made proposals in an economic and summary form. On the issue of a register of services connected with imports and exports, his delegation had the same question that had already been raised by other delegations. As regards the question of freedom of transit and the right of operators to choose their most convenient route, the EC was not convinced that the absence of prescribed routes for transit constituted a barrier to trade. The EC was not convinced that Chile's proposal struck the right balance between the freedom of operators to choose the most convenient route for their goods on the one hand and the rights or obligations of governments to impose legitimate restrictions on that freedom of choice in given circumstances on the other. That point apart, the Communities could fully subscribe to the proposals in Chile's paper.

25. The representative of Chinese Taipei considered all proposals set out in Chile's paper to be very good, in particular regarding the idea concerning a Single Window, advance processing of

customs declarations and format for documentation. The idea of a webpage was very interesting as well. A question to be asked in that context was how this webpage idea could be better used. Although, generally speaking, Chinese Taipei could agree with and support the proposals in Chile's paper, it did have one question regarding the precise routes between entry and exit points and the preliminary thinking that shippers or transportation companies should be allowed to choose their own routes. Chinese Taipei was open to hearing more from Chile on this idea to see whether it might be a good idea, but its preliminary reaction was that it might not be useful to have a government regulate that.

26. The representative of Peru said that Chile's paper had generated a very productive debate. Overall, Peru could share most of the criteria set forth in the paper. Peru shared the doubts expressed by some others regarding the register mentioned in section II:B:4. But the importance of coordination mentioned in section II:C:5 was vital. However, as had been correctly interpreted by India, Peru also felt that the Group's work now should be focussing on how to clarify the issue of the Single Window, as mentioned in Section III:B:6 of Chile's paper. Peru, and others, had also tabled proposals on the Single Window and the NG now had to clarify its definition, components and elements. Furthermore, the basic elements of the proposals had to be defined, common ground had to be pinpointed and guiding principles had to be established, so that, in due course, the Group could arrive at, and agree on, a text on trade facilitation (TF). Three basic elements regarding the Single Window were referred to by Chile, namely, (i) an "electronic" Single Window for submitting information (ii) "once only" and (iii) to a single authority.

27. When the compilation paper was reviewed later on, those issues would be discussed in more detail, but his delegation considered it important to establish some of the main common elements so that the Group could move forward and reach an agreement on text, hopefully before the end of the Round.

28. The representative of Cuba said that, with respect to Chile's submission, most of Cuba's concerns had already been expressed by others. India, Argentina and Bolivia, for instance, had expressed concerns regarding the register. Cuba also wished to join China regarding its concerns.

29. SDT was mentioned at the beginning of Chile's submission as a key aspect. But actually, this had not been elaborated on. Like Peru, Cuba considered the paper to be a good compilation of a great deal of proposals and common elements that had been presented. However, Cuba was concerned about the use of the Internet because, even though some countries' customs systems would have the necessary capacities to develop and maintain such an electronic system, not all Members had the necessary resources. It would have been advisable to consider how countries who might be lacking in resources could develop these systems. Chile also referred to publication on a webpage. Here again, not all countries were able to develop such a system. Cuba would have liked to have seen some sort of system or mechanism whereby countries without electronic means could also have access to a webpage. Regarding the reference to standardizing documents, Cuba was concerned for those countries whose official language was not one of the three official WTO languages. Perhaps one had to look at an alternative to be able to counter those difficulties.

30. The representative of Brazil said that Brazil shared many of the doubts and concerns expressed by previous delegations with respect to Chile's paper. Brazil wished to refer to four minor points of particular importance to Brazil. First, with relation to fees and charges (section III:A), Chile had proposed the publication of fees connected with importation and exportation and had said that these should be notified to the WTO. Once these fees were publicized and put on the Internet, what would be the value added of notifying them to the WTO, imposing an additional burden on Members? In Brazil's view, the main objective was to allow the private sector to have access to this data. Once the information was made public, Brazil did not see what more a notification could add.

31. The second point concerned the Single Window. Brazil wished to see some conceptual clarity on what the Group was talking about when it discussed Single Window. Each country's understanding on this was different and some clarity was needed in order to know exactly what was under discussion and what exactly the Group was aiming for. Once that clarity was achieved, the differences among countries would have to be taken into account. Some countries were very close to having the Single Window fully implemented. Others already had it, and yet others were far from having it. The suggestion to establish a national coordination point (section IV:A:1) was a valuable and good idea, but more information was needed on how this would work, particularly since some countries had a large number of agencies and coordination among them might not be as easy for some as it would be for others. This had to be better defined before deciding anything on it. Finally, Brazil would appreciate receiving clarification regarding the register as suggested in paragraph 10. What did Chile really mean and what was the purpose of such a register?

32. The representative of Pakistan said that Chile's submission was a very comprehensive and detailed proposal. Many of the ideas in the paper had already been discussed and it served as a good and timely reminder. Pakistan sought clarification on section IV of the paper on Article X regarding the envisaged creation of an official web page, establishment of national coordination points, establishment of contact points, and establishment of register points. There were many repetitions and overlaps in these measures and Pakistan therefore wished to obtain a more precise description of the measures. The system envisaged to be established was a desirable one, but it was not clear how practical it would be. In this context, he asked whether Chile had estimated the costs associated with these measures. As raised by China, there was also the question of how exactly Chile saw the issue of implementation capacities of developing countries and SDT.

33. The representative of Canada said that Chile's submission was a very timely one. It covered new perspectives on some of the ideas that had already been tabled and indicated Chile's view on other elements that had previously been discussed. Canada therefore found it to provide an opportunity for the Group to have a more focused and detailed discussion on several of the themes mentioned in the paper.

34. The first point Canada would like to pick up on was paragraph 2 and the reference to transit periods and routes. Here, Canada echoed and shared some of the questions expressed by others, for example by the European Communities. Canada was not sure that it would share the assessment that the absence of prescribed routes and periods for transit constituted a barrier to trade. In fact, in paragraph 5:2 of the GATT 1947, the text said that there shall be freedom of transit through the territory of each contracting party via the routes most convenient for international transit. This had been raised in previous proposals submitted to the Group on transit. Canada considered it an important area where improvements to the current language of GATT Article V could be made. Canada would therefore be grateful if Chile could provide more clarity as to the underlying concerns that brought them to make the suggestion. Also noted was a reference to the ability to control cross-border smuggling. However, if the concern behind this proposal was related to safety issues or health hazards, Canada could only imagine that like commitments to be negotiated would be fully subject to GATT Articles XX and XXI which provided general exceptions for those types of concerns. His delegation looked forward to receiving more clarification from Chile.

35. The second point Canada wished to raise concerned the public register on which several delegations had already raised questions. Canada wished to approach the question from a different angle to better understand what was entailed by the proposal to establish public registries. For example, if a country published these fees in situations where confidentiality came into play on the Internet, was it equivalent to the establishment of the public registry proposed by Chile, or did Chile feel that a specific registry had to be established to address each of the issues. Canada would be grateful if Chile could provide clarity on that.

36. With respect to paragraph 4 which dealt with the public registry of all administrative costs and transport charges, his delegation would be grateful to receive clarification as to what was meant by transport charges. Was it only aimed at covering government charges or was there a broader meaning? Canada's understanding was that the WTO Agreement, and the GATT in particular, applied to governmental measures and Canada imagined that transportation charges that were beyond the regulatory purview of governments would not be within the scope of the Chilean proposal. Canada sought some clarification in that regard.

37. Regarding the proposal put forward in paragraph 5 on coordination and cooperation and assistance among agencies involved with transit, and in paragraph 6 on Single Window for import/export procedures, Canada strongly supported the underlying comments encouraging international cooperation and better coordination among border agencies, be it on one side of the border or across the border. Canada had made proposals in the past on this theme and thought that ways should be found to operationalize these principles. His delegation therefore appreciated Chile's suggestions in this regard.

38. As for paragraph 8, on the format for documentation, Canada strongly agreed with Chile on the need to standardize and reduce the amount of documentation and diversity of procedures. As had been mentioned in previous proposals, if a way could be found to develop and promote the use of international standards – such as the WCO Data Model or the UN Layout Key – this would help in achieving the objective of facilitating trade.

39. Canada looked forward to receiving clarification from Chile on the questions it had raised.

40. The representative of Jamaica said that Chile had submitted a very comprehensive submission on Articles V, VIII and X. A number of the proposals and ideas fell within the general direction that the Group had been pursuing in respect of clarifying and improving these articles. He referred specifically to the proposals on Articles VIII and X, a number of which Jamaica could support, and which were already taking place in some countries.

41. Jamaica was studying more closely the proposals in respect of the establishment of registers for all services connected to import and export operations, regarding confidentiality as well as the establishment of mechanisms and procedures to allow for trade operators to seek rulings from customs administrations on certain matters. This was being done because one of the key objectives should be to ensure that one did not end up with additional, onerous and possibly costly responsibilities at the end of the negotiations. Jamaica therefore joined other delegations in requesting Chile to shed some further light and share its experiences in these areas. Jamaica would also like to suggest that an assessment be done on existing systems in place in countries which might be fulfilling these functions so as to avoid duplication.

42. Jamaica wished to note that a number of the proposals on transparency and publication involved the use of information technology. This highlighted the need to provide technical assistance, training and capacity building to deal with the deficiencies that existed in some of the customs departments in these areas. Finally, like others, Jamaica, also looked forward to receiving Chile's clarification on some of the issues which had so far been raised.

43. The representative of Australia said that Chile's paper was interesting, had certainly provoked a very good start of the discussion, and was very useful in helping the Group to move forward and advance on both the substantive aspects and development aspects of the proposals. Australia supported the comments made by others that Chile's suggestion on the issue of transit routes needed further clarification. It was obviously very important to ensure that the freedom of choice of routes that currently existed was not unduly restricted.

44. Australia, too, welcomed the reference made by Chile to the issue of advance rulings, schemes and mechanisms. Australia would be studying the issue of how to make public certain aspects of those mechanisms and hoped to be able to come back to the Group with further ideas. During the previous year, a number of questions had been raised in relation to Australia's national experience paper on advance rulings. Australia had promised to provide data or responses in writing and, in this respect, had recently submitted a paper containing those responses (JOB(06)/22/Rev.1). Australia encouraged Members to follow up on the responses since it might also be instructive in taking forward this aspect of the discussion in the negotiations.

45. The representative of Japan said that Chile's document was very useful. Japan agreed that the publication of fees and charges on the Internet was very useful in terms of increasing transparency. Japan had made a similar proposal to that end. His delegation had two comments on Chile's paper. One concerned the Single Window, where it was mentioned that an electronic Single Window was a very useful measure to facilitate trade. While Japan agreed with this idea, it was of the view that a Single Window would also greatly increase TF if it was not carried out in electronic form. The second point on which Japan agreed concerned the publication of customs regulations. The publication of regulations was a very useful measure to increase transparency. However, as mentioned in GATT Article X, Japan was of the view that every relevant trade-related law and regulation should also be published in this context.

46. The representative of India wished to respond to concerns raised by the EC and Canada on the issue of transit and about putting undue restrictions on transit if Members were to look favourably on the proposals regarding the establishment of precise routes. In the EC's and Canada's understanding, there was no such restriction currently existing in GATT Article V. In that context, India wished to point out that the existing GATT Article V:2 did not give any unfettered right for transit. In fact, in Article V:2, it was laid down that "freedom of transit shall be via the routes most convenient for international transit". So what the Group had to talk about was routes most convenient for international transit. It had to look at specific routes because routes could be dependent on issues such as them having adequate security posts, and it had to look at the state of the infrastructure available on particular routes.

47. India therefore did not see that this particular proposal fundamentally restricted the freedom of transit as it was prescribed. Given the existing provisions of transit and the existing system of transit, India viewed this as a very positive means of ensuring freedom of transit, where the right balance was struck between the transit-giving and the transit-receiving country.

48. The representative of Egypt supported India's statement. That was also Egypt's understanding of freedom of transit and how it should be correctly applied. It was also clear that, in many countries, the security issue had become high on the agenda and Egypt was certain that this had to be taken into consideration when talking about routes of transit.

49. The representative of the Philippines, speaking also on behalf of the Core Group and of the ASEAN members, said that, while welcoming the recent papers submitted by Chile and others, there was a lot of work to be done and a lot of overlap in the various proposals. The Philippines believed that one had to look to the Chair as well as to Members to find a creative mechanism by which the various proposals would hopefully move towards some concrete unified proposals within the next few months. In conclusion, his delegation wished to thank the Secretariat for the latest distribution of its compilation document (TN/TF/W/43/Rev.5).

50. The representative of Bolivia said that a fundamental part of the Group's negotiating mandate was to improve and clarify the three Articles. With respect to Article V, the final objective was to facilitate trade.

51. Therefore, in paragraph 2 of Chile's proposal, which referred to the need to establish prescribed routes for transit, Bolivia thought that one should not lose sight of the end goal to facilitate the transport of goods from many countries. Many had referred to the need to be aware of national experiences. The exercise of transparency requested by many could perhaps dispel certain problems encountered by landlocked countries. Bolivia's interpretation of the ability to choose transit routes corresponded with that of the EC and Canada.

52. The representative of Chile was pleased to see that Chile's paper had generated a significant level of interest among Members.

53. Chile was not in a position to date to respond to the vast majority of the questions raised, which deserved specific replies. The questions would be conveyed to the experts in capital with answers then being provided as soon as possible. To facilitate and to speed up that process, he would ask delegations who had raised questions to communicate them in writing.

54. The Chair supported Chile's request. It would be much appreciated if delegations could make their questions available in writing, both to Chile and to the Secretariat.

55. The representative of India introduced two new proposals on GATT Articles VIII and X. Annex D placed special emphasis on identifying and addressing the needs and priorities of developing countries. India had attempted to identify its needs and priorities by conducting a systematic survey among its exporters to identify their trade facilitation problems in export destinations. India's proposals were an end result of that exercise. India wished to place on record its appreciation and thanks to UNCTAD which had supported the study and conducted a seminar to discuss the findings.

56. India took those proposals as a concrete manifestation of how focused technical assistance could lead to very positive results. The survey identified a host of problems faced by exporters. Out of them, India had identified only those which related to border clearance of goods, and which fell within the ambit of GATT Articles VIII and X, and on which no proposals had been made so far. Some proposals also amplified the current ones on the table in order to emphasize their relevance within the framework of a customs union.

57. The first paper was a proposal on GATT Article VIII (TN/TF/W/77). One set of proposals under GATT Article VIII attempted to address problems faced in border clearance of goods, particularly food products, at the borders of member states of a customs union. Those problems arose on account of different procedures that Members adopted for border clearance of agriculture and food products. That included standards, including terminologies, definitions, methods and procedures for sampling, analysis and documentation requirements for import clearance. India had made specific suggestions to address those problems, namely to adopt the same border procedures and uniform documentation requirements.

58. A connected set of proposals dealt with issues which were already under discussion in the NG, namely, authorized trader status and risk management system. India believed that for greater predictability of clearance of goods at borders of a customs union, uniform norms should be applied for according authorized trader status, and, to the extent possible, a risk management system should be common across the member states of a customs union.

59. Another recurrent problem of traders to which India sought to find a solution was the present system followed by some Members of destruction of rejected food consignments. That was a big economic loss to traders, particularly SMEs. India, therefore proposed that there should not be a system of goods clearance which led to destruction of cargo at the outset. Instead, India proposed that in case of rejection of a consignment on account of failure to meet certain standards, an option should first be given to return the rejected goods to the exporter.

60. The present negotiations also presented an opportunity to address trade barriers faced on account of an improper testing method, particularly when the method did not take into account the specific product features and the physical state of food products at the point of consumption, such as fresh, dehydrated or otherwise processed. India proposed that those aspects be taken into account while establishing testing methods.

61. Turning to the proposal on GATT Article X (TN/TF/W/78), India was of the view that transparency was a lynchpin to the free flow of trade. India proposed improved transparency for some measures which might not strictly be categorized as laws or regulations. One very important issue one had to address was the trade distorting features of a system known as rapid alert or import alert. Such alerts caused a trade chilling effect because the subsequent consignments were subjected to more intensive hundred percent inspections. India had pointed out how it was onerous to lift the current systems of rapid alerts once they had been put in force and how they did not take into account the trade reality of differential trade volumes at various ports of member states of a customs union.

62. Members also had to address the lack of transparency in communicating the termination of rapid alerts. In order to address those issues, India proposed that members of a customs union should adopt uniform standards; rapid alert should not be more restrictive than necessary to pursue a legitimate objective; it should be based on a positive evidence; and, most importantly, the system of termination of rapid alerts should be least trade restrictive, and it should be lifted after a prescribed number of successive consignments imported from the destination in question had fulfilled the prescribed objective standards. That would address the current onerous requirement in some systems of clearance of a prescribed number of consignments from every port of a customs union.

63. In the course of border clearance of goods, some consignments could be singled out for a detailed inspection causing delay in clearance of consignment. It was gathered that, at times, no information was made available regarding the status of clearance of consignments once they had been identified for more detailed checks. That often caused disruption to traders as they were unable to get quick information regarding their consignment. India, therefore, proposed to establish a system such as issuance of a detention memo or having an on-line system to indicate the status of clearance of goods as part of a transparent regime for border clearance of goods.

64. India had addressed some issues related to testing of samples under GATT Article VIII. India also wanted to address another specific feature of testing regime, namely lack of a clearly laid down principle of a second confirmatory test, in cases where the first test result was adverse to the importer. That could be addressed during the negotiations by having a system of a second reconfirmatory test and Members should lay down a clear procedure for that. This could be regarded as some kind of appeal mechanism.

65. India had also put on the table problems concerning quick disposal of disputes, particularly those concerning inspection decisions of food items because of the different layers of appeal mechanism that one had to traverse in the context of a customs union. India looked forward to further discussion and ideas on how to address the problem. One possible solution could be that, in a customs union, the level of appeal should be at the level of customs union itself.

66. Some of the proposals would require technical assistance for the creation of new procedures and institutional systems, but some others would not. Those needs could be met in tandem with assistance provided in respect of other proposals. India was open to hearing the views of Members on that as well as on the proposals themselves.

67. The representative of the United States welcomed India's proposals, some of their details the United States was still studying. With respect to the study mentioned by India, he had shared an experience on a panel with one of the individuals who had worked on the particular study, which

proved to be very helpful to the United States as it had led to information about some of their needs and priorities. Clearly, one of those needs and priorities that had great importance pertained to the functioning of customs unions, in particular those that might be WTO Members in their own right.

68. There was a real need for a focus on ensuring uniformity and that was appropriate to be taken up in the negotiations. Much of India's submissions required not only further study but also detailed engagement because it put forward some systemic approaches regarding the functioning of a customs union. The US certainly welcomed the engagement and challenge.

69. The US knew that that would involve certain details. In particular, the US took note of the initiative to bring about some administrative review that involved an entire customs union. The US had a lot of experience in that regard, and had gone through certain matters similar to what had perhaps been the genesis of India's proposal. Overall, the US warmly welcomed the proposals by India, which the US would study further. The US hoped that Members could begin a detailed engagement on those proposals and examine a way forward to achieve a true improvement with regard to what was currently set out in GATT Articles VIII and X.

70. The representative of the European Communities considered the Indian proposals to be interesting. It was good that India was increasingly approaching the negotiations from the point of view of its traders' and exporters' interests. That was the right spirit in which to approach that exercise and the EC certainly welcomed that.

71. The EC did not wish to go into details on the substance of India's proposals because it needed more time to evaluate them and their implications for the Communities. However, the EC noted the emphasis on greater uniformity, consistency, harmonization of requirements and procedures which, conceptually, were legitimate objectives.

72. Nonetheless, at least some of India's proposals seemed at first sight to fall within other WTO Agreements, in particular, the proposals presented in the second paper on GATT Article X. Many, if not all, of the proposals there which related to the methods of product testing and the systems of import alert seemed more likely to fall under the provisions of the TBT or SPS Agreements. There, one was talking about how Members carried out their conformity assessment procedures in a transparent and consistent manner. The EC was not convinced that the TF negotiations were the right forum to address those concerns. There were other fora to do that. One had to ensure not to overload that particular boat at that point in time with subjects which were not strictly speaking within the mandate. But the EC would analyse all of those proposals very constructively and looked forward to engaging with India and others on them in future meetings.

73. The representative of Hong Kong, China appreciated India's proposals and their effort to identify the needs and priorities of their exporters through the use of a survey.

74. With respect to TN/TF/W/77, HKC supported, as a matter of principle and as far as practicable, the harmonization of border procedures, standards, documentation requirements, etc., which would reduce uncertainty to trade and improve border clearance procedures. HKC was open to further discussing the proposal with a view to working out a set of meaningful, enforceable and more refined WTO commitments. Hong Kong, China echoed the EC's point and welcomed Members' views on whether the subject matters should be dealt with under the scope of GATT Article VIII, or whether it would be more appropriate to pursue the issues in other contexts, for example, GATT Article X, which provided that each Member should administer its trade regulations in a uniform, impartial and reasonable manner, or the SPS Agreement, as mentioned by the EC, which provided that relevant measures should be based on international standards, guidelines or recommendations on as wide a basis as possible.

75. On TN/TF/W/78 which suggested a number of ways to improve transparency of import alerts/rapid alerts, detention, test procedures and appeal mechanisms for food consignments, HKC welcomed the idea of improving transparency of border clearance procedures with a view to reducing uncertainty to the trade and expediting the movement of goods. HKC hoped to further discuss that proposal with India and other Members. HKC was particularly interested to exchange views with India on its suggestion that a notification should not be maintained if circumstances giving rise to it no longer existed, or if changed circumstances could be addressed in a less trade restrictive manner.

76. The representative of Switzerland wished to comment on one of the issues raised in submission TN/TF/W/77 in paragraph 3 on testing methods. Switzerland believed that testing methods in the context of trade facilitation were particularly important with regard to the classification of tariffs. Switzerland wondered whether one could find part of the solution sought in that proposal in two proposals previously made, one by the EC and one by New Zealand under compilation heading L: tariff classification. The quite straightforward suggestion contained therein was to use the WCO's HS Convention. The HS Convention contained certain sets of criteria for classification and maybe that could also be very useful in the context of testing.

77. The representative of Korea appreciated India's approach of identifying difficulties faced by traders by way of a survey as well as their efforts to present ideas for resolving those issues. It was clearly a goal to facilitate the situation of traders by addressing their problems.

78. Korea was prepared to closely examine all elements and ideas contained in the two papers. By way of a preliminary comment in a very general manner, Korea wished to express its view that there were many ways to resolve all the problems faced by traders, either by way of specific case studies or via general and systemic ways. In order to resolve those difficulties faced by traders, one could stipulate a new agreement, a new obligation or apply already existing international agreements like the ones on TBT or SPS. There was a danger in seeking to bring all specific cases into one kind of system, as that could endanger the specific operation of the system itself.

79. One had to carefully examine the combination of general approaches and specific cases. Perhaps, if Members wanted to resolve a specific case, rather than apply general provisions, they could adopt the idea of some guidelines, cases studies or general means for resolving that kind of specific case rather than seeking to include all elements in the provisions.

80. The representative of Sri Lanka wished to offer some initial remarks on the papers submitted by India. When looking at the ground realities, the clearance of agricultural food products was subject to many procedures and standards in the global market. In that context, Sri Lanka was pleased that India had conducted that survey.

81. From the point of view of a developing country, case studies were useful. Sri Lanka wished to have a similar study conducted for its territory. Sri Lanka congratulated India on its submission which had come up with some results. Whether those results fell within the ambit of the TF negotiations or elsewhere was another matter to be discussed. Looking back to earlier discussions, many delegations had mentioned that there were border agencies and standard bodies testing various sanitary and phytosanitary requirements, which were an important part of those border agencies. Procedures, standards, and testing methods were essentially part of the border clearance procedure. Therefore, Sri Lanka supported many of the concepts and findings of that paper in a very initial reaction and also wished to support the idea of transparency. Sri Lanka needed some time to further study the proposals, but as an initial reaction, Sri Lanka wished to support them.

82. The representative of Barbados commended India for the process leading up to the preparation of the papers through direct interaction and feedback from their exporters which had led

to a realistic reflection of problems experienced. The two proposals were based as much on reality as on legality.

83. It was a primary example of the types of assessment some of the smaller developing countries required assistance to be able to conduct. Barbados was a Member of the CARICOM Customs Union, which consisted of Members at different levels of development and capacity. Barbados was not sure those suggestions were taken back to regional authorities and debated at the regional level. Barbados would revert in the future with some more specific technical questions, including its views on the appropriateness of some of those issues *vis-à-vis* the current mandate.

84. The representative of the Philippines welcomed the two proposals from India. The Philippines appreciated their practical approach from the traders' point of view, especially in respect of food products exported to a large customs union. The Philippines had encountered similar situations. India's attempt to cross over into other WTO agreements in both proposals was noted. The Philippines found nothing wrong with that.

85. The Philippines was thankful to India for the realistic approach to put Articles VIII and X into practical use. Both proposals would continue to be studied. The private sector had also been asked to provide comments, particularly from the food exporters side. The Philippines therefore reserved its right to revert to the proposal at a later meeting.

86. The representative of Jamaica said that the Indian submissions were very comprehensive and concrete. Some of the issues raised therein were very complex and involved the operation of customs unions. The TF negotiations were causing Jamaica in the CARICOM region to undertake an extensive evaluation of its TF measures and procedures in the context of its single market and economy.

87. The kind of issues raised by India were being studied in that context. In addition, some of the issues threw up TBT- and SPS-type issues which would have to be studied specifically in each country. Jamaica therefore hoped to provide some very specific comments on those submissions which were currently being studied in capital. At the moment, Jamaica just wanted to commend India for the very serious and comprehensive approach taken in preparing the submission which would serve to assist some other Members and pointed in the right direction in terms of the kinds of assessment Members had to undertake with the view to ending up with a trade facilitation Agreement which benefited all countries.

88. The representative of Kenya was thankful to India for its papers which had, at the minimum, demonstrated that technical assistance was of paramount importance in trade facilitation. Following a glance at the first paper (TN/TF/W/77), Kenya had a question about paragraph 5, where it was suggested to return the consignment to the country of origin instead of destroying it. Kenya was wondering whether India had also thought of the small players in that process. Re-exporting the same consignment could also involve an extra cost. One should not forget that Members were trying to cut costs and improve the speed of movement of goods. Perhaps, in the case of developing countries, particularly those at low levels of development, they could have some inspectors who would assess those consignments at the port of export rather than at the port of import. That would help cut costs in sending the consignment first to the country of import for the assessment to take place and then back to the country of origin. Kenya was wondering whether India had thought about that as an S&D possibility and whether it was something that could be explored in the paper. Otherwise, Kenya thought that the two papers had raised some interesting issues that had to be discussed further.

89. The representative of China welcomed India's two papers which contained some very constructive elements and fell within general WTO norms in the sense that trade measures should be made more predictable and transparent to reduce costs. It was in accordance with the norm that measures should be made least-trade restrictive.

90. China appreciated the elements contained in the proposals which aimed to facilitate trade such as by ensuring that importation documents be made uniform and that rejected goods should be returned to the exporter. Such elements could lower traders' transaction costs and make trade more predictable. China supported India's proposals and was ready to work with other Members to discuss some of their elements.

91. The representative of Chinese Taipei appreciated India's contributions. In principle, Chinese Taipei saw merits in the proposed measures contained in India's two submissions, especially its proposals to improve transparency and predictability for traders.

92. Clarification was sought on two points. With respect to the proposal regarding Article VIII (TN/TF/W/77), Chinese Taipei wondered what were the suggestions contained in paragraph 2 in terms of text? It seemed that India tried to propose amending Article VIII to include some features of Article X. More elaboration in that regard would be appreciated. Some other colleagues had further mentioned the relationship between trade facilitation discussions and other relevant WTO Agreements, such as the ones on SPS and TBT. Clarification was sought from India as to how to better balance the discussions between trade facilitation needs and SPS and TBT measures.

93. The representative of Bolivia expressed appreciation of the Indian proposals. Bolivia would revert to them at the next meeting with some technical questions. Bolivia's attention was drawn to the fact that the Indian papers noted the fact that in customs unions, at an advanced stage of integration, where at least the theory spoke about the approach towards normative uniformity, even when one saw the need to undertake certain steps towards standardization, certain issues had to be overcome. The factual examples presented in the Indian papers certainly assisted Members to better see when one could effectively negotiate on trade facilitation beyond the provisions already contained in other GATT provisions.

94. The representative of Malaysia joined others in thanking India for its communication TN/TF/W/77. India had done a lot of homework in consulting its traders. From the trader's perspective, those were certainly some of the problems that Malaysia also faced, especially in terms of consignments, detention of goods, and whether there were appropriate transparent procedures that could help traders to export their goods. Clarification was sought from India as to what was provided for in the TBT and SPS Agreements.

95. The representative of Australia welcomed India's tabling of its two papers from different perspectives. First, they demonstrated the value of needs and priorities assessments in identifying specific areas where countries had opportunities to advance TF and relate those ideas to the NG.

96. Second, the papers flagged some important systemic notions. Australia would not go into much detail at this stage as it was still studying those papers more closely, but it was striking to find them to contain important notions in relation to customs unions that were Members of the WTO in their own right, particularly pointing to the importance of ensuring that trade measures and decisions were applied and administered in a uniform, impartial and reasonable manner. It was also interesting to see the importance of review mechanisms of trade measures being applied consistently within a common timeframe and in a way that actually facilitated trade. Some of the aspects of the papers might require further consideration, particularly in the technical sense where they lay, perhaps in the context of other more technical work in the WTO or even outside the organization. But Australia

welcomed the spirit of those important systemic issues that the paper raised in relation to facilitating trade.

97. The representative of India was very encouraged by Members' responses on India's paper and the general words of support that had been expressed in a preliminary way. India looked forward to more detailed discussions in the meetings to come. On some of the specific issues raised, India wished to offer some quick comments.

98. With respect to Switzerland's suggestion as to whether one could seek solutions to testing method issues in the proposals made earlier by the EC and New Zealand, India recognized that testing was conducted at times to determine the correct classification of goods. But those proposals meant to address the problem of a market access barrier which testing methods entailed. It targeted the barrier arising from the fact that goods were not allowed entry on the basis of certain testing methods which might not be completely trade facilitative. To that extent, the thrust of that proposal was different. But India was open to see how some of the other proposals could be helpful in addressing the problem.

99. With respect to Korea's systemic point about Members having to be careful not to seek solutions for all elements of problems that specific cases identified, India was intrigued by that way of thinking because it believed that the biggest value of the negotiations was to address problems which exporters faced. India had done nothing but apply an inductive method of logic of identifying what the problems were and then seek to systematically address them in the negotiations. India had tried in the best possible manner to only make proposals which, in India's understanding, fell within those two categories. The study was very detailed and had revealed many other problems. It was difficult to sift through them carefully and see which ones could be included and which ones could be discarded.

100. India was thankful to Kenya for supporting the paper and their specific questions regarding the issue of destruction of consignments and to their question regarding whether inspectors could carry out the assessment at the port of export instead of at the port of import. The problem that India had faced was that even after the assessment or testing had been carried out at the port of export, often by authorized agencies, which were meant to be conducting that test, consignments were rejected. That was why it was important that the exporters would at times want to get the consignment back to validate their own testing methods and see whether there were some problems in those testing methods. The second problem that arose was that, at times, when those goods could be salvaged some other way, it was a total economic loss if they got rejected. But India recognized that it would not be economically viable to get the consignment back. That was why India had tried to keep a balance by saying that the first option should be given to the exporter to get the consignment back within a reasonable timeframe and, if that option was not exercised, the consignment could be rejected.

101. India also wished to respond to the questions by Chinese Taipei that some of the proposals under GATT Article VIII seemed to have features of Article X. India must confess that it was a challenge to categorize the proposals within Article VIII and Article X, but India had taken a general principle that where there was a system which dealt with transparency or appeal, India would categorize it under Article X, with those dealing with issues of border clearance being put under Article VIII. India had heard some concerns and, possibly, they could not be completely brushed aside in terms of how those issues interacted with SPS and TBT issues. But India wished to bring to Members' attention that GATT Article VIII, when talking of fees and formalities connected with importation and exportation, gave a list of the formalities which related to importation and exportation which contained issues such as quarantine, sanitation and fumigation. It was not that those issues were completely out of the ambit of GATT Article VIII.

102. India was thankful to Sri Lanka for having rightly pointed out that, when talking of border coordination of various agencies, some of the other proposals had also talked of SPS and health authorities. When looking at them holistically in that context, one saw that there was merit in going a step further and even looking at issues of standards which were a border clearance issue. India was not talking of a setting of standards which it recognized to completely be an SPS issue, but was only talking of the way those standards could be administered at the border.

103. India was open to discussing the issue further in greater detail and looked forward to receiving Members' responses, preferably in writing.

104. The representative of the European Communities introduced document TN/TF/W/79, noting that it was proposed jointly by Armenia, Canada, the EC, the Kyrgyz Republic, Mongolia, New Zealand, Paraguay and the Moldovan Republic. Other Members might join as co-sponsors in due course. The range and diversity of Members making that proposal demonstrated the importance many Members attached to improving and clarifying the GATT rules on freedom of transit, which had remained unchanged for fifty years.

105. The sponsors of the submission had based their proposals largely on the compilation of Member's various proposals on Article V. What they had tried to do was to effectively consolidate all the different proposals into a single document, a single set of proposed TF commitments on transit. The purpose for doing that was to help move the NG progressively into a more focused and precise negotiating phase.

106. On the substance of the proposal, the EC wished to highlight the main elements the EC thought should be considered in an exercise to clarify and improve GATT Article V without being exhaustive.

107. First, the EC recognized that whatever was proposed in that field would have to fully take into account the need for SDT for developing countries. It was very clear that SDT would be necessary in particular cases. The Communities and all other sponsors of the document certainly took the commitment in the mandate very seriously to relate the extent and timing of any future commitments on transit to Members' implementation capacities.

108. However, as a matter of common sense and logic, the EC considered it more useful to try to establish what any future commitments would be and on that basis subsequently try to determine collectively the extent of SDT applicable.

109. The second broad issue in the W/79 paper was to confirm or reconfirm a number of definitional issues relating to GATT Article V. Concepts, which were perhaps implicit in the text of the Article, but which could be made more explicit to avoid all doubts. One such concept was that nothing in the area of transit rules should be allowed to compromise other legitimate and public policy objectives such as national security, health, safety and other requirements. Those notions effectively overrode the notion of freedom of transit.

110. The paper also proposed as a definition issue to make more explicit rather than implicit national treatment obligations in respect of treatment of traffic in transit. It was also useful to clarify that traffic in transit included goods moving via fixed infrastructures such as oil or gas moving through pipelines or electricity through electricity grids. That was an issue that had gained some attention recently in the context of a number of WTO accessions. The EC considered it useful to reconfirm that the various disciplines on transit Members had in Article V such as access to transit routes, disciplines on fees and charges, transparency requirements and the like, were fully applicable to energy products moved by fixed infrastructures.

111. The third broad subject picked up in the paper was the question of fees and charges for transit services, which was addressed in section C of the paper. Parallel proposals had been made earlier by numerous delegations in respect of import and export fees falling under GATT Article VIII. For transit, the key commitments the EC wished to see made more precise related to transparency of Members' fees and charges for transit, the need to avoid any arbitrary application of fees and charges and to ensure that fees were not excessive and that they reflected the costs of the service rendered to a transit operator. In the EC's own consultations, a large number of operators, traders and landlocked developing-country partners had placed particular importance on the question of fees and charges.

112. The fourth set of issues which the sponsors had tried to capture in that document related to measures to simplify and streamline transit requirements themselves with the objective of minimizing, as far as possible, the burden on trade and on public authorities. The document proposed commitments relating to transparency of rules, the value of advance consultations with the affected trading community on changes to transit rules and requirements and the possibility of advance notice, as far as possible, of new requirements before their entry into force. Of course, Members' domestic regimes differed in that respect. That was something that would have to be looked at with some flexibility. But the concept was understood. Emphasis was also placed on the priority to use, as far as possible, international standards as a basis for transit regulations and regimes.

113. On that last point, the sponsors of the document were not proposing any absolute obligation for Members to apply a given list of international standards or instruments in their transit systems. Rather, it was a commitment to use them as far as possible. Clearly, a degree of harmonization about respective transit provisions based on international standards would reduce the costs and the burden for traders and would increase transparency, not least in transit arrangements between neighbouring countries. It was also proposed under the aegis of simplification and improvement of transit procedures to have some additional methods of transit simplification, including the possibility for traders to place guarantees and the introduction of the authorized traders concept. In the case where traders were able to provide guarantees, it was proposed that those guarantees should be reasonable and fully reimbursed, because some traders had found that guarantee schemes were used as a form of extortion in some places.

114. Finally, the proposal identified a number of possible commitments aimed at improving cooperation and coordination between Members on transit issues, particularly at the important regional level. It was obviously essential that neighbouring countries, who were operating regional transit systems or transit corridors, cooperated to the greatest extent possible in order to ensure the good functioning of those transit regimes. The paper set out some ways in which that could be strengthened.

115. In conclusion, the EC hoped that the proposal, which tried to bring together under one roof the range of proposals made to date on GATT Article V, would help the NG move towards a more focused phase of work and to identify more precisely what Members might be able to do in terms of clarifying and improving WTO rules on freedom of transit.

116. The representative of Paraguay said that Paraguay sought to boost the negotiations since the outset on the understanding that clarifying and enhancing GATT Articles V, VIII and X was essential to assist in improving the material conditions supporting trade. For landlocked countries, transparency in trade rules and structures enabling barrier-free transit for their goods was vital.

117. Countries which suffered from a landlocked situation for historic reasons had to call for more multilateral disciplines that could achieve that. Paraguay could not do that on its own. Work was required at a broader level with other countries, especially neighbouring countries, to implement measures to facilitate the transit of Paraguay's goods through those countries. That was why Paraguay

tried to get that process to go forward. It had done so by presenting several proposals on transit and also by co-sponsoring the new submission TN/TF/W/79.

118. It was a contribution which brought together a large part of the measures to improve and clarify Article V and provided new momentum for work in the direction set out in Annex E of the Hong Kong Declaration. One had to be aware that the WTO would not be able to respond to all problems resulting from the limitation or lack of trade facilitation measures in countries. However, by an ambitious agreement, by engaging and by having certain flexibilities enabling certain measures to be implemented, one could improve conditions to a significant extent.

119. To date, one was looking at a broad range of proposals geared towards rendering transit simpler. Most of them did not require more than political will to implement and could make a huge difference, especially for countries like Paraguay which depended on transit. Measures such as providing national treatment, avoiding the application of groundless discriminatory measures and conducting a periodic review of fees and charges for traffic in transit might be the first measures that could go into the Agreement Members were supposed to be formulating.

120. There were other measures that would require greater efforts. But even so, Members had to come to them as well. For instance, there had to be an S&D mechanism that responded to the modalities set out in Annex D so that Members could achieve ambitious commitments. Paraguay was sure that all Members wished to see enhanced TF measures. For that, one had to improve the material conditions that supported trade.

121. If Members would carefully study the new transit proposal, it would allow them to make progress in their work and in achieving their goal.

122. The representative of New Zealand said that New Zealand was very pleased to be a co-sponsor of the paper. While not being landlocked, New Zealand was well aware of the extent to which transit issues could affect the global trading system. The paper contained some very practical and focused proposals, which had been well covered by the EC in their opening remarks. There were a few additional proposals New Zealand wished to highlight, such as the periodic review of transit formalities with all interested parties having the right to participate, as well as some specific proposals for how to reduce and simplify transit formalities. New Zealand also wished to draw attention to the paper's proposals for achieving cooperation between authorities and the private sector in general.

123. The paper also endorsed the use of international standards. Members' commitment to using existing standardized documentation was a key element of the negotiations. In sum, New Zealand saw real value in the paper because it consolidated issues raised in a number of papers on Article V, and helped focus the Negotiating Group on moving a process forward while identifying common elements amongst the proposals.

124. The representative of Mongolia, as one of the co-sponsors of TN/TF/W/79, wished to add some general comments to what the EC, Paraguay and New Zealand had already said when introducing the joint proposal. He wanted to make clear that, when talking about transit of goods, this referred to both landlocked countries and those that were not landlocked. Mongolia was both a landlocked and transit country – the latter, for example, applying for the case of trucks between China and Russia transiting through Mongolia – and Mongolia would therefore assume the appropriate commitments as a transit country as well. It should also be made clear that, when one talked about transit and goods in transit, this implied talking about all countries that had the practice and capacity to transit goods from one country to another. There was often the misunderstanding that it referred only to landlocked countries, which was not the case.

125. The second point he wished to make concerned Article V, the improvement of which was at the heart of landlocked countries' interests and participation in the negotiations, especially when it came to landlocked developing countries. Therefore, in order to take into account the needs and priorities of landlocked developing countries, Mongolia's interest lay on improving Article V.

126. Going into more details and specifics he explained Mongolia's understanding of the provisions regarding most convenient routes for international transit, and said he wished to combine this interpretation with Chile's recently-introduced proposal. One example of what was meant by most convenient routes for international trade represented the scenario of someone wishing to fly from Europe to Mongolia with there being two major options, one to go to Berlin, then Moscow and from there directly to Ulan Bator and the other, used by most people, to fly from Europe to Beijing and then on to Ulan Bator. The second option entailed flying over the whole of Mongolia twice, first when flying to Beijing and then again coming back from Beijing to Europe. That did not include the portion from Beijing to Ulan Bator, which also meant flying over Mongolia.

127. In terms of Article V, when talking about most convenient routes, the implication was that, although the second option via Beijing might be convenient for businessmen, it would not be convenient for transit of goods which had to reach the customer as soon as possible. The most convenient route should be agreed upon by the parties concerned and should not be dictated by one side. In Mongolia's negotiations with China and Russia, it had been understood that most convenient routes should be agreed upon by the contracting parties. For that reason, Mongolia had some questions concerning Chile's proposal. The promotion of regional transit agreements – such as the agreements Mongolia had with China and Russia, for example – was very important and should be part of the general agreement and one of the important purposes of future WTO work on TF.

128. National treatment was the most important provision that particularly landlocked developing countries were seeking when clarifying Article V. Goods originating from different countries could not be discriminated by different administrative measures while being in transit. It could not be different in terms of transportation purposes. Goods from Mongolia, or Russia, for example, should not be discriminated on the basis of their origin. While being transported, goods should be treated as goods that had originated from the transit country. It was for that reason that national treatment was the most important provision that Mongolia would seek to be reflected in any outcome. Mongolia hoped that these general ideas would be taken on board by Members when considering the proposals.

129. The representative of Moldova said that, taking into consideration the benefits of efficiency and transparency in trade flows, the negotiations on TF represented a major subject for Moldova. However, given its limited capacities, Moldova did not have the possibility to participate fully in all areas of the negotiations or to make a substantive contribution in the elaboration of the different proposals. Nevertheless, as a small low-income country in transition, the clarification and improvement of GATT Article V was very important for Moldova's trade competitiveness. Since Moldova was a landlocked country, a significant proportion of its trade depended on efficient transit operations. It was for that reason that Moldova had decided to co-sponsor TN/TF/W/79.

130. The representative of Turkey appreciated the new proposals regarding transit traffic. There was no doubt that all Members had potential gains from TF. In that regard, opinions expressed with a view to clarifying and improving Article V's disciplines on freedom of transit had much to contribute.

131. Turkey specifically wished to mention that it had noted numerous valuable points in the TN/TF/W/79 submission, including those on transit fees and charges, as well as the need to simplify transit formalities and documentation requirements.

132. Turkey, in full awareness of the fact that the current debate with its many dimensions had much to add to a more predictable and transparent trading environment to the benefit of all, had been

actively engaged in the process so far. Turkey was ready to further sustain its efforts to that end. For the upcoming meetings, Turkey hoped to be able to come up with a more detailed analysis of the tabled proposals on freedom of transit as well as other related issues.

133. The representative of Nepal extended his delegation's support for the proposals submitted in TN/TF/W/79. Specific proposals regarding policy objectives and non-discrimination were important to ensure smoother transit for landlocked countries.

134. Transit formalities and documentation requirements should be facilitated for landlocked countries. Simplification of procedures, reduction of delays and efficient handling of transit goods were constant challenges and work in progress. The proposals put forth in a systematic manner what was being practiced. Hence, they would facilitate trade and make it more systematic and standardized.

135. Of course, there was no doubt that SDT, technical assistance and exemptions, as outlined in paragraph 2, were very important when talking about certain regimes and their schemes.

136. The representative of Bolivia said that during the Sixth Ministerial Conference, all Ministers supported a series of multilateral proposals on all elements of Annex D of the July Package. The Ministerial also gave instructions to intensify negotiations on the basis of proposals made by Members as well as to accelerate the process through new proposals.

137. Bolivia appreciated TN/TF/W/79 and was thankful to its sponsors to have taken into account the suggestions for disciplines which some Members had presented concerning the mandate to improve Article V in light of its need to overcome particular obstacles and problems in its international trade operations due to its landlocked situation. Unnecessary delays, unjustified controls of transit goods and a lack of transparency in the implementation of measures were examples of such problems. The recognition of landlocked countries in the section dealing with S&D, whose treatment was cross-sectional, would be useful to identify specific needs and have them reflected in the negotiations on the disciplines and the consideration of future obligations to be agreed upon for the implementation of Article V.

138. Furthermore, from the operational point of view, one of the virtues of the proposal was that it brought together the various contributions made by Members and the results of the discussions held so far. This would no doubt help save time and would help manage the discussions so as to be able to draw up the future structural and disciplinary content of that part of the mandate.

139. The representative of Zambia, speaking also on behalf of the LDC Group, wished to make a number of observations on the proposal on transit (W/79) which had addressed very important issues in relation to moving the trade facilitation agenda forward. There was need to clarify the EC position on a number of issues, including those related to the scope of technical assistance and support for capacity building in the context of the envisaged implementation costs, particularly as they might affect LDCs. Specific issues in this respect included, but were not limited to, the reference made in section III, paragraphs (c) and (d) concerning fees and charges, transit formalities and documentation requirements and publications of laws, regulation, fees, charges and similar matters. Was there a preferred form or medium through which that could be achieved? In the case of electronic publications, for example, consideration should be made of issues regarding design and maintenance of websites. The establishment of a Single Window was one concept that required TA&CB given that most players in the import and exportation of goods were fragmented and acted independently of each other. The challenges included the establishment of a collaborative and interfacing mechanism which would require infrastructure in terms of systems, including, among other things, physical infrastructure.

140. Regional transit initiatives were being contemplated but progress had stalled due to the lack of clarity and consensus on the architectural design of the systems. Some Members, especially landlocked countries, felt disadvantaged on account of them not having a fair share of the benefits from such systems. More had to be done to sensitize and clarify the system so as to make it a well encompassing one.

141. Turning to paragraph (e) on cooperation and coordination, from the WCO and regional perspective, Members were encouraged to enter into a Memorandum of Understanding (MOU) for the purposes of enhancing mutual administrative assistance. On the basis of territorial sovereignty, and given the highly differential economic structure and therefore degree of development, there was a need to clarify first the incident of non-compliance or failure to reach agreement on the requirements before moving to clarifying the types of fees and charges on transit goods.

142. On paragraph (f), definition of traffic in transit, with regard to bonded transport regimes for certain goods and traders, the concept of "guarantee" related to security of duties and taxes that would otherwise be payable on imported goods at the point of importation. In order to expand the scope of the security requirement and also to provide for flexibility in application, it was suggested that the form of security included a bond, a guarantee or similar undertaking. On account of national security and resource limitations, particularly in relation to effective controls, national laws defined the ports and routes through which goods might be imported or exported. Unless these were optional routes within the legal framework, the choice that would otherwise be available to the trader in terms of what would be the most convenient routes was limited to that prescribed by law. Authorities would only facilitate transit traffic on gazetted routes, taking into account the entry and exit port which had limited functionalities because they could not fully clear commercial consignments except to redirect such goods to a much bigger port. There was therefore need to qualify that aspect in the proposal.

143. One of the trade facilitation measures had been the warehousing facility. The only question that arose here was whether goods could be consigned to any country where they would be duly warehoused only to be re-exported at a later stage. For landlocked countries, transit fraud had been a major challenge and that was why issues of direct consignment rule would impact on the freedom of transit traffic, particularly in areas of warehousing.

144. In view of the above observations, Zambia proposed that the cost of implementing the proposed measures required serious assessment and that a clear indication of the scope of technical assistance for capacity building be defined. That should include provision of appropriate infrastructure to support the implementation of trade facilitation strategies. While Zambia appreciated that the joint proposal had taken on board many of the important issues that were a burden to LDCs, such as identification of Members' needs and priorities, operationalization of SDT and technical assistance, it was not clear how it was intended to establish the precise, effective and operational special and differential treatment which related the extent and timing of entering into commitments to implementation capacities. It was also not clear what the cost implications to LDCs would be nor by whom and how such costs would be borne, and how and through what mechanism the LDCs would be assisted by the international community.

145. Concerning the other proposals, the LDC Group would like to study them further and would, in due course, come back with reactions after concluding its consultation process.

146. The representative of Switzerland was thankful for document TN/TF/W/79 which further specified elements proposed on transit so far. It was a first attempt to build on the proposals listed in the compilation document. Switzerland believed that, while some elements were treated extensively and perhaps even exhaustively in the submission, others still required further specificity. Switzerland wished to emphasize three areas of particular importance with respect to transit.

147. First, whenever dealing with transit, one had to acknowledge strong regional components. Indeed, the bulk of transit transactions occurred within a region. For Switzerland, it was the European region. This was why trade facilitation had to stimulate and develop regionally integrated solutions.

148. Second, expediting the movement of goods was of particular importance in transit. The international Convention on the Harmonization of Frontier Controls of Goods and Articles V and X of the TIR Convention gave insight into the conclusions drawn in other international organizations on that matter. First, for goods in transit, customs should limit their inspections to cases where they were warranted by the actual circumstances or risks. Second, Annexes 2 to 6 of the Convention on the Harmonization of Frontier Controls of Goods said that, normally, no quality controls, controls of compliance with technical standards, veterinary, medical, sanitary or phytosanitary inspections should be imposed. Third, relating to the regional component in transit, there should be coordination amongst all public authorities involved in the transit region.

149. That last point was particularly important with regard to three aspects: (a) transit documents, where a single set of documents should be accepted throughout the whole transit region; (b) customs guarantee systems. As pointed out in submission TN/TF/W/79, international or regionally valid guarantee systems had to be put in place and accepted by the whole transit region to avoid provisional taxation while securing revenue in case of inland diversion of goods; and (c) regionally integrated automated systems allowing to register entry and exit of goods and appropriately opening and closing transit procedures through feedback between all countries and customs involved.

150. Proposal TN/TF/W/79 introduced new terms to operationalize Article V:2 of the GATT. In Switzerland's view, and also in light of what had been discussed with regard to Chile's proposal, Members had to carefully assess the impact of such new language and bring the provisions of Articles XX and XXI into play, in particular with regard to traders' rights to choose the most convenient route for transit and the request that governments made no distinction between means of transport.

151. The representative of Argentina said that his delegation found the joint proposal in TN/TF/W/79 very interesting. The document started a new phase in the negotiations in that it tried to compile the proposals made so far. Trying to be precise and not just coming forward with general ideas led to a much more practical discussion where one could see how such a method could work in practice. His delegation had benefited from bilateral talks with some of the co-authors of the paper and his authorities were considering their final comments on certain points that had been clarified. Argentina therefore wished to make only four or five specific comments.

152. First, his delegation would like the co-authors to clarify the last sentence of the first paragraph which read: "the proposals are without prejudice to the possible format of the final result of the negotiation". What was meant by that and how did they interpret the word "format"? Did they mean "legal format" or other "material format"? That was one of the terms used in Annex D of the Group's mandate and it was important to know how it should be interpreted.

153. Second, referring to the specific proposal in paragraph (a) regarding "the legitimate public policy objectives", Argentina supported the proposal and felt that it was a particularly pertinent and important one because it was both good and opportune to recall the applicability of Articles XX and XXI. This would be very necessary should the results of the TF negotiation give right to a text independent of the GATT 1994.

154. Third, regarding the non-discrimination principle, specifically with respect to national treatment, Argentina had some concerns with regard to being clear about applicability of national treatment. As everybody recognized, the national treatment principle had a specific application. Generally, it applied to like products and like circumstances. In that regard, he wished to recall that the addendum to paragraph 5 of Article V, when referring to transportation charges, listed three

conditions. First, like products, second, transportation on the same route, and third, under like conditions. In other words, there were certain principles and conditions, one of which was that national treatment should take into account the treatment given to goods and transport of national goods but only as long as those goods fulfilled those conditions. That did not appear clearly in the proposal and Argentina sought clarification as to the extent of national treatment in this context.

155. Another point he wished to draw attention to concerned the route most convenient for international transit. One had to arrive at a fair equilibrium here. Two different interests were apparent. The first concerned the trade interest of trade operators who wished to have the most convenient route from the point of view of commercial interest, and the second was the general interest that authorities had to protect their own particular custodianship. A balance had to be struck between the two. One had to be very careful and could not give greater weight to the "particular" over the "general" nor completely cancel out the commercial benefit for the operator.

156. Argentina shared the view expressed by Switzerland that the formulation of the document was similar to the content of paragraph 2 of Article V in its current form and that there was only one new element which was to recognize the right of the commercial operator to choose the most convenient. At the same time, there was an important limitation as to the protection of legitimate public policy objectives. More clarification was needed as to whether the public objectives referred to were the same as those in Articles XX and XXI or whether they entailed something more. It also had to be clear whether each authority at the time and according to circumstances could establish the level of protection or restriction of this right to be accorded to the trader.

157. Argentina also wished to draw attention to the point concerning periodic review, both with respect to duties and charges and regarding documentation and formalities. In both areas, there was the suggested obligation to have each Member periodically review its duties, charges and formalities. In the case of trade regulations, there was an important difference regarding how the periodic review was carried out concerning duties and charges. The last sentence in paragraph (d), second bullet, said that "such reviews shall allow for the participation of all interested parties and, as appropriate, may be held at a bilateral, regional or international level". Argentina wished to know why, in the case of trade regulations, there was suggestion to have that sort of review at all levels, bilateral, regional, international, and not just at the multilateral level, which would be the most logical, since one was operating in a multilateral environment. Were the sponsors of the submission thinking of some multilateral review mechanism for that type of situation or was that just proposed to be an obligation to work towards that objective? Was that simply promoted without planning to make it compulsory? And why only with respect to one of the two categories?

158. The last point Argentina wished to draw attention to related to the same paragraph (d). Under the 5th bullet, speaking about the promotion of regional transit agreements, the sixth line said that "Members shall not enforce unilateral rules affecting traffic in transit which are not in accordance with the bilateral or regional transit agreements or arrangements in which they participate". Clarity was sought on the precise content of that reference. Argentina had the impression that, eventually, there would be a multilateral obligation which would incorporate all the norms adopted regionally or bilaterally. One could imagine that to produce a difference at the bilateral and regional level. It would imply that international dispute settlement rules applied, as one had incorporated those bilateral/regional obligations at the multilateral level. When wondering about the applicable law, it was clear that that was the multilateral agreement. But it also implied approaching the sensitive theme of conflicting jurisdictions.

159. What would happen, for instance, if Argentina signed a bilateral transit agreement with Uruguay with a given system of dispute settlement? There would be a new WTO Agreement concerning transit and Article V matters with a similar rule. The multilateral rule would not only cover all multilateral obligations but also the Argentina-Uruguay agreement. That would cause a

difference for the Argentina-Uruguay accord. What would be the appropriate jurisdiction, the bilateral dispute settlement mechanism or the multilateral one? That was a systemic matter. One had to be very careful with how to take it up. Caution was required regarding introducing regional or bilateral obligations into the multilateral ambit. There was also a problem with respect to temporal aspects as that would mean incorporating what had happened in the past, the present and the future.

160. The representative of Chile said that the proposals contained in document W/79 had been presented in a precise and concrete manner. That was appreciated because it helped with their consideration by the capital. From a substantive point of view, Chile shared most of the specific points raised in that document. For instance, there was full correspondence in views regarding suggestions made with respect to fees and charges affecting transit, on publication, consultation with the private sector, and cooperation between the different authorities involved in transit domestically as well as internationally.

161. Chile also had a series of questions, some of which had already been raised by Argentina. One of them related to the scope of the legitimate public policy objectives mentioned in section III:a. The respective paragraph presented a non-exhaustive list of those objectives such as national security, health, safety and the environment. What objectives or criteria could be evoked by the authorities of a given transit country? That was important from the point of view of predictability and future disciplines. There were various disciplines which Argentina had raised. With respect to legitimate objectives, did they coincide or were they limited to Articles XX and XXI of the GATT or was it just an illustrative list to which others could be included?

162. Likewise, Chile shared the concerns raised by Argentina on the relationship between what was agreed on in terms of WTO multilateral disciplines and the agreements which Members' customs authorities entered into in the context of regional integration systems. Interesting questions arose such as which rule would prevail. Clarification on those points would be appreciated.

163. Overall, there were a lot of similarities of views between Chile and the authors of the paper which was welcomed as a basis to overcome the few areas where there might still be differences of opinion. The convergence far exceeded the differences.

164. The representative of Tanzania commented on proposal TN/TF/W/79, associating his delegation with the statement made by Zambia on behalf of the LDCs. Tanzania's preliminary comments were that the proposals merited Members' consideration because they took on board Tanzania's concern regarding the need to include precise, effective and operational SDT. It also took on board the issue of technical assistance and of identifying Members' needs and priorities in relation to the proposals.

165. However, the proposals were not very clear on how it was intended to actually operationalize SDT and technical assistance as mentioned by Zambia. The proposals had also not yet acknowledged the importance of infrastructure. Annex D was very clear that developing countries would not be obliged to undertake investments in infrastructure projects beyond their means. Certainly, infrastructure was very important, particularly to transit countries such as Tanzania which had a huge stake in transit trade as it served seven landlocked countries.

166. With respect to the issue of publication, the proposal did not touch upon how the published information was meant to be made available. Was it through government gazettes, customs publications or the Internet? The proposal to provide a justification and basis for the published regulation remained debatable as there were some circumstances where fees or charges were dictated by international organizations which might have invested in certain projects in order to recoup their loans. All in all, the issue had cost implications that would require TA&CB.

167. Conducting a periodic review of documentation, fees and charges to ensure that they were in line with WTO commitments was also a costly exercise. For Tanzania, the WTO Trade Policy Review conducted every six years for LDCs was adequate. A reduction and simplification exercise to ensure that traffic in transit was not subject to unnecessary delays restrictions, inspections or controls was also a subjective requirement. It was a good idea based on mutual trust between governments, but some dishonest operators violated and misused that requirement. Some cargo destined for landlocked countries ended up unloaded in the domestic market, depriving transit countries of much money.

168. With respect to a Single Window for traffic in transit, it was clear that, in order to ensure the success of trade facilitation, customs administrations must build good infrastructure. However, that had cost implications. In fact, infrastructure costs for automation, including Single Window, were the most crucial ones. Tanzania also did not know what components were involved and at which level. Tanzania had founded the Tanzania Logistics Community to exchange information electronically between stakeholders, but it had been difficult to implement and operate that system because of the costs involved.

169. The suggestion to promote the use of regional transit agreements with a view to reducing trade barriers was something to be applauded. The formation of the East Africa Customs Union in Tanzania's region should be seen as trade facilitation in itself towards that requirement. It was an arrangement where Members would consult, cooperate and coordinate transit arrangements such as those related to infrastructure.

170. The proposal to simplify treatment for certain goods and traders and to apply risk management techniques to enable any instruction to be targeted on the basis of degree of risk attached to individual consignments was a very good one. It was associated with the establishment of authorizing the schemes which granted simplified treatment to traders with a good track record of compliance with transit business. However, due to the fact that some people would misuse that regime, there was need to develop it slowly and gradually, in order to create trust.

171. Cooperation and coordination among authorities involved in transit trade was a very good idea. Tanzania had always practiced those arrangements through various fora. The operationalization and clarification of terms was also a good idea and in line with the existing commitment in GATT Article V to grant freedom of transit through the territory of each Member via the routes most convenient for international transit, such as by leaving the choice of route and means of transport to the operator, as suggested by Mongolia. However, sometimes, when the choice of route was dictated by operators such as clearing and forwarding agencies, it could lead to them opting for the most expensive ones, because, for instance, their clearing and forwarding fees were being based on the CIF value, which meant that, the longer or more expensive the route, the more they got in terms of fees.

172. In conclusion, Tanzania welcomed the proposals and would continue to engage in discussion after receiving comments from the capital, particularly on the proposals' cost implications.

173. The representative of Japan welcomed and appreciated the proposal contained in TN/TF/W/79. As a preliminary comment, Japan, as a co-sponsor of document TN/TF/W/28 on the improvement of Article V, generally supported the proposals set out in the paper. Detailed comments were currently under preparation. Japan therefore wished to revert with additional feedback on the paper at a later stage.

174. The representative of Korea said that the TN/TF/W/79 proposal addressed the key points of what Members had been discussing on GATT Article V since last year. Although Korea was not part of the co-sponsoring group, it found the proposal to be very helpful for countries that had a great

demand or potential with respect to transit goods. In that regard, Korea fully supported all elements of the proposal and wished to have a more specific discussion on it in the near future.

175. With respect to specific proposals mentioned in section (d) "Transit Formalities and Documentation Requirements", and the suggested average time for release of traffic in transit, Korea was of the view that, since traffic of goods in transit depended on a number of factors such as the type of route, the types of traffic and route conditions, it was comparatively difficult to fix or determine the average time for release of traffic in transit at each main point of entry and exit. That was one of the practical problems to fix.

176. The paper also clearly stipulated in the last lines of the first bullet in section (d) that "Members should periodically publish the average time for release of traffic in transit...". Clarification was sought on whether the sponsors of the proposal envisaged only the obligation of publication of the average time for release or also proposed an obligation for Members to be in compliance with clearing traffic in transit within that average time. Korea was of the view that the publication of average release times for transiting traffic would contribute to transparency, but the requirement to clear all traffic in transit within a certain time was another story involving other obligations.

177. On the other hand, average release times for clearance processes involving goods which did not have much value in comparison with the traffic in transit was worth considering. One had to differentiate those two scenarios with respect to average clearance times. Korea would revert with comments on other elements of the paper at a later stage.

178. The representative of Hong Kong, China welcomed the comprehensive follow-up paper TN/TF/W/79 concerning freedom of transit and commended the efforts of its sponsors to collaborate and consolidate ideas and proposals from other Members. Hong Kong, China wished to offer some preliminary comments on some of the specific proposals.

179. With respect to legitimate public policy objectives and traffic in transit, HKC supported the general principle that a balance had to be maintained between freedom of transit and the various exceptions as provided for under GATT Articles XX and XXI which allowed for the pursuit of legitimate policy objectives. The crux of the matter was how to maintain a fine balance between the two.

180. On non-discrimination, as a matter of principle, Hong Kong, China supported the general line that national as well as MFN treatment should be accorded to goods in transit. On fees and charges, Hong Kong, China welcomed transparency through publication of transit fees and charges, and the proposal to provide a justification and basis for such fees and charges. HKC was also in support of the principle of introducing an adequate time period between publication and implementation of new or amended transit fees and charges, except where justified by existing GATT provisions.

181. Hong Kong, China welcomed the suggested periodic self-review of transit fees and charges to evaluate their relevance and validity. Furthermore, HKC was of the view that all relevant fees and charges, not just those relating to traffic in transit, should be subject to periodic review. On transit formalities and documentation requirements, HKC generally welcomed improvement in transparency through publication of transit regulations and formalities, and the provision of a justification and basis for such regulations and formalities.

182. HKC supported the principle of introducing an adequate time period between publication and implementation of new or amended transit formalities and documentation requirements. On the publication of the average time for release of traffic in transit, HKC had no objection in principle to such a new commitment. It might be worthwhile to consider an additional obligation to regularly

review the published target time with a view to reducing it as far as possible. Taking into account the different starting points of different Members, adequate flexibility should be provided in any new commitment in that regard.

183. Hong Kong, China welcomed the suggested periodic self-review of transit formalities and documentation requirements to facilitate customs clearance, and considered that all formalities and documentation requirements, not just those relating to traffic in transit, should be subject to periodic review. However, it was not clear what parties were included under "all interested parties". It appeared that in conducting the periodic review, Members also had to take into account the comments from other government agencies involved in the process.

184. Hong Kong, China generally welcomed the idea that any transit formalities and documentation requirements should be reasonable, be applied uniformly and should not be more trade restrictive than necessary to achieve the legitimate public policy objective pursued. However, Hong Kong, China wished to know more about the definitions for "unnecessary delays, restrictions, inspections or controls". It would be helpful if more details of the actual commitments and some relevant examples could be provided to facilitate further discussion.

185. On bonded transport regime and guarantees, in principle, Hong Kong, China supported the idea that no fees and charges should be imposed in relation to the use of bonded transport regimes and guarantees except for those directly related to the cost of services rendered. Hong Kong, China welcomed further discussion on that proposal with a view to exploring whether a reasonable, meaningful and enforceable WTO commitment could be established.

186. The representative of Pakistan welcomed the new proposal on transit. Pakistan appreciated that it gave due importance to SDT and technical assistance. With respect to specific proposals, Pakistan agreed with the sponsors of the proposal on the need for clearer rules to ensure more transparency, such as with respect to publication of fees and charges, regulations, periodic review of fees and regulations, simplification of procedures, use of international standards, and cooperation and coordination amongst all concerned.

187. The only concern Pakistan wished to express by means of a preliminary comment related to the suggestion to give traders the right to choose the route most convenient for transit. That issue was still being examined in capital and Pakistan would revert to it at a later session. In some countries with more or less similar tariffs amongst adjoining states, that might not matter too much, but sometimes, when the tariff rates were substantially different, giving the traders the right to choose was quite risky and it was difficult to exercise legitimate controls.

188. Furthermore, Pakistan fully supported the Swiss view that in that area for negotiation, Members had to place emphasis on strong regional components, regionally integrated solutions and regional coordination among authorities.

189. The representative of Cuba was grateful for the proposal which constituted a valid effort to arrive at a better clarification and development of Article V. As the proponent of TN/TF/W/64 with the fundamental objective to find better disciplines concerning non-discrimination, Cuba saw with satisfaction that TN/TF/W/79 approached the question of defining that important topic. Nevertheless, in a preliminary reading, Cuba had not found the essence of the document. Cuba would continue to work with the sponsors of that document with the view to better develop Article V.

190. The representative of Brazil expressed her delegation's appreciation for the proposal on transit of goods. It was a very useful contribution because it summed up all previous proposals. With Paraguay being a co-sponsor to that proposal and an important trade partner to Brazil, Brazil was quite sensitive to that issue and looked forward to discussing it further in due course.

191. The representative of the United States welcomed the proposal which accomplished three important things to move work forward. First, the paper appeared to reflect some convergence and consolidation of proposals. Second, it seemed to bring a real focus and greater precision to proposed commitments. And third, it took a step forward in integrating the S&D and technical assistance (TA) elements.

192. Being also a proponent and the sponsor of proposals, the US realized the burden applied. That would already be reason enough to express appreciation for the paper. The US had some other questions and would submit more detailed comments at a later stage. The US delegation hoped for the paper to become a spring board to have even more detailed exchanges.

193. The representative of Uganda said that TF was a key area of the DDA which had the potential to increase Uganda's connectivity to regional and international markets. Uganda was thankful for the proposals tabled. In particular, Uganda wished to thank the EC and other sponsors of the transit proposal which brought forth some good points that would facilitate trade, especially for landlocked LDCs. The proposal was a step in the direction of focussing the discussions on Article V issues.

194. Uganda had studied the proposal with its assessment being one of broad support. However, Uganda wished to add that it would be important to address in more detail issues of SDT, provision of technical and financial assistance and the very important issue of infrastructure development. Uganda had some ideas on how that could be done and was willing to engage further with the proponents on how those elements of concern to Uganda could be incorporated into the proposal.

195. Uganda also wished to make some more general comments on what it saw as critical elements in the negotiations. Uganda wished to stress the importance of the need to start a discussion with some level of precision on the cost implications of proposed measures and the S&D component thereof. There was also need to operationalize the provision of technical and financial assistance in the negotiation mandate. It was an issue Uganda held close to its heart. The hope was that that could be done prior to entering into text-based negotiations. It should be recalled that for LDCs, there was a clear recognition in Annex D of the need for provision of technical and financial assistance aimed at assisting them not only in the course of the negotiations, but to implement the outcome thereof.

196. While there was now some form of knowledge on the scope of negotiations through the tabled proposals, there was no mention of the funding mechanism and how it was that LDCs were to be assisted in implementing the potential outcome of the negotiation. Uganda viewed that as very worrying and called upon the Chair to steer the discussion towards that very important issue in the NG.

197. It was also in light of that aspect that Uganda found the ACP proposal in TN/TF/W/73 as a positive one, particularly as far as paragraph 18 was concerned. There was need for a clear indication and understanding of the financial mechanism to assist LDCs at that particular stage. While Uganda was aware that there was a lot of assistance being provided bilaterally, it was not convinced that sticking to traditional mechanisms of bilateral assistance would suffice as a solution to new multilaterally agreed obligations.

198. Another important issue tied to financial assistance was the need for the negotiations to take into account infrastructure difficulties faced by LDCs. Paragraph 6 of Annex D contained a clear reflection of the fact that infrastructure was part of the discussion on trade facilitation. Because of the hardship Uganda faced as a country, it wished the negotiations on technical and financial assistance to take that issue into account.

199. Uganda also wished to emphasize the need to look at regional approaches to operationalize technical and financial assistance. That would assist in solving the problem of transit countries with capacity constraints and be in the interest of landlocked countries as well.

200. The representative of India welcomed the paper from the EC and several other Members (TN/TF/W/79). It marked the second phase of the NG's work as it compiled the proposals already on the table. In doing so, it made delegations' work easier. India's extensive comments on the individual papers would need to be taken into account as the discussions progressed.

201. The overall approach of the paper was to attempt the establishment of a system of release of goods in transit which, in a way, mirrored the systems for release of goods under import and export. India was not sure whether it was necessary to replicate each system of import and export for transit, especially with respect to issues such as having a system of authorized traders or a time release study. With respect to the time release study, clarification was sought, as some Members had expressed concern that the time would need to be published for the entire period taken for crossing the goods from the entry to the exit point. In India's understanding, the TN/TF/W/79 proposal was to give two separate time releases, one at the point of entry and the other at the point of exit. India wished to understand the precise idea behind the proposal on publishing time release.

202. Like other Members, India was also concerned about extending the principle of national treatment to traffic in transit. According to the proposal, Members shall accord treatment no less favourable than that accorded to domestic goods, exports and imports and their movement. That might be a very sweeping commitment because goods, which moved domestically, had to be treated differently than goods which moved in transit. Similarly, goods which were moved after they had been imported had to be treated differently. One prime consideration for treating them differently was that goods which moved domestically, or which moved after they had cleared the borders for imports, were duty paid goods. Therefore, the concern of safeguarding revenue was not as acute as for goods which transited through countries. Since no duty had been paid on those goods, it was important that they did not get diverted. Second, there were other sensitivities of trade policy and security concerns, requiring those goods to be treated differently from normal goods of domestic origin. More discussions on that proposal were therefore required.

203. Clarification was also sought about certain proposals relating to the processing of transit documents and data prior to the arrival of the transiting consignment. India understood the issue in the context of import of goods because prior assessment of documents helped reduce the time for release of goods and for deciding which goods had to be further examined, whereas transit systems normally did not presuppose the check of goods or their physical verification. India was therefore not sure whether there was need for a pre-arrival declaration.

204. India also sought clarification about the wording in the tiret referring to "the use by traders of commercially available information, documents and data wherever possible". Was the idea that government authorities should use commercially available information? India did not know how traders would use commercially available information and for what purpose. They were the ones who generated that information.

205. Finally, India shared other Members' concerns regarding the right to choose the route most convenient for transit and wished to reiterate its earlier expressed concerns on that matter.

206. The representative of Japan commented on the transit proposal tabled by the EC and a group of other countries (TN/TF/W/79).

207. With respect to its proposal on transit formalities and documentation requirements set out on page 3, III(d), first bullet, suggesting that "Members shall accord an adequate time period between the

publication of new or amended transit formalities and documentation requirements and their entry into force", Japan wished to comment that it was difficult for its government to decide the publication date of new or amended laws and regulations due to its relationship with the national Diet or the parliament. In that regard, Japan welcomed the EC's clarification that the issue had to be treated with some flexibility, as Members had different systems. In the course of further clarifying that point in the negotiations, Japan wished to pursue compatibility with its legal system.

208. Japan shared the view of it being important for traders to obtain necessary information for their preparation for trade transactions in advance in terms of predictability and transparency and thought that necessary measures to meet that objective should be taken into consideration with flexibility.

209. Based on such precondition, Japan could support the proposals contained in TN/TF/W/79 and therefore wished to co-sponsor that paper.

210. The representative of the European Communities expressed appreciation of the broad support indicated by other delegations for document TN/TF/W/79. The EC was extremely pleased by its good reception. With respect to the questions about the proposal, the EC would try to answer as many as possible. The Communities would also submit a written reply.

211. As regards Argentina's question on the meaning of the EC's remark about the proposals being without prejudice to the possible format of the final result of the negotiations, the EC wished to inform that that was a quotation from footnote I of the negotiating mandate set out in Annex D of the July Package. The EC had not yet reached a definitive view on whether Members were working towards a self-standing WTO Agreement, an understanding on the implementation or improvement of Articles V, VIII and X, or whether to amend those Articles. That was a question of format as opposed to one of whether Members were negotiating WTO commitments, which was clearly the case. The format remained to be determined.

212. Regarding Argentina's and India's point about the applicability of the national treatment notion in transit, the EC agreed on the need for more focus on the issue and more precision. What the EC wished was to capture the notion that, where like products were travelling in similar conditions on similar routes, the treatment of the transiting product should not be less favourable than that of the like domestic product travelling in the same conditions along the same route, irrespective of whether the product was in transit or was a domestic good being moved within a territory. It was a fairly innocent idea the EC was trying to capture.

213. With respect to the question of who had the freedom to choose the most convenient route for transit, doubts about how to interpret that aspect of GATT Article V in the sense of whether it was to be the choice of the government or the choice of the trader had already been raised a few years ago in the pre-negotiation period. The EC sought a clarification of Article V in the sense that the determination of what was most convenient should be in the hands of the trader, but subject to the fact that the government had a right to restrict that freedom of choice if there was a good reason to do so. There were many reasons why in particular situations authorities would not allow complete freedom of choice, such as for environmental controls or other reasons. In trying to clarify Article V, the EC wished to see that balance more explicitly reflected.

214. With respect to the questions about the implication of periodic reviews, what the EC and other Members had proposed – also for Article VIII – was that Members would domestically carry out a periodic review of their fees and charges and their broader regulations. It was a familiar concept in the WTO as reflected in a number of existing agreements. The EC was not very novel in that respect. It was a question of good regulatory practice that, from time to time, regulations, fees and charges were reviewed as to their continued relevance. In the case of fees and charges, given that they should

reflect mathematically the cost of the service rendered, the EC saw no particular reason to open up that review process to others. It was something to be done by the authorities.

215. With respect to broader transit regulations, rules and requirements, it was very important that governments consulted interested parties when reviewing their transit provisions and procedures. The trading community on the ground had to be involved in that exercise, also in the case of changes to regional transit agreements or arrangements. It was common sense that a government would consult with other Members of a transit agreement or with neighbours whose traders were going to be affected by changes. That was the reason for the EC proposals.

216. The EC welcomed the comments by the LDC Group, Tanzania, Uganda and Zambia. With respect to the question repeatedly raised by the LDC Group and by the previously mentioned individual countries on the whole set of issues surrounding technical assistance and SDT, the EC would give a detailed response between now and April, either in the context of its reaction to the ACP Group proposal or through a separate submission to the Negotiating Group. The EC already carried out aid programmes that took to heart the kind of concerns raised by those countries. The EC was extremely committed, as were other bilateral donors, to help build up in particular regional transit corridors and the infrastructure required to make those corridors function.

217. With respect to the questions about the notion of establishing average processing times for customs intervention in transit, the EC saw that purely as a domestic exercise that each Member would individually carry out. It was a transparency measure. The measurement of time release would be done at the point of entry and at the point of exit, as they marked the beginning and the end of a transit operation and there was a form of customs intervention. The idea was simply to see how long that intervention took. Most of the EC governments were progressively applying time release methodologies to try to identify bottlenecks and improve the speed and the service to the customer.

218. With respect to Hong Kong, China's comprehensive comments on the paper, which the EC welcomed, and to HKC's question as to who would be interested parties to be consulted when modifying or drafting rules and regulations for transit, the focus was very much on consultation domestically with the local trading community directly affected by those changes. With respect to HKC's request for examples of what the EC would consider to be unnecessary delays, restrictions, inspections or controls, the EC would communicate them in writing.

219. As for India's questions whether it was logical to apply some of the modern customs methods applicable to import and export to transit operations, the EC was of the view that that was the case. There were a lot of parallels. At the end of the day, transit was simply another form of customs operation. The methods that should be useful for import and export, release and clearance were in most cases equally applicable to transit. Therefore, some of the notions of the EC proposals regarding provisions on fees and charges, bond systems, guarantees and the registration of authorized traders were as applicable to transit operations as they were to more classic import and export operations.

220. As for the LDC Group's question about whether the publication of rules and requirements and fees and charges should be done electronically or through government gazettes, the EC was of the view that it was entirely up to each country to determine the way in which it published its requirements, whether it was electronically or not. What was important was that the local trading community, the importers, exporters, freight forwarders and transit operators had that information quickly. How it was done was each Member's decision.

221. The representative of Mongolia wished to add a few ideas from the perspective of a developing landlocked country in response to questions raised by a number of Members. SDT and technical assistance were a main interest of developing countries, especially LDCs and landlocked developing countries. It was what Mongolia expected from the Round in terms of trade facilitation.

222. There were a few elements one should keep in mind. First, SDT and technical assistance issues would be integral parts of the overall S&D and TA elements of the Doha Development Round. They could not be separated from those elements of the Doha Round. Special treatment was required regarding the needs of developing countries in terms of TF. For that purpose, Mongolia had already tabled a number of proposals both to the NG and to the Ministerial Conference in Hong Kong. Mongolia had, for instance, put forward a proposal to establish a TF chapter within the framework of the DDA Global Trust fund. There was need now to translate that idea into a concrete suggestion. A written proposal on the matter might be presented at the next NGTF meeting.

223. Mongolia understood that one should not expect the WTO to build railways, roads and the like. Rather, what Mongolia had in mind when talking about building infrastructure for the purpose of trade facilitation was to have some assistance from the WTO and other international organizations in terms of improving the efficiency of border-crossing points to release the goods, as well as in terms of servicing goods in transit. The building of railways, roads and similar large projects was usually done by the international financial institutions and by bilateral donors. The purpose of TA in that regard was to make use of the existing projects already completed. What Mongolia was expecting as a developing landlocked country was not physical infrastructure in the form of railways, but an improvement in efficiency. That was the most important matter. The most serious hurdle in servicing goods in transit was on the human side in terms of bureaucratic obstacles. The assistance Mongolia would seek, for example, from the WTO and the donor countries in terms of TF would be how to reduce those bureaucratic hurdles. The infrastructure Mongolia would be asking for was not railways, airlines or aircrafts. One should not be too ambitious.

224. As for S&D provisions, one should be able to establish the main elements of the modalities and then come to the S&D provisions. Mongolia knew that one should first discuss some general principles and then their exclusion. That would be SDT. The S&D issues presented in all other negotiating areas would be also present. One would automatically transfer from other areas the S&D provisions that would apply to the LDCs, landlocked developing countries and other groups of developing countries like small and vulnerable economies.

225. The representative of Rwanda commended the sponsors of the paper and appreciated the fact that it had received wide support. Rwanda might co-sponsor it as well. Rwanda was further encouraged to see the authors of the paper open to discuss it in order to have an outcome that could be a win-win for everybody. Rwanda fully endorsed the views expressed by Zambia, Uganda and Tanzania.

226. On the issue of infrastructure, Rwanda had heard the EC talk about bilateral support. That was an issue for discussion because Rwanda wished to know whether it should be bilateral or multilateral. Infrastructure was recognized in Annex D as an issue that had to be addressed. All those issues, including S&D, were issues that required further discussion.

227. The representative of Canada, speaking on behalf of Australia, Canada and the United States, informed delegations about the availability in the meeting room of an advance copy of a document which presented some common elements regarding advance rulings that were drawn from various proposals. The sponsors of that document looked forward to discussing it at the next meeting.

228. The representative of Egypt said that Egypt was looking forward to advancing work, particularly on S&D and operationalizing TA&CB in relation to eventual commitments that developing Members might have to assume as a result of the negotiations.

229. Egypt's submission in TN/TF/W/75 built upon its earlier submission on "Reforming Customs Authority, Fighting Corruption and the Use of Computers" (TN/TF/W/69). In its previous submission, Egypt had explained some of the aspects of its customs reform and modernization

programmes, shedding light on the pilot introduction of a Single Window and on Risk Management operations that it was trying to institute in its customs. It also looked at various automation-like projects that were taking place.

230. Two general points should be made. For TF to succeed, it was important to insert a wider economic and regulatory reform programme. That had been the experience of Egypt, which had allowed it to put trade facilitation high on the agenda of politicians and of businesses. The wider reform programme entailed also what was called e-government. It was a project that involved a major multinational, Microsoft, which dealt with the working of government agencies among each other and how paper could be phased out as much as possible within the government in the coming years.

231. The second general point was that TF entailed a long and costly process. A question had been raised about the costs of the reforms. It was difficult to pinpoint the costs of single interventions, but it was quite a long process which entailed a lot of training and capacity building of major authorities. It also comprised both soft- and hard-ware activities that were needed, including upgrading of infrastructure. The current submission addressed modernization efforts related to the three GATT Articles discussed in the NG.

232. Under Article V, Egypt was modernizing its transit system, moving from a paper-based system to an electronic one. It was also using risk management techniques as an important component of that modernization programme. Moreover, cross-border customs cooperation was an integral part of the thinking and a major component of how a functional system of facilitating transit should be carried out. That was happening as an initial stage. Cross-border customs cooperation was happening already within a framework of recently signed FTA agreements. It was obvious that such modernization required a lot of assistance from partners that had longer experience in modernizing their customs. A lot of attention also had to be paid to the training of personnel and to raising the capacity of people working in those fields. That was one of the areas in which Egypt would definitely need further assistance to complete its modernization efforts.

233. With respect to Article VIII, a major review of the Customs Code, including fees and formalities, was undertaken in 2004. Fees were constantly revised in the framework of an ongoing dialogue with stakeholders, both at the national level and with major trading partners abroad. Fees and formalities documentation and regulations were regularly published in the official gazette and Egypt was moving to a web-based publication system supplementing the mandatory requirement of publication in the national gazette. Further reviews of fees and charges were envisaged in the coming period. Egypt was also moving to the introduction of the first stage of an electronic declaration system. A pilot project was underway. In addition, Customs was introducing an "Account Management System" to facilitate the identification of compliant traders. It had already been done with some of its major trading partners with more yet to come. TA&CB would be needed to contribute to the modernization efforts, particularly to establish and introduce a new electronic system at the national level.

234. With respect to Article X, modernization efforts were pointing at encouraging the use of electronic publications through official websites. These official websites were run both by customs and by the Trade Ministry and other authorities working under the Trade Ministry. That process was at its initial stage and was still a long way from fulfilling all the desired results. In that respect, Egypt would also need the support of its partners. It would need the existing best practices to make sure it was on the right track. Customs and other national authorities were running enquiry points, which were operating at major ports and points of entry to provide assistance and advice to exporters and importers. That service was usually free of charge to operators. Customs was also running a command web-page where traders could address their enquiries and comments to the appropriate office in charge within customs. It was a decentralized system of commenting on existing different regulatory pieces as far as customs functioning was concerned. Egypt also published all matters

related to penalties in the official gazette and in the customs magazine. The intention was to do that electronically in the near future.

235. As far as Article X was concerned, Egypt was aware that, for the system to work in full transparency, a reasonable period of time should be given between publications and entry into force of provisions and regulations. In paragraph 10, the submission dealt with consular fees, which was as an area that had been under discussion in Egypt throughout the last year. The discussions were still going on. There were different opinions about how to handle the issue of consular fees. The discussions were not yet conclusive.

236. The representative of Canada expressed appreciation of Egypt's national experience paper, which was very useful. It gave an indication of what a country like Egypt had done and what were the requirements for domestic reforms in the area of pertinence to the negotiations. The paper was very informative for the consideration of proposals on the table.

237. Canada saw relevance for some of its own proposals. Such a communication helped Members to look again at their communications with a view to advancing the ideas in light of the situation in various countries, the TA requirements and how to make sure that the commitments took into account the implementation capabilities of developing and least-developed countries. Canada would welcome further communications of that nature in the future.

238. Clarification was sought with respect to the current transit procedures. The penultimate sentence of paragraph 3 said that "Egypt also believes that those goods transit movements should be timed and the route specified". What was meant by "routes specified"? Did the carrier, when entering Egypt, have to provide information as to which route he would take for the transit through Egypt, or was it that the route was specified by the customs authorities upon entry of the carrier into Egypt?

239. The representative of Egypt replied that traders would specify to the customs authorities the route they would be taking within the country.

240. The representative of Jamaica, speaking on behalf of the ACP Group, introduced communication TN/TF/W/73 entitled "Issues in the Negotiations on Trade Facilitation and the importance of Promoting Development Objectives through Technical Assistance and Capacity Building".

241. The ACP States recognized the potential benefits that would accrue to their countries from undertaking trade facilitation measures. Therefore, in order to contribute to the negotiations, ACP Member States had committed to injecting inputs through submissions to the NGTF. The first of those projected submissions was especially dedicated to reaffirming some of the key principles on which the ACP hinged their participation in the negotiations and on TA&CB.

242. On the first aspect of reaffirming some of the key principles, the ACP wished to highlight: (i) the need to bear in mind that, although the proposals made so far were broadly consistent in principle with the thrust of ongoing national programmes in some ACP countries, ACP countries were at different levels of development and by extension, utilized varying levels of border procedure and administration; (ii) the importance the Group attached to the adherence to the mandate of the NG, and (iii) the flexibilities contained in Annex D, including (a) the latitude of Members to ultimately decide on the possible format of the final result of the negotiations and the allowance for consideration of various forms of outcomes; (b) that extent and timing of entering into commitments shall be related to delivery of the required support and assistance and to the implementation capacities of developing and least-developed countries; (c) that LDCs would be required to undertake commitments only to the extent consistent with their individual needs and capabilities; (d) full reflection of the principle of SDT for developing and least-developed countries; (e) the need to make SDT directly operational in

any negotiated outcome; (f) that the concerns of developing and least-developed countries relating to the cost implications of proposed measures shall be effectively addressed; (g) the need to ensure that at the end of the negotiations, there was retention of existing policy space and flexibility for developing countries in terms of adopting TF measures; and (h) the need to manage delicately, the issue of balance between the legitimate objective of border control and the desirable goal of trade facilitation.

243. On the second aspect, ACP Member States understood that their development objectives could be promoted through technical assistance and capacity building.

244. The salient points of the ACP Group's contribution towards operationalizing TA&CB in the context of the negotiations on TF were (i) The need to clearly identify the needs and priorities of developing countries for TA&CB on Trade Facilitation as an important task in fulfilling the letter and the spirit of the negotiating mandate; (ii) Such assistance could and should include financial assistance; (iii) Developing target projects or programmes of assistance to support the implementation of any negotiated outcome; (iv) Strengthening existing trade facilitation-related TA&CB programmes and forging closer collaboration and enhanced coordination among relevant international, regional and sub-regional organizations in terms of the delivery of trade facilitation-related TA&CB support to ACP countries to help them design and undertake trade facilitation-related projects or programmes identified as part of their TF negotiations needs or priorities. The establishment of an Inter-Agency Coordinating Mechanism for Trade Facilitation TA&CB could assist in that regard; (v) In order to efficiently source and allocate TA&CB support for developing countries, it was proposed that a special Trade Facilitation Technical Assistance and Capacity-Building Fund be established. Contributions thereto should be sourced from bilateral and multilateral donors; (vi) The identification and implementation of TF negotiating needs and priorities should be made through national inter-agency trade facilitation assessment projects. That would enable ACP countries to build a complete and comprehensive picture of their domestic trade facilitation needs and priorities; (vii) The development of a human and technical resource base relevant to the TF negotiations in ACP countries through trade facilitation negotiations training projects and programmes; (viii) Identification of trade facilitation-relevant physical and policy infrastructure to enable ACP countries to fully maximize the benefits of trade facilitation and to effectively comply with new trade facilitation rules, and lastly (ix) The ACP recommended that the WTO Secretariat prepare a report on the extent to which the technical assistance aspects of Annex D were being implemented.

245. The ACP stood ready to engage in a constructive debate on that issue of critical importance to developing countries.

246. The representative of Moldova, speaking also on behalf of the Kyrgyz Republic as another small low-income economy in transition, introduced document TN/TF/W/74 which contained some of those countries' concerns.

247. Small low-income economies in transition which had recently acceded to the WTO faced huge difficulties in their efforts to implement economic and trade policy reforms. The objective economic indicators clearly showed that the level of development of their economies was comparable to low-income developing countries and to LDCs.

248. Both sponsors were landlocked and therefore faced additional difficulties in economy and trade. Like developing countries, they were concerned that the likely commitments that would result from the Trade Facilitation negotiations might go beyond their implementation capacities.

249. Paragraphs 2, 3, 5 and 6 of Annex D of the General Council's Decision of 1 August 2004 contained comprehensive provisions on SDT and TA&CB for developing countries and LDCs. Furthermore, paragraph 38 of the Doha Ministerial Declaration instructed that "priority shall also be

accorded to small, vulnerable and transition economies" in the area of technical cooperation and capacity building. However, for the small low-income countries in transition, though their level of development was quite low, no specific flexibilities and/or provisions were agreed so far.

250. Therefore, Moldova and the Kyrgyz Republic requested the NGTF to agree that Members which were small low-income economies in transition be also granted special flexibilities with regard to trade facilitation and be provided with adequate TA&CB in accordance with paragraphs 2, 3, 5 and 6 of Annex D of the General Council's Decision of 1 August 2004.

251. The representative of Barbados indicated full support for the ACP submission and the statement by Jamaica on behalf of the ACP Group. The paper not only reaffirmed and presented Barbados' perspective on the conditions for ensuring a successful outcome of the negotiations but also provided a specific blueprint on how the TA&CB mandate could be concretely established and implemented.

252. The proposed coordinating mechanism was one possible structural option Barbados was open to discuss further, but there were some precepts in the paper which were absolute. On the principles which would be difficult to dilute, were in particular, the overriding principle described in paragraph 2, and the recognition by all ACP Members of the benefits of a developmental nature that would result from enhanced TF measures. That recognition was, however, conditional on the issues mentioned in paragraph 5 being addressed, as that would be necessary to ensure sustainability of those benefits.

253. Therefore, the issues of capacity, appropriate technical and financial measures, technology transfer, training and infrastructure enhancement had to be addressed. Section 3's elaboration of a time dictated provision of TA was of primary importance as it reaffirmed the need for TA&CB to premier that process pre, during and post textual negotiations. Specific consideration of the type of assistance required in the three phases was also detailed, especially the importance of a needs assessment as the most crucial initial step.

254. Session 4 of the paper elaborated on the area of monitoring and evaluation, which was an important concept both for the providers and recipients of the assistance. That structure would also be of prime importance in determining whether Members had received sufficient and appropriate assistance to allow them to take on board any obligations which might result from those discussions. Barbados hoped for Members to give careful consideration to the proposal as Members collectively attempted to realize all aspects of the mandate.

255. The representative of Senegal supported the statement by Jamaica on behalf of the ACP Group and drew attention to the role of infrastructure, which seemed to be taboo in the NG.

256. The ACP dealt with that matter on page 4 when referring to the "key areas for funding of Trade Facilitation TA&CB". The Hong Kong Ministerial Declaration required the move into focussed drafting mode. In that context, the focus had to include the question of infrastructure, according to Senegal's analysis, and not set that aspect aside, as the report prepared before Hong Kong had done. Senegal insisted on that because the reflection on TF in the light of Annex D had to go beyond the improvement and clarification of the provisions of Articles V, VIII and X.

257. As regards transit, one should be concerned with the coherence and efficiency of the transit environment, because investment would be required correlative to the improvement introduced to those provisions, physical infrastructure and equipment regarding ports and roads. The focus had to ensure that the modalities that would be obtained took into account the TA needs, to evaluate the infrastructure investments and the technical assistance for their financing. It was something that had to be underlined due to its importance for the efficiency required in the discussions.

258. The representative of Mauritius supported the ACP submission and the statement made by Jamaica on behalf of the ACP Group. Mauritius viewed the development dimension as a major feature of the trade facilitation negotiations. That was clearly spelt out in Annex D and had also recently been reiterated in the Hong Kong Ministerial Declaration.

259. It was without doubt that the current negotiations and eventual implementation of trade facilitation measures would require the mobilization of resources, both financial and technical, to assist developing countries in that area. Hence, Mauritius viewed the TA&CB component as key to the work of the NGTF. There had been several submissions on that aspect already such as the African Group paper on how to operationalize the TA&CB component. The ACP submission offered some further ideas on how that could be done, such as by the establishment of an Inter-Agency Coordinating Mechanism. It also identified some key areas for funding. Mauritius hoped that the submission would contribute to moving forward the discussion on that particular aspect of the negotiations.

260. The representative of Tanzania supported the submission by the ACP Group regarding the promotion of development objectives through TA&CB. It was important to sequence the recommendations on TF endorsed by Ministers in Hong Kong. They should at least serve as a guideline for further negotiations on that area. First, Members should narrow the focus on proposals that they considered to constitute elements of TF. Many proposals had been put forward by various Members since the start of the negotiations and some of them went beyond the mandate.

261. Second, technical and financial assistance should be operationalized by starting with the establishment of a Coordination Mechanism to channel that important requirement as proposed in the submission. Third, the identification of needs and priorities should follow as it was key for the determination of which elements constituted trade facilitation.

262. The representative of the European Communities welcomed the ACP paper which addressed some very important aspects of the mandate in a more concrete manner. Members had to work further on many of the proposals contained in that document.

263. The European Communities had a very profound relationship with the ACP countries through the successive Lomé Conventions and, more recently, the Cotonou Agreement. The ACP were principle development corporation partners. Through the European Development Fund, about half of Europe's development aid was provided to the ACP countries for developmental purposes. The EC had decided shortly before Hong Kong in the European Council that it would increase the provision of trade-related assistance to around 2 billion Euros par annum, from 2010 as the combined assistance for trade-related aid from the Communities and its member States. It was roughly a doubling of existing aid provisions in the trade area. It was very clear already that a large proportion of that increase in the EC cooperation programmes and aid would be in the area of trade facilitation, where, as the OECD had noted in a recent report, there had been a 250 per cent increase in the amount of aid being channelled globally to trade facilitation since the Doha Ministerial Conference in 2001.

264. The Communities intended to fulfil completely that aspect of the mandate in terms of being a cooperation partner and providing technical assistance to ACP partners and to developing countries who might need help with the implementation of any future trade facilitation provisions in the WTO.

265. With respect to the proposal to have some kind of a multilateral fund for the implementation of a future TF agreement, the EC would continue to provide technical assistance bilaterally and bi-regionally. It had been the preference of individual ACP countries and ACP sub-regions to maintain that bilateral and bi-regional channel for the design and implementation of development aid, including in the trade field. That was what the EC planned to continue.

266. In addition to the Geneva negotiations, the EC also engaged in negotiations with the six ACP sub-regions of Economic Partnership Agreements (EPAs), which were broad development cooperation agreements that would replace the Cotonou Agreement. Trade Facilitation was a very important component of the EPAs. Through those instruments, the EC helped to build regional capacities for TF, in particular regional transit systems and regional infrastructure. In doing so, one could "kill two birds with one stone" in (i) helping ACP partners and sub-regions to build regional capacities for TF to improve competitiveness and stimulate growth and, (ii) through the same vehicle, helping partners to meet the emerging commitments that Members were discussing in the WTO.

267. With respect to the question of a coordination mechanism and how to design or improve existing ones, the EC shared some of the ideas expressed in the ACP paper. Members had to find different or improved means to cooperate and coordinate between development partners and international organizations. Coordination had to take place in two ways and at two levels. First of all, within individual countries. There had to be coordination on the ground between the country in question and bilateral and multilateral donors. That was absolutely a pre-condition for a coherent aid design and implementation. Secondly, as mentioned by the ACP, there had to be some kind of means, some platforms for cooperation and transparency in Geneva, between development partners, bilateral donors and multilateral organizations.

268. The EC had made proposals along those lines in previous submissions. It was certainly a very important element of a post-Round implementation phase in that area to have some kind of cooperation or transparency mechanism to support the implementation by WTO Members of future WTO provisions and to ensure that progressive implementation was matched and was supported by appropriate development aid. The EC was keen to work further with colleagues on giving more precision to that idea in the weeks ahead.

269. The representative of Cuba associated her delegation with the main issues set out in the ACP document and with the statement by Jamaica on behalf of the ACP Group. Three fundamental aspects had to be mentioned.

270. The document tried to establish an equilibrium between disciplines and SDT, technical assistance and capacity building. The proposals referred to concrete actions which were to take place before, during and after the negotiations on trade facilitation, in line with the foreseen mandate. Further, the proposed measures had to benefit each and every Member participating in the negotiations. Cuba and other developing countries wished to achieve concrete gains from the negotiations.

271. The representative of Rwanda fully supported the introductory remarks by Jamaica on behalf of the ACP and urged Members to support the principles highlighted in the ACP submission.

272. The debate was not too wide on that particular issue. Rwanda was not sure whether that was due to the fact that it had been introduced late or because Members were still reflecting on the submission. Rwanda wished to know whether there would be another chance to discuss it. Maybe it would be better to discuss it informally. There were many ways of coming up with some common ground. Rwanda was thankful to the EC for their observations. Rwanda did not want to talk about whether it preferred bilateral or multilateral support – it would probably be both – but would engage in bilateral discussions to have a common understanding on that issue.

273. Rwanda wished to talk about the sequencing between needs assessments and the rules it intended to agree on. It was Rwanda's understanding that the needs assessments would be based on rules that would be agreed on. He did not know whether Members would wait until there was agreement on the draft Agreement and then assess the cost implications. One could still assess now

and continue to do the assessment later on. It would be a continuous exercise to make sure that the TA&CB to be provided would capture the costs implications.

274. For that purpose, it would be important to have clear provisions on TA *and* CB, which were two different matters, with CB covering infrastructure, and to have clear modalities. Members had to clearly identify detailed modalities on how TA&CB would be addressed in the coming months so that, even if the assessment would be made after the agreement, the cost implications could be fully addressed.

275. The representative of Kenya associated his delegation with the submission by the ACP and with the statement by Jamaica. The submission clearly demonstrated the importance the ACP countries attached to TF, in particular to the customs reform process which continued to remain very high on the agenda of the ACP countries. The paper, as well as other submissions discussed earlier, revealed clearly that the issue of capacity building was the cornerstone of any successful customs reform process. That was why the issue of TA&CB was a very important one in the discussion.

276. The ACP submission put forward some ideas on how to implement that issue in the context of the mandate. Its suggestions merited consideration. Kenya looked forward to further engagement on that issue, hoping that, at the end of the day, one would be able to achieve something the ACP felt comfortable with.

277. The representative of Trinidad and Tobago associated her delegation with the statement by Jamaica on behalf of the ACP Group, which highlighted the importance the Group attached to TA&CB.

278. The ACP states were convinced that benefits could be derived from trade facilitation. What the submission sought was to identify ways in which the TA&CB aspect of the mandate could be operationalized. With respect to the coordinating mechanism, Trinidad and Tobago was heartened by the intervention of the EC, as it shared its interpretation that there would be some forms of coordination in the post negotiating implementation phase, which was very important.

279. The representative of Zimbabwe associated her delegation with the statement by Jamaica on behalf of the ACP. The need for TA&CB was well articulated in paragraph 6 of Annex E of the Hong Kong Declaration and no repetition was needed. Zimbabwe believed that trade facilitation was of great benefit to Zimbabwe as a country, and for the ACP Group as a whole.

280. The proposal by the ACP gave some clear indication as to how the matter could be considered further. It was pleasant to note that Members were willing to look into that matter, so that Members got some results at the end. Zimbabwe also wished to emphasize the point made by Cuba when indicating the need for results at each and every stage of the negotiations so that Members were clear as to where they were going, took stock of the shortcomings, and collectively tried to look into the issues to see how best to address them.

281. The representative of Zambia fully associated his delegation with the statement made by Jamaica on behalf of the ACP countries.

282. The representative of the United States welcomed the ACP paper. Paragraph 5, in particular, captured a challenge. With regard to the question of a coordinating mechanism, it was no secret that the US was very cautious about something that smacked of new international bureaucracies. The US delegation agreed, however, that one had to look at developing a coordinating mechanism. The US approach to the question was tripod and very simple: Member-driven, Member-partnership, and Member-ownership.

283. The United States agreed with Rwanda's statement on the assessment having to be a continuous exercise. But the importance was, at least for the moment, to begin. Several tools had been put forward to that end. Members had to begin the process so that one could feed into the NG's work and continue to do so.

284. The representative of Egypt supported the ACP submission. Many countries of the ACP Group were Members of the large group of African countries and of the African continent. Egypt was delighted that there was a very detailed submission on how to operationalize S&D and TA&CB. Those ideas would be very useful to guide Members' work in the coming period. It was useful to introduce it early in the year so that Members could make use of it.

285. The Chairman asked whether there was any point delegations wished to revert to with respect to contributions previously received. Additional information on one such earlier proposal had been provided by Australia (JOB(06)/22/Rev.1)), supplementing its national experience paper (TN/TF/W/66) by seeking to address key elements of the discussions held at the October meeting.

286. The representative of Sri Lanka commented on a proposal submitted by India and the United States the previous year on the establishment of multilateral mechanisms for the exchange and handling of information between Members (TN/TF/W/57), expressing its support for that proposal. India had followed up with another useful contribution in document TN/TF/W/68. Based on the result of an analysis of that proposal by the Core Group established in Colombo as a result of the World Bank Trade Facilitation Negotiation Support Project, which comprised key stakeholders, Sri Lanka wished to co-sponsor document TN/TF/W/68.

287. It was a very useful submission. Sri Lanka had some bilateral arrangements for sharing information. Its experience showed that those bilateral arrangements had not yet produced the expected results. Sri Lanka believed that a solution at a multilateral level was more efficient and could contribute to achieving some of the objectives of the negotiations. One of those objectives was to have appropriate controls which could facilitate the smooth release of goods. Sri Lanka believed that the proposed mechanism would help to expedite the clearance of goods while at the same time maintaining the necessary level of control. India's submission had also elaborated the appropriate methodology for how that multilateral mechanism could be operationalized. In particular, the paper had come up with solutions on how to deal with the confidentiality aspect of exchange of information, which was a key concern for several Members. There was now need for a great deal of TA for setting up that kind of cooperation mechanism.

288. The Chairman said that work in support of the negotiations had also been continued by the participating international organizations, touching upon several crucial aspects. Details of that work would now be explained.

289. The representative of the WCO said that, from the perspective of an implementation agency, some of the proposed WTO commitments might be best implemented with an implementation guide containing technical details and best practices. In that regard, the WCO Revised Kyoto Convention and its supporting initiatives, including the Customs Data Model, could provide implementation tools of WTO trade facilitation commitments in a complementary way. Several WTO Members had in fact proposed a WTO commitment to use WCO instruments.

290. The WCO therefore wished to share the most recent development regarding the WCO Revised Kyoto Convention, which had entered into force on 3 February. Prior to that, the accession to the instrument was limited to the Contracting Parties to the original convention, i.e. merely 63 countries. The entry into force opened up the door to the remaining over 100 countries. The current number of Contracting Parties to the revised Kyoto Convention was 44; and the number was expected to grow rapidly. Together with the development of the TF negotiations, the WCO believed

that an increase in the number of countries meeting or pledging to meet that international standard in their customs operations would significantly contribute to the progress of the WTO negotiations.

291. Another important element the WCO wished to comment on was the effective provision of TA&CB. The interventions of the development partners showed that they were willing to assist in that regard once the needs and priorities were well identified and donor coordination was established. It appeared that the potential beneficiary countries also shared the importance of those elements. Taking account of those elements expressed by both sides, the WCO had established a Capacity Building Directorate and enhanced its capacity to respond to the demands in that area. Its current focus was to conduct a diagnosis with a view to assisting its Member Customs administrations to implement the WCO Framework of Standards to Secure and Facilitate Global Trade. Once the future WTO commitments on TF shaped up more clearly, the WCO would contribute to the provision of TA&CB for their implementation. With respect to the capacity building during the course of the negotiations, the WCO was pleased to continue the work in close cooperation with the other Annex D organizations.

292. The representative of Djibouti appreciated the contributions made by Members for the present meeting as well as the comments by the WCO, particularly in discussing TA&CB. After all, what Members were discussing was facilitating international trade. But, prior to doing that, there had to be some follow up regarding the capacity in the field, did not exist in the case of Djibouti. Everybody was aware that, regionally and nationally speaking, there was no capacity. Therefore, Djibouti was interested in a recipe for what to do on the local level. For instance, there ought to be daily contacts on the ground, but that had to happen through faxes and telephones and there was a lack of infrastructure.

293. The infrastructure question had to be borne in mind. There was no point in discussing trade facilitation if ships came in, unloaded goods and left and there was no capability to continue sending out those goods due to lack of infrastructure in terms of roads, rail or otherwise. Members had to reach a consensus within the WTO, either bilaterally or multilaterally, for countries such as Djibouti to be able to set up preferential patterns so as to remedy the existing total lack of capacity in infrastructure.

294. The representative of the World Bank informed the NG that the World Bank, together with the other Annex D organizations, had been very active in supporting the negotiations. Their combined work focussed on three key areas: (i) all organizations were involved in promotion and advocacy to highlight the benefits of trade facilitation and to encourage Members to seek a positive and ambitious outcome; (ii) sharing of information on relevant tools, instruments and international standards they had developed and/or maintained; and (iii) providing advice and assistance to Members to support their own work on determining needs and priorities for technical assistance related to the negotiating agenda.

295. The World Bank's support for the negotiations had been focused mainly on overcoming some of the practical constraints that many developing and LDC negotiators faced in playing an active role in the trade facilitation negotiations. Unfortunately, most developing and LDC Members only maintained small offices in Geneva and, as a result, were extremely limited in their capacity to deal with issues arising from negotiations. As underlined by Sri Lanka earlier, with a practical example of their own limitations, negotiators had little ready access to the required technical advice and guidance from their capital-based experts, which in turn limited the capacity of negotiators to actively and effectively participate in, and contribute to, the negotiation process.

296. In recognition of that, the Bank launched a Trade Facilitation Negotiations Support Project in February 2005. The project was designed to assist Members with limited resources in Geneva to establish practical support mechanisms in their capitals to provide Geneva-based negotiators with real

time analysis and advice on the content and implications of proposals that had been tabled in Geneva. Funding support for the project had to date been provided by the Swedish Ministry of Foreign Affairs, the UK Department for International Development (DFID), and the EC.

297. To date, the project incorporated two components. Component I involved the development and distribution of a Trade Facilitation Negotiation Support Guide to assist Members to establish appropriate support mechanisms in their capitals. The Guide, which was now available in English, French and Spanish, provided a series of detailed guidelines on how to establish and manage negotiation support groups in Member's capitals and how to improve the level of communication between content area specialists and Geneva-based negotiators.

298. Component II consisted of a series of national pilot workshops designed to promote the use of the Bank's Guide and to demonstrate the usefulness of capital-based support groups to Geneva-based negotiators. Pilot workshops had been conducted in Jamaica, Uganda, Sri Lanka, Benin and Peru, and the results achieved had been shared with all WTO Members. Further workshops were envisaged for 2006. The World Bank had also participated in workshops and seminars organized by the WTO throughout the world, by the OECD and by other organizations.

299. The next step, component III, would consist of a series of regional seminars designed to provide an opportunity for Geneva-based negotiators and capital-based specialists to discuss needs, priorities and implementation issues on a regional basis. The first of those seminars would be for Africa, organized in cooperation with the Africa Union. The second was scheduled to be held for the Caribbean, organized in cooperation with the Caribbean Regional Negotiating Machinery. Both of those activities would be financed by the EC and were scheduled for the first half of 2006.

300. The key principle that underpinned the Bank's support for the negotiations to date was the assumption that the most appropriate people available to analyse the proposals and look at their implications already existed in member countries and just had to be brought together with their negotiators in Geneva to define national positions.

301. While the value of the work undertaken so far had been acknowledged by WTO Members and had made a positive contribution to the quality of the negotiation process, negotiators continued to be hampered by concerns about the potential costs associated with implementation of any new commitments that might flow from the negotiations.

302. Unfortunately, while some worthwhile research had been undertaken by the OECD, the WCO, and others on the costs of implementing a range of TF measures, most of that did not link closely to the negotiating agenda and therefore did not answer some very basic questions about costs. In many cases, work had already been initiated before the negotiations progressed. Likewise, while the work undertaken by the Bank to date under Components I and II of the project had provided valuable insights into potential implementation readiness, it did not provide detailed information on the resource implications and technical assistance needs associated with any new commitments that might be agreed.

303. It was clear, however, that many developing-country and LDC Members were reluctant to agree to proposals until such time as they had a clearer understanding of the cost implications and, where necessary, the likelihood of appropriate TA&CB support being made available by donors.

304. Component IV was therefore designed to establish some indicative data on the potential costs and implementation issues that were likely to face developing and LDC Members. Given the specific references to the provision of appropriate TA&CB support contained in Annex D, the project was also designed to inform the donor community about the potential resource and support requirements they were likely to face in terms of implementation of an Agreement in the future.

305. In addition, as a secondary objective, it was envisaged that the in-country work that would be undertaken as a part of the project would lead to the development of a gap analysis and costing tool that could be used by all Members to more accurately identify their technical assistance needs relative to the negotiating agenda, regardless of whether the project visited their country.

306. Component IV would consist of a series of seven in-country case studies. Countries would be chosen on the basis of objective criteria but would include countries from each of the World Bank's regions and at different stages of development.

307. It was expected that a team of experienced Customs and TF specialists would visit each of the seven countries to conduct a detailed assessment to determine any gaps between current systems and procedures and the specific measures currently under consideration in the WTO negotiations. While it would not be possible to address all the individual proposals under consideration, an illustrative and representative list of them considered most likely to form the basis of a new agreement would be selected. In addition to determining any gaps that might exist, the assessment would identify the probable costs associated with any TA&CB needs that might be made out. Issues such as the most appropriate sequencing of any technical assistance interventions and the potential for alignment with existing reform and modernization plans/programs would also be determined.

308. While the proposed approach would result in detailed data for only seven countries, it was likely that such information would assist to inform all WTO Members of the approximate costs involved and would provide some broad "order of magnitude" information that was likely to lead to a greater sense of confidence that the costs associated with a new Agreement were not beyond the means of many countries.

309. Agreement had already been reached with the International Monetary Fund to provide technical support to the project via the secondment of suitably qualified Customs and trade facilitation experts for each of the seven proposed missions. Likewise, the World Customs Organization had agreed to allocate one of their experienced technical officers to participate in the project. UNCTAD would participate in the study to the extent that their resources allowed. At a minimum, they would provide technical advice to the study team and would act as a formal peer review of the project outputs. The OECD would also contribute as a formal peer reviewer. Therefore, while being managed by the World Bank, the project was very much a collaborative effort of all Annex D organizations. Funding for the seven in-country assessments was being provided by DFID and the EC.

310. In terms of next steps, the first pilot assessment mission was expected to be conducted in East Africa in late March 2006 followed, after a period of fine tuning of the methodology, by six additional assessment missions. Periodic reports on progress and initial findings would be made to all WTO Members and Annex D organizations during the NGTF meetings scheduled to be held in April and May, and during the Regional Seminars for the Africa and Caribbean regions. If the proposed timetable was met, it was expected that a final report would be available for consideration by WTO Members, looking at all issues involved, including the determined costs, in advance of the 2006 summer recess.

311. The World Bank acknowledged the support of all donors in preparing the project and noted the collaborative effort of all Annex D organizations in response to a clear demand from the NG.

312. The representative of Barbados commended the World Bank for its work and the donor organizations, in particular DFID and the EC, for the initiative to organize those assessments in the Caribbean region in the first or second quarter of the year. That was exactly the type of assistance the Caribbean required as it brought together the actual negotiators and the customs experts for a

brainstorming exercise on what had been done, what had to be done, and what were the capabilities of providing what kind of assistance. Barbados would be interested in hosting such a project.

313. The representative of Djibouti paid tribute to what had been said by the World Bank. It was what Members had to work on in the future. All institutions involved had to actively participate in that exercise. It was what was needed to make progress and to identify needs regarding TA&CB in the field.

314. It was equally important to take into account the very essential needs of the delegates both in Geneva and in the capital. The delegates negotiating in Geneva were not always properly reimbursed for their work. They had to be appropriately involved in the negotiations. Sometimes, there were handicaps in taking part in negotiations. It was extremely important, for instance, that there was proper reimbursement for participating in the Geneva talks. The World Bank had really "hit the nail on the head" in many areas. It was something that could come to light in the summer.

315. The representative of Paraguay thanked the World Bank for the broad overview of their projects to support the negotiations and the future implementation of the commitments. Paraguay had benefited from the Guide Book, which had been very useful in enabling the training of institutional groups in Paraguay which were supporting the negotiators in Geneva.

316. Paraguay was also thankful to the WTO for their seminars and workshops which had helped train people in the capitals and make them aware of the importance of the negotiations. Those people were then appropriately equipped to support work in Geneva.

317. The representative of Egypt sought clarification on the regional seminars organized to discuss needs and priorities. The World Bank had mentioned that a first such seminar would be organized in Africa with the African Union. Information was solicited on the nature of the seminar. Was it only to discuss needs and priorities based on the different other activities that took place in 2005 and the outcome of those activities? Egypt commended the work carried out by the World Bank in that respect.

318. He also wondered whether there was any particular methodology being followed with respect to those regional seminars in relation to discussing needs and priorities. Egypt was keen to understand those issues early so that it could also prepare itself in the light of the coordination activities of the African Group in Geneva.

319. The representative of Rwanda thanked the World Bank for its initiative which allowed for progress to be made in the negotiations. Assessing needs, particularly in East Africa, was a very good initiative. Rwanda was happy to see that take place. Rwanda also wished to thank the other organizations for their work, particularly the WCO and UNCTAD, as well as the donor countries. Their help was very timely and would allow to advance the negotiations in that particular area.

320. The representative of Malaysia commended the World Bank and the WCO on their previous and still scheduled programmes and practical projects which undoubtedly provided the coherence expected of international organizations in providing TA&CB as mentioned in Annex D.

321. From the World Bank's presentation, Malaysia wondered whether any project covered any of the countries in the Asian region, specifically ASEAN, as there were also LDCs in ASEAN that would need special attention in terms of TA&CB in the negotiations and trade facilitation overall.

322. The representative of Sri Lanka thanked the World Bank for the plan put in place to support developing countries both at the negotiation and the implementation stage. As a beneficiary of the Trade Facilitation Negotiations Support Project, Sri Lanka had commended its value. There had also

been a useful forum organized by the OECD in Colombo last October with the participation of many developing countries. One of its sessions had addressed the issue, and had reflected on the implementation cost of possible WTO trade facilitation measures.

323. Chile's submission was very useful. The Single Window concept was a good example. There were different degrees of a Single Window. What would be the costs associated with the kind of mechanisms envisaged? Similarly, when talking about standardization of documents, it had to be known what kind of standardization, what was the process, what were Members' commitment and what kind of costs were involved? There were many other specific proposals where it was not clear what exactly the future commitment was to be and what the associated costs were. Sri Lanka welcomed the idea of providing some examples in that regard.

324. The representative of the World Bank said that it was helpful to hear that Members generally supported the work the Bank was intending to carry out in the year ahead.

325. With respect to the question from Egypt on the content and methodology for the regional seminars and studies, the regional seminar the World Bank hoped to conduct in partnership with the African Union going to be a particularly formal seminar with a series of conventional presentations. It was rather an opportunity to bring together representatives from Africa, including all linguistic groups, to talk together about the agenda. It did, of course, cover needs and priorities as well as implementation issues. But the agenda would be developed by the groups themselves. The World Bank believed that if the right people were brought together to look at issues relating to TF, the outcome was likely to be positive and ambitious.

326. When the World Bank had brought customs people together, it had found them to be very update and positive about the negotiations. And the World Bank wished that to continue in fora such as the one organized for Africa and for the Caribbean. In the case of the African one, which would be held either in Geneva or close to Geneva, all African Union Members would be invited to attend in terms of their Geneva-based delegation. The World Bank would be bringing in representatives of each of the Secretariats of the various economic groups throughout Africa for the event.

327. In the case of the Caribbean event, the World Bank hoped to host that in the Caribbean. It would bring together customs and trade people from each country and bring a small number of Geneva negotiators to the region.

328. The regional studies, on the other hand, and the country or case studies were quite different. The World Bank was going to look at implementation issues in relation to six categories, analysing the regulatory and legislative costs and difficulties, the institutional costs and problems, the human resources and training issues that had to be identified, and the costs and whether there were any equipment or infrastructure expenses. Those were important aspects. The Bank was not looking at infrastructure in terms of ports, roads, railways and the like. Those were TF issues, but not addressed in the negotiations. What one was talking about were relatively minor equipment costs associated with IT, such as refurbishment and similar matters directly related to the negotiations.

329. The World Bank was also looking at political administrative challenges and costs as it was of the view, that, as confirmed also by the conducted workshops, many of the barriers to implementation of the measures under negotiation did not lend themselves to being fixed by TA&CB. When the World Bank put people together to look at those issues, they had mentioned time and again that the barriers to the implementation of some of those measures did not require TA. Rather, they required the goodwill of governments and cooperation between different Ministries and departments. And those things could not be solved easily through TA.

330. The World Bank would also be looking at any costs, recurrent or operating ones, associated with new initiatives that would be implemented as a result of that.

331. As for Malaysia's question associated with their region, there would be a needs assessment and cost of implementation study in East Asia. The selection of the countries had not yet been made. With respect to the comments by Sri Lanka, they had been a very good support of the work the World Bank had done to date. Sri Lanka really had made good use of the pilot project carried out in its country as reflected in Sri Lanka's now active participation in the negotiations.

332. The World Bank would not go back to any of the countries it had already worked in. The seven countries selected for the case-studies would be seven new countries, because the World Bank wished to work with as many countries as possible. As a bi-product of that process, the World Bank would be developing, along with the other Annex D organizations, a template called "gap analysis and costing tool". That tool would be made available to all Members. It could be used by the countries themselves irrespective of whether there was a combined Annex D mission or not. At the same time, the World Bank was trying to obtain further funding support, so that the process could be done in as many countries as possible. The Bank hoped to find some experts who would be able to assist with doing costing exercises on a country-by-country basis. It would not be possible to go into every country, but it was intended to reach as many as possible with the support of the many donors at a bilateral, regional and multilateral basis.

333. The Chairman expressed his thanks to all Annex D organizations for the way they had come together to cooperate in that area. It was an excellent response to the ideas tabled in the ACP paper. Work on the issue of cost, as well as on other matters in relation to the NG's discussions, had also been carried out by the OECD.

334. The representative of the OECD wished to comment briefly on some recent work taking place in the OECD in support of the negotiations on trade facilitation. While the OECD had several areas of work, it only wished to comment on three of them.

335. The first project the OECD wished to report on was its work on the costs of introducing and implementing trade facilitation measures. The OECD had undertaken an in-depth study of the concrete experiences in 16 non-OECD countries from developing and transition areas. Six of them were LDCs. The OECD had been looking in that work at a series of measures which had been brought up in the discussions in the NG for possible inclusion in a future WTO agreement on trade facilitation, measures such as publication and availability of information, pre-arrival clearance, risk management, post-clearance audit and border-agency coordination. These studies were carried out in cooperation with the WCO and UNESCAP. That material had enabled the OECD to provide an analysis, particularly concerning the relative complexity of implementing those various measures, its magnitude and other challenges in implementing them. The OECD hoped to be able to report on that in more detail later.

336. With regard to that work, the OECD was particularly interested in the communication from the ACP Group which suggested work on experience with implementing trade facilitation tools. The paper also called for a review of TA&CB and operational recommendations on how to improve and enhance the provision of TA&CB for TF. That proposal appeared to correspond to the project the OECD had been describing. The OECD would be happy in the future to contribute to any consideration the NG might wish to take on those issues. It would equally be happy to contribute with work on TA&CB assessments.

337. The second area of work the OECD wished to mention had been taken up by Sri Lanka. The OECD had organized a Global Forum on TF in Colombo in October 2005. For that, the OECD had received excellent cooperation from the Government of Sri Lanka and financial support from the

governments of the UK and Korea. It was a very useful opportunity for a policy dialogue to share work on costs and benefits from OECD and other organizations with a wide audience of developing countries and LDCs, including a number of Geneva delegates, and to discuss how best to link future commitments in the area of TF to the implementation capacities of WTO Members.

338. Work on trade facilitation also took place in the OECD Development Assistance Committee (DAC). The DAC project on trade facilitation responded to the WTO General Council invitation to the OECD and other relevant international organizations to undertake collaborative efforts in order to ensure that TA&CB for trade facilitation be effective, operational and coherent as noted in Annex D of the July Package. It also responded to a number of proposals Members had made during the negotiations regarding the need for an inventory of past assistance and for further work to be undertaken on a co-ordination platform for TA&CB for trade facilitation.

339. The first phase of that project had now been completed, which consisted of a review of past TA&CB efforts for TF. The Review was composed of two main elements.

340. First, a statistical overview of official assistance committed between 2001 and 2004, based on the WTO/OECD Trade Capacity Building Database and the OECD Creditor Reporting System. Main findings included: (i) The important increase in the volume of commitments for TA&CB for TF, which rose by 225 per cent from 2001 to 2004, reaching a total of 328 million USD in 2004. In addition to that, donors also committed in 2004 14.8 billion USD to infrastructure support, almost half of which was targeted at supporting transport and storage development. (ii) Interestingly, LDCs and other low income countries only benefited from 32 per cent of total TF-related commitments in the 2001-2004 period. Those countries could nevertheless benefit from higher levels of assistance if they determined, at country level, that TF reforms were an important development priority and integrated those reforms within national development strategies, since donors usually pledged funding and aligned their programming around such strategies. (iii) The major donors for TA&CB for trade facilitation were the European Commission, the World Bank and the US, which had together provided 86 per cent of the total volume of assistance. Their assistance had often taken the form of multi-year programmes that included a wide range of interventions, targeted at supporting several TF-related issues, such as institutional and legal reform; human resource training; customs management reforms, and cooperation between border agencies. (iv) Smaller donors, such as, for example Sweden, Norway and the Netherlands, had mainly channelled their assistance through programmes implemented by multilateral agencies such as UNCTAD.

341. The second part of the Review was made up of four country case studies and four regional case studies that featured different types of interventions, supported by one or more donors. Lessons learned from those cases and from existing good practices in TF-related assistance were then summarized.

342. The case studies highlighted the relevance of the key principles endorsed in the Paris Declaration on Aid Effectiveness, namely the importance of partner country ownership and leadership; donor alignment with partner country systems and development strategies; donor coordination and harmonization; results-based management and mutual accountability for results. The cases also illustrated a number of elements that were of particular significance for effective assistance in the area of trade facilitation, such as: (i) Partnership with the private sector – which was crucial not just to ensure relevance and ownership of the reform programme and donor support for the latter, but also to allow for co-financing of some reforms and for sustainability after donors had exited; (ii) Second, the need to leverage on existing tools and organizations for the design, delivery and monitoring and evaluation of trade facilitation reforms and donor interventions, such as, for example, WCO and World Bank diagnostic tools and performance indicators. (iii) Finally, the case studies also illustrated the benefits and challenges associated with regional TA&CB approaches. Regional programmes were often considered cost-efficient and particularly suited for landlocked

countries where transit corridors and customs arrangements required a high degree of regional coordination. Yet, such programmes made alignment to specific national contexts and priorities more difficult. OECD research provided some examples of how those challenges had been addressed in practice.

343. The OECD was now about to embark on the second phase of its project, building on the findings of the Review, in order to examine how future TA&CB for trade facilitation could be delivered most effectively, what capacity gaps had to be addressed, and what funding and coordination mechanisms would be most appropriate. More specifically, the OECD would, among other things, examine (i) how donor approaches could best be adapted to different situations, capacities and needs of partner countries; (ii) the adequacy of existing mechanisms for matching aid supply with partner country demands; and of existing donor co-ordination schemes; (iii) how existing donor pledging mechanisms could best be leveraged; and (iv) how bilateral donors and multilateral agencies could best finance TA&CB for trade facilitation. Research would take account of proposals made by WTO Members so far and of any relevant recommendations that might be issued by the WTO Task Force on the IF and the Task Force working on Aid for Trade.

344. In terms of organization of work, the DAC Review had benefited from guidance and comments from experts in other Annex D organizations, such as the World Bank, UNCTAD and the WCO. The OECD intended to continue such collaboration, as well as consultations with partner countries and private sector stakeholders, in phase 2 of the project.

345. The Chair informed the Group that UNCTAD wished to give an update on its technical assistance activities.

346. The representative of UNCTAD reported on UNCTAD's contribution to the TF negotiation process. Thanks to the support of Sweden and Spain, UNCTAD had established a Trust Fund on TF at the beginning of 2005. That Trust Fund allowed UNCTAD to carry out various types of activities, such as (a) the elaboration of Technical Notes on tabled TF measures at the NGTF. UNCTAD prepared 20 technical notes of which 12 were already available on its website. The rest was in the process of final editing; (b) the organization of 4 regional workshops on WTO negotiations on Trade Facilitation in Bangkok, Lusaka, Geneva, and Port of Spain. In each of those regional workshops, UNCTAD had the participation of three Geneva delegates and the cooperation from the WCO, regional commissions and regional organizations; (c) the organization of two one-day Round Tables on WTO negotiations on Trade Facilitation in Geneva. One Round Table had been organized with representatives from the Core Group and from GRULAC.

347. UNCTAD had also (d) taken advantage of the Trust Fund to secure participation of joint WTO/UNCTAD Regional Workshops on WTO negotiations on Trade Facilitation. UNCTAD participated in five WTO-organized Workshops in China, Guatemala, Argentina, Tunisia, Namibia, in four of which UNCTAD had arranged for the participation of Geneva-based delegates. (e) Furthermore, the Trust Fund had allowed some UNCTAD staff to participate in events related with the ongoing WTO negotiations on Trade Facilitation, such as the APEC Meeting of Trade Ministers in June 2005 in Korea, and the Meeting of Trade Ministers of LLDCs on Trade Facilitation in August 2005 in Paraguay; UNCTAD had also engaged in a very specific activity and demand-driven activity with Angola Customs with whom UNCTAD organized a National Seminar on TF. Finally, UNCTAD had also carried out a short TF advisory mission to the government of Paraguay.

348. (f) The Trust Fund also provided UNCTAD with the flexibility to secure participation of LDC experts in specific events. For example, on the occasion of the September meeting of the NG, UNCTAD had tried to allow some of those LDC experts to not only attend that session but also a meeting of the GFP and an Expert Meeting held back-to-back with the NG session.

349. (g) In total, Trust Fund activities had involved 44 developing countries (17 LDCs); 43 participants attended one or another of the activities (18 from LDCs), and there was participation of 24 Geneva-based delegates (6 from LDCs).

350. Furthermore, within the consensus-building mandate, in September 2005, UNCTAD had organized an Expert Meeting on TF to review the prospects and opportunities of TF with national experts and private sector stakeholders. The discussions at that Expert Meeting covered the following issues (i) Trade and Transport Facilitation and Developments; (ii) Trade Facilitation and Regional Integration, and (iii) Private sector expectations from the WTO negotiation Process on TF. In addition to the national experts, there were also a number of resource persons taking part in that Expert Meeting from partner organizations such as the WTO, World Bank, Regional Commissions, but also the EU, COMESA, the Economic Cooperation Organization and private sector-related institutions.

351. UNCTAD had also produced two documents of interest to the work of the NGTF. These documents constituted the first two parts of a Handbook on TF. One document explained National Facilitation Committees, while the other compiled the Technical Notes produced so far.

352. It had to be stressed that those activities were generally carried out in coordination and cooperation with the international organizations listed in paragraph 8 of Annex D.

353. As for work in 2006, UNCTAD planned to prepare more technical notes, to organize four Regional Workshops and two Round Tables in Geneva, to ensure participation in WTO-organized Workshops with attendance of three Geneva delegates, to carry out ad hoc events in coordination with developments within the WTO NGTF, and to make an ad hoc contribution to the World Bank initiative.

354. Furthermore, UNCTAD hoped to organize, in the second part of 2006, an Expert Meeting on trade facilitation issues. The precise theme of that meeting was still to be decided, but UNCTAD was thinking of border-crossing and transit operations, in relation with ICT developments.

355. The representative of Paraguay commended UNCTAD for the work they were carrying out despite the fact they had scant human resources in the logistics branch. Paraguay was receiving a great deal of help from UNCTAD for assessing its needs and priorities, which was vital for Paraguay to be able to negotiate effectively in the NG. UNCTAD had also provided support in an informal framework with its work with other Latin America countries.

356. More information was sought on the planned workshops. In what regions were they going to take place? Paraguay would also like to know whether the Round Tables in Geneva would be dedicated to any specific issues or would they deal more generally with the negotiating process.

357. The representative of Egypt commended the work carried out by UNCTAD which had been very useful for Egypt and many African delegations which participated quite actively in many of those activities. More information was solicited on the Round Tables taking place in Geneva and on their timing and the subjects that would be discussed.

358. The representative of Cuba commended UNCTAD on its outstanding job in conjunction with the Trust Fund. It was very good that experts from capitals were able to take part in meetings organized in September. Cuba followed the work carried out through the Fund very closely.

359. The representative of UNCTAD replied to the questions by Paraguay regarding the dates for the coming workshops that UNCTAD would be participating in the WTO workshops but would also organize its own. The one which UNCTAD had scheduled so far was a workshop in Panama, set to

take place some time after Easter. It had been decided to do it in Panama so that UNCTAD could hold it back-to-back with two WTO national workshops, one in Honduras and one in Cuba. UNCTAD was going to attend the national workshop in Honduras, would then go to Panama to organize its regional workshop for Central American countries and some Caribbean countries, and would then go to Cuba. There would be at least one UNCTAD member of staff in each of those activities.

360. The others were still to be seen, probably in coordination with the World Bank initiative. UNCTAD might try to discuss with the World Bank to find out where they wanted to go so that UNCTAD could then organize Regional Workshops in the same place.

361. As for the question regarding the round table, it was really demand-driven. Last year, UNCTAD had been approached by two groups who wanted to discuss some issues and sought substantive expertise. As a response, UNCTAD had brought in Customs Experts with a specialization in transit issues. UNCTAD had just launched the process and provided some input to the discussion. A similar scenario had occurred with GRULAC, who had also asked UNCTAD to provide the facilities. There were no pre-determined themes for the meeting. It was totally open.

362. UNCTAD hoped that the two opportunities UNCTAD foresaw for 2006 pointed in the same direction. Perhaps a group of countries wished to discuss particular issues together or prepare for a document. UNCTAD would sit with them and give first thoughts on what they wanted to discuss. Then it was up to them. Previous experience had been quite interesting.

363. The representative of the Secretariat informed that with respect to the first regional seminar scheduled to be carried out in cooperation with UNCTAD, the WCO and the World Bank, invitations would be issued in approximately two weeks, leaving only two weeks for people to register. Members were therefore urged to pass them on rapidly, especially since the participants were expected to do some preparatory work ahead of the meeting. Timely information of the participants would add a lot of value to the workshop.

364. The Chairman said that the discussions reflected the continued open dialogue amongst all Members inside and outside the meeting room and encouraged delegations to carry on the informal dialogue. He was also encouraged to see that the ongoing exchange seemed to enable Members to build upon each others' ideas. The tabled papers represented a collating and conversion of various inputs, which inspired confidence for the road ahead.

365. The Negotiating Group took note of the statements made.

B. AD HOC ATTENDANCE OF RELEVANT INTERNATIONAL ORGANIZATIONS, INCLUDING THE IMF, OECD, UNCTAD, WCO AND THE WORLD BANK, AT THE NEXT MEETING OF THE NEGOTIATING GROUP

366. The Chairman suggested inviting relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to attend the next meeting of the NG on an ad hoc basis, as provided for in the Work Plan.

367. It was so agreed.

C. OTHER BUSINESS

368. The Chairman addressed the issue of the Group's next meeting, informing that meeting facilities had shown rooms to be available for the time from 5 to 7 April. Subsequent meetings could be held on 6-7 June and 24-26 July.

369. It was so agreed.

370. The meeting was adjourned.
