

Negotiating Group on Trade Facilitation

SUMMARY MINUTES OF THE MEETING

Held in the Centre William Rappard
on 19-20 September 2005

Chairman: Mr. Muhamad Noor Yacob (Malaysia)

1. The Chairman said that the main purpose of the meeting was two-fold: (i) to provide delegations with an additional opportunity to make contributions on the agenda of the Negotiating Group (NG) – both in terms of offering new input and of reacting to the contributions previously received, and (ii) to continue the dialogue on technical assistance and capacity building (TA&CB) as a crucial element of the NG's work requiring particular attention. 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. He informed the Group that a significant part of the meeting would be carried out in informal mode to allow delegations to promote discussions and free exchange of ideas and thoughts. However, the meeting would begin in formal mode to allow delegations to officially introduce new submissions and make any other comments they may wish for the record.

2. The Agenda was adopted.

A. CONTRIBUTIONS ON THE AGREED AGENDA OF THE NEGOTIATING GROUP

3. The representative of the Dominican Republic introduced his delegation's proposal in TN/TF/W/60. The integrity of customs services and the conduct of their officials was very relevant to the objective of improving the application of GATT Articles V, VIII and X, since poor practice and misconduct in customs undermined domestic laws and international rules and regulations, and created additional obstacles to international trade by reducing transparency and increasing the cost of commercial transactions. This had inspired the development of international ethical standards dealing with the conduct of customs services and their officials so as to avoid malpractice. The proposal aimed to improve the conduct of public servants in customs services through the adoption at the national level of a series of measures. Four of the five elements of the proposal were the establishment of a code of conduct and the introduction of computerized systems for customs decisions, TA&CB to help Members improve their customs services, and the coordination of customs services. These elements could be found also in other proposals that had been tabled by delegations in the NG. The fifth element, which was crucial in his view, was the establishment of a system of penalties to be directly incorporated in each country's customs legislation, and the treatment of offences by customs officials as criminal offences.

4. The benefits of implementing these proposals would be to reduce the room for violation of laws and regulations, which currently imposed substantial financial burdens on States and on the private sector, particularly small- and medium-sized companies in developing countries. The main costs would be related to working time, specialized human resources for training and perhaps other

resources to improve operational procedures in customs services. Different situations in different countries would necessitate that TA&CB be provided flexibly.

5. The representative of the United States, in a preliminary reaction, welcomed this proposal on a topic that he recognized was sensitive and said his delegation was struck by the positive and concrete approach that was being proposed. He looked forward to working with others on it.

6. The representative of Guatemala agreed that improving the conduct of customs should be among the efforts made in the negotiations to improve and clarify aspects of GATT Articles V, VIII and X. Regarding the proposed establishment of a code of conduct spelling out the rights and obligations of public servants, Guatemala did not have such a code for customs service officials but it did have one for public officials engaged in tax administration, and within that there were several specific provisions on ethics which related to customs. The other provisions in the code were more general in nature. His delegation felt that technical support and assistance from developed countries or other developing countries who had rules in this area was important, and invited them to share their national experience in applying this type of legislation. With regard to the proposed use of computerized systems, Guatemala had such a system. The customs declaration was submitted to a selective and random process to determine whether or not there would be a physical inspection of goods. This expedited the whole process and reduced the discretion that could be exercised by customs officials when deciding whether or not to inspect merchandise. A risk management procedure was now being developed, which would be computerized and subject to a risk management committee within the tax administration. His country still needed technical support and assistance to improve the application of the system, above all in terms of risk modelling that could be used at all points of entry and ports, particularly for sanitary and phytosanitary control, so as to reduce this element of discretion of customs officials and ensure that there was ethical behaviour. One important point was transparency so that there could be cross-checking among officials.

7. With regard to the proposed establishment of a system of penalties, Guatemala had a legal framework to cover misconduct in customs, such as fraud, but no system of penalties for misconduct by individual customs officials. He hoped to hear about the experience of other countries in the application of legislation in this area. With respect to proposed technical assistance to build up national capacity to prevent and control customs offences, the Guatemalan customs administration needed financial and technical assistance to introduce scanners, x-ray and other equipment for the examination of goods so as to avoid misconduct on the part of officials. This was very important for the physical verification of goods entering the country. His country needed also technological support and backup for computerization of all customs procedures, and technical assistance from both developed and developing countries to train customs officials. International organizations also had a fundamental role to play here, in providing support and financing to improve the customs system, to improve inspections, and to improve the status of customs officials so that they would have more incentive to behave properly. On the final part of the proposal, to establish coordination and control mechanisms between customs administrations, Guatemala did coordinate a number of internal bodies that were charged with ensuring that tax obligations were complied with and preventing customs misconduct, such as the police, tax authorities and others. Guatemala also had a presidential transparency commission which ensured ethical behaviour by public officials. The role of the private sector was also very important to help identify unethical behaviour at the time of import or export. In short, his delegation felt that the proposal by the Dominican Republic was very positive, but there were still many areas where TA&CB were needed in order to help countries meet their multilateral obligations.

8. The representative of Brazil welcomed the proposal by the Dominican Republic which would contribute a lot to the Group's discussions. Brazil had some time ago criminalized certain kinds of conduct by customs officials, and over the years the results had been positive on the overall functioning of customs. His Government believed that this contributed greatly to expediting trade,

including transit traffic, and to reducing transactions costs. He noted that in Brazil the criminalization of misconduct by customs officials was part of the general criminal code rather than a special customs code, but this in no way detracted from his delegation's appreciation for the proposal which it looked forward to discussing further.

9. The representative of Hong Kong, China welcomed the Dominican Republic's initiative. While fully appreciating the importance of maintaining integrity of customs officials for the uniform and impartial administration of trade laws and regulations, Hong Kong, China had noted that consensus had yet to emerge on the subject falling under the ambit of the WTO. International organizations such as the WCO had already developed various instruments in that area. As circumstances varied among Members, it would be more effective for individual Members to draw up their own policies by making reference to those instruments. The WCO Compendium of Integrity Best Practices issued in May 2005 showed that a number of Members had already put in place measures proposed by the Dominican Republic.

10. The representative of China thanked the Dominican Republic for its important proposal, even though it did not directly address customs clearance procedures. The proposal contained many useful suggestions to eliminate the corruption of customs officials and inappropriate conduct by them, as well as officials of other border agencies, which could impose additional invisible charges on international trade and impede its development. China customs paid much attention in this area and took measures to prevent corruption. With regard to the suggestion to establish coordination and control mechanisms between customs administrations and the organizations involved in devising ethics policies in customs services, her delegation would appreciate hearing about the national experience of others.

11. She recalled the importance her delegation attached to ensuring in formal WTO meetings that the delegation of Chinese Taipei was referred to by its proper title.

12. The representative of Japan welcomed the proposal by the Dominican Republic which touched upon a subject equally raised in a paper sponsored by Japan, Mongolia, Chinese Taipei, Pakistan and Peru (TN/TF/W/8). To ensure harmonization of all laws and regulations in a uniformed and impartial manner as required in GATT X:3(a), it was imperative to maintain high integrity of all officials engaged in trade procedures along with enhancing their transparency. To maintain integrity, a systemic approach was required, covering penalties and incentives for professionalizing. The measures proposed in the Dominican Republic paper were broadly adequate in that regard. Guatemala's remarks were equally appreciated. The measures could be further improved by experience sharing among Members. Japan also agreed on the importance of introducing a code of conduct and attached importance to training officials to improve their professionalism and maintain high integrity. Various programmes had been carried out to that end as evidenced in Japan's submission on its TA activities. The issue was not limited to customs administrations but extended to all border agencies.

13. The representative of New Zealand thanked the Dominican Republic for raising an issue that was both sensitive and critical as it impacted on economic competitiveness, effective revenue collection and investment opportunities for the Members concerned. New Zealand also welcomed the recognition of the Dominican Republic proposal that improvements in the area benefited all traders, particularly SMEs in developing countries. To better understand the issues, clarification was sought on a few matters. New Zealand was particularly interested in hearing more about how the Dominican Republic envisaged the measures to be applied in practice and what role the WTO might play in that regard. Similarly, further details were solicited on whether the Dominican Republic envisaged Members adopting the international instruments set out in paragraph 6 of the paper as part of the outcome of the negotiations. The best practice procedures contained in the Revised Kyoto Convention might be one means of addressing the concerns raised in the proposal. New Zealand

wondered whether that was an option the Dominican Republic had considered. New Zealand agreed on the point made by Brazil in relation to penalties; what mattered was not so much the particular legislation applied but that there was legislation in place to ensure appropriate sanctions for improper conduct.

14. The representative of Switzerland welcomed and supported the proposal and agreed that this very sensitive issue was important. Switzerland had long been actively engaged in this area, including in the revision of the Arusha Declaration and the second World Forum against Corruption. It was indeed a subject that required further discussion. Her delegation felt that national governments should for the most part be free to choose the way in which to introduce a code of conduct. In Switzerland, for example, there was a code of conduct not just for customs officials but for all government officials, including those in other administrations related to trade facilitation such as sanitary and phytosanitary measures and veterinary issues. The same was true with regard to penalties, for which the system covered the entire federal administration rather than just customs. She welcomed the proposal by the Dominican Republic in respect of technical assistance, which was an area where her delegation believed it could make a contribution in order to try and prevent and deal with any misconduct of customs officials. The Group needed to think further about the role of the WTO in this area and see how other international organizations could be involved.

15. The representative of Pakistan welcomed this insightful contribution on a very sensitive issue. There was no denying the fact that lack of transparency in implementation of laws would negate the process of trade facilitation. With regard to the proposed measures, his delegation felt that malpractice in customs could not be viewed in isolation. In most countries, customs officials were part of the civil service and it might be difficult to have laws applicable only to one department of a civil service. Making laws for all branches of the civil service was not under the ambit of the WTO. His delegation felt also that although penalizing offences by customs officials was desirable at the national level, and already existed in Pakistan, it would not be desirable to bring such practices under binding WTO disciplines. Experience suggested also that inflicting excessive penalties could be counterproductive since it tended to dissuade officials from taking decisions for fear of suffering a penalty, which in the case of trade facilitation could add to the length of time taken to clear goods. The international instruments listed in the proposal were guiding principles based on best practices, and making them binding WTO commitments that could be challenged through the DSU did not seem to be a desirable option.

16. The representative of India thanked the Dominican Republic for its contribution. The issue of integrity was important for India, but his delegation had stated previously, with reference to a proposal by Japan, Mongolia, Chinese Taipei and Pakistan, that it had concerns about making the WTO a forum for enforcing integrity standards. The concern was that this issue should not become a mechanism to create trade barriers or disputes, so his delegation did not favour discussions on standards of integrity or their enforcement through the WTO. He would be willing to discuss the establishment of codes of conduct for customs services with in-built systems of penalties for violation, but he emphasized that Members should have the flexibility to establish their own codes of conduct for this purpose. This could be taken up as a consideration in the context of a transparency mechanism involving customs officials. India had a well-defined code of conduct for customs officials and a system of penalties for the violation. He emphasized that laws should also provide protection for customs officials for bona fide actions and for protection against mal fide complaints, as was the case in India. His delegation welcomed the suggestion of introducing computerized systems to reduce discretion, which in India's experience could substantially reduce discretion at the operational level and allow officials at senior management levels to monitor the time taken in completing the assessment of goods declarations. Like Pakistan, his delegation also had concerns about discussing proposals to make WCO instruments binding WTO commitments. With regard to paragraph E of the proposal, his delegation did not fully understand the reference to coordination with organizations involved in devising ethics policies in customs services – in India's understanding, the

customs department itself had to devise its own ethics policies – and he requested elaboration of the ideas behind this element of the proposal.

17. The representative of Zambia welcomed the proposal by the Dominican Republic. He stated that in Zambia, the fight against corruption in all public service sectors, including customs, was at an advanced stage. Corruption in customs services was not only a hindrance to international trade but also contributed to retarding national development.

18. The representative of Bolivia noted that any outcome of the negotiations would be effective only if appropriate practices were carried out by the institutions involved in trade facilitation, and the Dominican Republic's proposal was relevant in this regard. It touched on some sensitive areas relating to public administration, which Bolivia had been tackling since 1998 when the general customs law became applicable. Major progress had been made. Bolivia had created codes, tribunals and areas where specialized judges could work, such as taxation, in order to prevent customs offences. Domestic legislation had been introduced, with penalties including imprisonment for smuggling contraband and other customs crimes. A national council had been created to combat smuggling and this had allowed operational customs controls to be strengthened, particularly at borders where staffing had been increased. Bolivia welcomed the fact that the proposal would encourage Members to share national experiences of reform, which very often, as was the case with Bolivia, was an ongoing process. The support of other Members and the support and cooperation of international bodies could help in that regard.

19. The representative of Chinese Taipei welcomed the proposal and noted that it covered several of the same points that had been included in his delegation's joint proposal with Japan, Mongolia, Pakistan and Peru on the subject of maintaining customs integrity and ethical conduct. He welcomed the proposal to establish a code of conduct in customs services, the introduction of computerization and the establishment of a system of penalties to prevent offences by customs officials. His delegation felt that WTO rules could be used to help reinforce customs integrity in customs administrations and transparency in customs policy decisions, but he noted that the different situations of individual Members had to be taken into account when introducing a system of codes of conduct.

20. The representative of the European Communities considered the Dominican Republic's paper to be a very useful document. The idea of developing some sort of codes of conduct was very interesting and should be pursued. The paper was also useful in showing how the implementation of trade facilitation reforms through computerization and automation could facilitate the ethical conduct of staff and integrity of border operations. Since references had been made to the WCO Arusha Declaration, the WCO Compendium on Integrity Best Practices and to the Revised Kyoto Convention, it might be interesting for Members to invite the WCO at some point to briefly inform Members about those international standards or instruments in order to get a clear idea of what exactly could be proposed and how those instruments could be used. The EC agreed on the issue not being limited to customs but extending to other border agencies as well.

21. The representative of Malaysia welcomed the proposal by the Dominican Republic on the issue of reinforcing the ethical conduct of staff and integrity of customs administrations. In Malaysia, the national anti-corruption agency governed the conduct of both the public and private sectors. At the next level, in the context of the royal Malaysian customs, the integrity action plan had been published and distributed to all staff members. There was also the code of conduct for staff and the code of ethics for forwarding agents and the private sector. Courses and seminars were conducted on a regular basis for all customs officials and their clients as well. Transparent procedures were in place to deal with breaches of the code of conduct for civil servants, including the customs service, which laid out the process or actions to be taken, including penalties on respective officers. Penalties could also be applied to superior staff for failure to act on breaches of the code of conduct. The Government was confident that such comprehensive measures would contribute to its efforts to

reinforce the ethical conduct of staff and the integrity of the customs administration. TA&CB in this area merited further discussion in the Negotiating Group.

22. The representative of Korea thanked the Dominican Republic for its proposal. Reinforcing the ethical conduct of customs staff and the integrity of customs administrations were very important issues. His delegation shared the view that unfair and inappropriate conduct created further barriers to international trade and raised transactions costs. A code of conduct for customs officials needed to be discussed, not only in the WTO but also in other international fora in order to secure impartial and appropriate customs procedures. His delegation shared the view in paragraph 9 of the proposal on the value of introducing general WTO obligations to help ensure that procedures were introduced to enforce measures adopted at the domestic level in Members to secure the impartiality of customs officials.

23. Korea, had, however, different views in terms of domestic legal systems. For example, in Korea there was a criminal law relevant to all misconducts of public officials and also another law relevant to the ethical code of conduct of public officials. In addition, the customs administration had their own very strict codes of conduct. Under these circumstances, one would have to be very careful with how these general obligations of codes of conduct and also the domestic legal systems could be harmonized. The very objective of the TF negotiations for the freedom of transit and the facilitation of goods would especially have to be taken into account. Regulations that were too strict for the code of conduct for public official might impair that objective. In this respect, discussion should therefore be concentrated on the harmonization of these two elements. Korea was ready to discuss this matter further once more concrete proposals had been provided by the Dominican Republic.

24. The representative of the Philippines said that the paper by the Dominican Republic raised an important issue. The Philippines had a general code of conduct for integrity of public officials as part of a code of ethics for public officials. Like Malaysia, the Philippine delegation was of the view that a code of conduct applicable to all civil service officials would suffice to increase integrity in customs without prejudice to specific internal codes of conduct and a policy mechanism within customs agencies. The Philippines shared the views of other delegations about the negotiations having to improve and clarify Articles V, VIII and X through measures that effectively increased and improved trade flows and arrived at an agreed set of specific technical and financial assistance to achieve that. The Philippines appreciated that the Dominican Republic had specifically talked about computerized systems which addressed the issue of integrity by eliminating discretion while at the same time providing for a specific mechanism by which developing countries could be assisted with actual technical and financial assistance. It also proved the efficiency of flows of goods across borders.

25. As regards the establishment of a code of conduct proposed in paragraph (a), clarification was sought as to how that would interface with various international declarations by the WCO and other international organizations since that would entail a major drafting exercise. The Philippines also wondered how one could integrate and take advantage of work already carried out for many years at the WCO and in other international organizations.

26. The representative of Indonesia welcomed the Dominican Republic's proposal and recognized the importance of the issues of ethical conduct and integrity. Indonesia had set up in 2003 the Customs Code of Conduct Committee independent of the customs service. If there was a complaint from the business community about the integrity of Indonesian customs, then the special investigation unit under the Ministry of Finance would be asked to investigate. The Government provided all telephone numbers and e-mail addresses to facilitate public participation in monitoring the work of customs. The programme of codes of conducts in Indonesia included improving the social welfare of customs officials to help increase their integrity. A major challenge that lay ahead was to make a balance between the customs tasks of facilitating trade and enforcing customs regulations. Capacity building was needed in this area.

27. The representative of Costa Rica also welcomed the proposal and agreed with other delegations that this was a very sensitive issue but also an important one. It reflected a reality that existed not only in customs administrations but in public administrations more generally. The measures proposed in TN/TF/W/60, including trade facilitation, would indirectly reduce unnecessary discretion in customs. Over the last fifteen years, Costa Rica had managed to reduce problems related to malpractice through measures to promote trade facilitation. His authorities would be pleased to work with other Members on this topic although they shared some of the concerns that other Members had expressed, particularly regarding how the measures were going to be implemented in practice. For instance, Costa Rica's criminal code targeted customs offences specifically, so it would be problematic to adopt similar measures separately into its customs legislation. His delegation believed that measures proposed in the negotiations, such as computerization and increased transparency, would have a beneficial impact on the integrity of customs officials.

28. The representative of Australia welcomed the proposal and strongly supported its underlying intention. Integrity and good governance were also major concerns to his authorities. In Australia, public officials were bound under the public services codes of conduct to observe high ethical standards. Various penalties existed within the system, depending on the severity of the action, and he noted that criminal charges were not always warranted so that any proposals in this area would need to take account of differences in Members' systems when it came to considering how to implement measures in this area. Australia had been very active in the Asia-Pacific region, including in APEC, in providing support to various customs administrations to maintain integrity. His delegation supported calls from other Members to see how WTO efforts in this area could build on existing efforts by the WCO and other international fora to achieve these objectives, rather than necessarily creating something new that may not fit all.

29. The representative of Kenya welcomed the proposal by the Dominican Republic which raised a sensitive but important issue. Kenya approached the matter in a more comprehensive way and had a code of conduct for all public servants. The proposal by the Dominican Republic was restricted to customs. Kenya was of the view that trade facilitation issues were not restricted to customs authorities only. A general observation touched upon in the proposal was that customs authorities with a low level of computerization usually had a high degree of discretion for customs officials. Kenya agreed with the Dominican Republic that the introduction of computerized systems would go a long way in addressing some of the issues raised. There was need in developing countries for more technical assistance in that area. Efforts at international and regional levels to address the issue had to be examined carefully to avoid duplication. It was also necessary to think carefully as to whether the WTO would be the relevant forum to address the issue.

30. The representative of Cuba said that the exchange of information on the proposal by the Dominican Republic had been useful. It was important to see how work was being done at a national level. Cuba shared the concerns raised by others about the realization of the proposal requiring further developments involving considerable TA&CB, particularly in developing computerized systems in developing countries. As for the work by other international organizations such as the WCO on the matter, it was important not to duplicate work. Cuba agreed with India that a code of ethics might have binding aspects to it.

31. The representative of Norway welcomed the proposal on this important and very sensitive issue. Like Switzerland, her Government was engaged in activities at the international level in this area. Since there were no experts on the issue from her delegation present at the meeting, Norway might wish to revert to it at a later stage.

32. The representative of Barbados thanked the Dominican Republic for its interesting and important proposal. Being a very small economy, Barbados shared many of the concerns expressed in the paper, particularly the concern that any agreements or recommendations arising from these current

negotiations could be made irrelevant by corruption at the level of customs officials and officials in other border agencies. However, it felt that just as important was the impact of lack of knowledge of commitments by which customs officials were expected to abide. Barbados had a national code of conduct for civil service officials. Without prejudice to any final outcome of these negotiations, the suggestion to make the issue of integrity a multilateral binding commitment through the WTO must be examined carefully. The suggestion in paragraph 9(b) of the proposal to introduce computerized systems to reduce discretion was important and could have benefits for the entire customs system. To that end, his delegation reiterated the importance it attached to the provision of technical assistance and technology transfer, as well as support for the training of officials. Further discussions should take into consideration standards and procedures already in existence, as well as specific national legal systems and particular customs cultures in different Members.

33. The representative of Bangladesh supported the statement by Pakistan that the customs administration was part of the overall public services administration. Bangladesh had a code of conduct, applicable to all civil servants wherever they were working, and a national anti-corruption council was in place to oversee the conduct of the entire civil service, including customs. His Government would therefore have practical difficulties in isolating customs from the rest of the public service and having separate legislation for offences of customs officials. However, a code of conduct for the customs service, the introduction of computerized systems to reduce discretion, and capacity building were all good suggestions that could be considered.

34. The representative of Sri Lanka welcomed the proposal by the Dominican Republic. In Sri Lanka, there was a code of conduct for public servants, and the Government was in the process of preparing separate codes of conduct for, *inter alia*, the customs department and the department of inland revenue, all of which were involved in the collection of tax revenue. With regard to the automation of cargo clearance procedures, his delegation felt that transparency and consistency were more important than reducing discretion. There were provisions in place to penalize customs officers if they were found guilty of any offence or involvement in irregularities. With regard to the preparation of codes of conduct for customs services, his delegation joined India in seeking clarification of what was meant by coordination with other organizations.

35. The representative of Turkey thanked the Dominican Republic for its proposal on this very sensitive issue, and gave his preliminary reactions to it. Turkey already applied the measures that were being proposed, and encouraged other countries in the region to declare their commitment to struggle against corruption. Turkey shared the concerns expressed by other Members, such as India, Pakistan and Australia. His delegation had some doubts about the need for, and the possibility of, drawing up legal commitments under the WTO in this area, on top of the large number of existing international commitments listed in paragraph 6. Turkey believed that Members should be free to choose the measures they wanted to apply to tackle corruption, which was not only an economic problem but also a social problem.

36. The representative of the Dominican Republic welcomed the support that had been given to his delegation's proposal, and provided some preliminary responses to comments and questions. His delegation would come back later with responses to the many specific questions that had been raised. The issue covered by the proposal was not new. Nonetheless, it was rarely discussed in the WTO. It tended rather to be regarded as too sensitive and to be left for other organizations to deal with. He hoped that his delegation's proposal would ensure that it would now be discussed further in the WTO.

37. His delegation regarded the problem of lack of integrity among customs officials as a matter that needed to be incorporated directly in negotiations aimed at facilitating trade. It was evident that conditions differed from one country to another, as did legal systems. This first round of discussions would, of course, not produce the correct legal solution to the problem within the WTO structure, but it was important for Members to continue discussing it and to work together to try and find solutions.

With regard to questions raised about how to apply the measures proposed in paragraph 9, he noted that it was proposed that Members adopt them at the domestic level, subject to the establishment of WTO general obligations that would not oblige Members to adopt the measures but that would encourage them to move in that direction if they had not already done so. Most countries already had a code of conduct, either for customs or for the entire public service. The Dominican Republic had a code of conduct that applied to the public services in general, not specifically to customs, and it was involved in domestic reforms to try to change its custom laws and to develop a code of conduct that would apply specifically to customs officials. His Government wanted to see severe penalties applied to customs officials who were engaged in misconduct, and it was making a major effort in this regard to overcome internal resistance.

38. The representative of Cuba introduced Cuba's submission on improving GATT Article V (TN/TF/W/64), saying that its fundamental purpose was to promote a broad balance and useful context for Members engaged in the negotiations. It was the right time to focus on an analysis of Article V with a view to strengthening its non-discrimination and MFN disciplines which were fundamental for the multilateral trading system.

39. As indicated in document TN/TF/W/35 on freedom of transit, 'despite existing GATT rules, GATT 1994 rules aimed at ensuring the smooth and non-discriminatory flow of trade across borders for transit, freedom of transit is often absent or compromised in practice'. Both the spirit and the letter of Article V were very clear in calling for compliance with the obligation to comply with the principles of non-discrimination and MFN treatment. Trade practice showed a need to strengthen the disciplines of Article V:2, setting out the details of the non-discrimination provision to avoid any discretion and arbitrary use of the exceptions provided for under GATT 1994. The problem was that the obligation to observe non-discrimination was regularly breached by a Member for non-commercial reasons. Those practices ignored the legitimate interest and rights of other Members to freedom of transit and to develop their trade in a normal fashion as a full Member of the WTO. They also ignored the commercial interest of affected third bodies.

40. Cuba agreed that submitting proposals to the NG should not in any way compromise legitimate objectives of public order and that Members should preserve the right to appropriately and justifiably apply the exceptions established in Articles XX and XXI of the GATT. But no Member had the right to abuse those exceptions without any valid reason. Cuba felt that, even though Article V:2 was fairly clear regarding the obligation for non-discrimination in freedom of transit, further strengthening of the provision was required by adding the following text: "*The contracting parties shall not apply discriminatory measures to goods in transit as well as vessels or other means of transport, of other contracting parties from non commercial reasons. This does not just exclude the right to recourse to the exceptions already established in WTO Agreements*".

41. The representative of the Philippines, speaking on behalf of the Core Group, stated that the Core Group welcomed this proposal from Cuba, in particular the fact that concrete drafting language was being proposed. This approach would be particularly welcome in the NG at some time, to help the process remain focused.

42. The representative of Bolivia thanked Cuba for its contribution, and noted that non-discrimination was a core discipline not only for Article V but for all GATT provisions.

43. The representative of the Dominican Republic thanked Cuba for its contribution and said that his delegation would study it carefully and reply in writing with comments on the points raised. He felt that they needed to be analyzed with a great deal of attention.

44. The representative of Chinese Taipei introduced his delegation's proposal on establishing a long-term mechanism on trade facilitation matters (TN/TF/W/62). All Members recognized the

potential benefits of trade facilitation, but assistance could not be delivered and benefits could not be fully realized unless a lasting long-term solution was found to the two most difficult issues associated with the implementation of the measures. One of those issues was the provision of TA&CB, and the other was the use of international standards. He reviewed the importance of these issues, and the contributions that had been made on them in the NG by other Members, basing his comments on paragraphs 2-8 of TN/TF/W/62. He then described his delegation's proposal for a long-term mechanism, drawing from paragraphs 9-10 of the document.

45. The representative of Chile thanked Chinese Taipei for submitting its proposal and said this topic was important and one on which the NG needed to develop its thinking a lot further. She recalled that paragraph 15 of TN/TF/W/41, which had been presented by Latin American countries, had also noted the importance of establishing a mechanism to organize and coordinate technical assistance. Regarding the proposal by Chinese Taipei, her delegation felt that its concept of a long-term mechanism covered several important elements that needed to be analysed separately. One was the establishment of a committee on trade facilitation to carry out standard functions, in particular with regard to the implementation of obligations undertaken on trade facilitation. Exactly what the committee's functions would need to be would depend on the nature of those obligations. A second was a mechanism to review the effectiveness of TA&CB and the implementation of commitments in that area. A third had to do with using international standards. It would be useful if Chinese Taipei could expand on how it saw its review mechanism dealing with each of these three elements.

46. The representative of Brazil echoed the comments made by Chile. His delegation considered TA&CB to be very important, not only after the negotiations were completed but equally during the negotiations themselves. It was perfectly reasonable to expect that a committee on trade facilitation would need to be set up once the negotiations had been concluded successfully, which he noted depended not only on the NG but also on how others were going to proceed. Like Chile, his delegation would be interested in hearing Chinese Taipei develop its idea of a mechanism in more detail.

47. The representative of Switzerland welcomed the contribution from Chinese Taipei, in particular the proposals contained in paragraphs 10(c) and 10(g) of the document relating to a regular forum for consultation and a platform for coordination with other WTO committees, and especially paragraph 10(e) relating to the use of international standards which Switzerland was in favour of and believed warranted more discussion.

48. The representative of Argentina thanked Chinese Taipei for the contribution and made some preliminary comments. One issue of concern to his delegation was the proposed use of international standards, which was sensitive and something that needed to be looked at carefully. The proposal mentioned the harmonization of rules relating to customs procedures. It was true that WTO Agreements on TBT and SPS matters promoted convergence in this way, but his delegation felt that this issue needed to be treated cautiously. As noted in paragraph 7 of the proposal, some WTO Members, particularly developing countries, did not take part in drafting international standards and they often had difficulties in complying with them. His delegation favoured legislative action within the WTO rather than relocating a standard-setting outside it. Furthermore, before promoting harmonization as a general rule in the area of trade facilitation, thought needed to be given to taking account of the specific legal and economic contexts of individual countries.

49. The representative of the Philippines said that while the contents of paragraph 10 of Chinese Taipei's proposal were welcome, item 10:E had to be discussed further. What was important in the paper was its realization that the trade facilitation needs of developing countries were of a long-term nature. That was something that had to be borne in mind. Experience sharing had underlined the importance of sustaining technical and financial assistance. It would not only be needed before and during the negotiations but also afterwards. It was a long-term process.

50. The representative of Chinese Taipei thanked Members for their comments, and said his delegation would respond after having considered them further. By way of one preliminary response, his delegation fully agreed on the need to provide TA&CB during the negotiations as well as after them.

51. The representative of Pakistan gave his delegation's introduction to the proposal presented jointly by Pakistan and Switzerland (TN/TF/W/63). The proposal aimed to help the NG structure its future work. Discussions so far had demonstrated that trade facilitation was a win-win situation for all WTO Members. While under the mandate developing countries would decide on their own timing and extent of commitments, their capacity to implement would depend upon the effective provision of TA&CB. Commitments would become binding only once the Membership agreed that a country's implementation capacity as a result of TA&CB had been achieved. Aligning TA&CB with the needs and priorities of individual Members was therefore the real challenge.

52. The proposal responded to this challenge by suggesting the use of "gap" analysis – analysing the gap between proposed measures and on-the-ground realities. This analysis could only be undertaken once Members had a list of proposed measures. Then, each Member could assess its own needs for TA&CB, and prioritize the sequencing of the measures. A mechanism was needed to achieve all of this, and he noted that Switzerland would explain in detail the mechanism that was proposed in their joint contribution. Finally, he urged developed-country Members to announce their willingness to provide technical assistance and support for capacity building, as Switzerland had already done.

53. The representative of Switzerland presented the mechanism on development-related issues in trade facilitation contained in the joint proposal, which she noted built on her delegation's comments at the NG's meeting in May and on numerous inputs from many other delegations with whom she had consulted since. Switzerland thanked all those delegations for their time and valuable thoughts. The future text on trade facilitation, whatever juridical form it might take, would contain some kind of inventory of trade facilitation measures that clarified and enhanced GATT Articles V, VIII and X, in accordance with the mandate. The mandate also contained an important number of development-related issues, which needed to be reflected in a future text on trade facilitation. The submission contained a proposed mechanism to complement the inventory of trade facilitation measures.

54. The NG had already devoted quite some time to the issue of assessing the needs and priorities of developing countries in trade facilitation. Her delegation supported the trend of the discussions which highlighted its importance and proposed that it be in the form of self-assessment. This self-assessment should be complemented with information on ongoing and planned capacity building and technical assistance projects. The approach proposed differed, however, from the one suggested by the Secretariat. Her delegation's basic principle in development cooperation was that projects be demand driven. It was proposed, therefore, that the recipient countries, in collaboration with the donors if so wished, should present the kind of support they were receiving.

55. Another important element was the sequencing of trade facilitation measures. Indeed, sometimes only a combination of measures allowed real benefits to be reaped on the ground. Also, some advanced measures might require the prior implementation of other basic measures. Experienced international organizations could be of valuable support to Members by assisting them to organize these relationships and their sequencing.

56. It was her delegation's assessment that the measures enumerated in the compilation of trade facilitation measures were, in some cases, of a nature such that they would not require investments in expensive infrastructure but primarily require administrative actions – which sometimes could be politically difficult to implement – and, in some other cases, were increasingly demanding, both in terms of resources and implementation capacities. Members should not preclude devoting different

treatment to these two categories of measures in a final text on trade facilitation. As a starting point, her delegation invited Members individually to classify the measures contained in the compilation document according to the matrix provided by the World Bank and the WCO at the July session.

57. In May, her delegation had talked about a basic package containing measures with which all Members should comply and more advanced measures ruled by different conditions. Although it had not abandoned this idea, it believed it was premature to introduce such a concept now.

58. A certain number of recent submissions and room documents had talked about establishing a mechanism that would link the implementation of trade facilitation measures to the development-related elements of the modalities, or to say it in slightly different wording, a mechanism to relate TA&CB and financing to reform. The submission by the African Group in document TN/TF/W/56 had spelled out very accurately the requirements of such a mechanism: "Such mechanism should ensure that the needs and priorities with respect to trade facilitation by developing and least-developed countries are addressed effectively; that available resources will be efficiently used; and that there will be long-term sustainability of technical assistance programmes".

59. In its current joint proposal with Pakistan, her delegation was taking the risk of proposing a specific and operational mechanism. It was aware that the more specific one was, the easier it was to criticize and dismantle the ideas, but it believed that being specific and operational would help to deepen the discussions on this very important theme.

60. The mechanism proposed was a set of components, action plans containing obligations, implementation periods and required means, a pledging mechanism for TA&CB and funding, multiple channels to provide TA&CB and funding, a WTO Trade Facilitation Committee (TFC) to endorse Members' obligations and commitments and a multilateral endorsement of implementation capacities.

61. The centrepiece of this mechanism was the elaboration of action plans. These action plans would serve as the basis for preparing implementation. Hence, they would also be the basis for requesting financial support, capacity building or technical assistance. To draw up such action plans, some Members might require assistance. In the action plans, Members were committing to implement trade facilitation measures immediately or after a transition period, conditional on receiving technical and financial support for some of them, and taking due account of their implementation capacities and financial and human resources.

62. Once the conditional action plans were completed, her delegation saw three possibilities. That a Member submit its proposal to the TFC, so that Members could get notice of its conditional action plan and it could then engage in negotiations with interested donors and executing agencies. A second possibility was that the Member enter directly into discussion with potential donors and executing agencies to match the assessed needs for TA&CB or financing. Hence, the use of the services of certain experts could be asked. A third possibility was that the Member submit its conditional action plan to an independent international and recognized group of experts in order to get a second opinion and objective advice, and then either submit its conditional action plan to the TFC or enter into contact with potential donors. In all cases, Members would have to present their final action plans to the TFC which would endorse all Member's obligations and commitments.

63. Requesting Members could match their assessed needs for TA&CB and funding in pledging rounds, where donors would make firm commitments to provide part or all of the TA&CB requested in exchange for the obligation to implement certain trade facilitation measures. Pledging did not necessarily need to consist of well-organized processes at all times. It could also take place in the form of customary bilateral exchanges.

64. It was important to highlight that her delegation understood donors to include developed countries, developing countries, multilateral institutions, national, regional and international trade federations as well as interested private business associations. Her delegation also believed that donors should be free to provide their assistance either bilaterally or multilaterally, earmarked for certain recipients and certain measures, as well as purely funded or provided in kind.

65. Once the pledging was complete, the requesting Member would revise its action plan, containing the consolidation of all secured projects, and resubmit it along with the pledged support to the TFC. The TFC would have the possibility to ask for complementary information in order to endorse or refuse a Member's action plan. Finally, the TFC would give its final approval to the action plan. At this juncture all parties involved – i.e., requesting Members and donors – would notify their intent to implement compliance with the rules and to provide TA&CB or funding according to the terms and conditions set out in the action plan.

66. The last step of the mechanism would consist of the multilateral endorsement of implementation capacities where WTO Members would have to assess whether a country had acquired the necessary implementation capacities, because it was only once the implementation capacity was there that a measure would become binding. The proposal did not address this review mechanism – more thought needed to be devoted to this issue.

67. She concluded by saying that although her delegation had tried to propose some operational ideas on a mechanism to address the elements contained in Annex D, these needed to be further scrutinized. Some issues had not been addressed properly. Discussions on the mechanism should also consider clustering recipient countries with regard to the implementation of certain measures as well as for related TA&CB and funding in trade facilitation, for example on a regional or sub-regional level. This should be the case for transit countries which needed to coordinate and adjust their action plans in accordance with the needs and priorities of landlocked developing and least-developed countries.

68. Finally, recognizing the asymmetry that the implementation burden of a trade facilitation agreement or text would fall primarily on poorer countries, Switzerland was ready to consider making firm commitments for providing TA&CB to its partner countries, both for supporting the initial assessment stage and for supporting the implementation phase.

69. The representative of Bolivia expressed appreciation for the joint proposal from Pakistan and Switzerland, and the fact that it had been built on the basis of initial contributions from various regional groups, such as the Latin America Group and its proposal in TN/TF/W/41. Switzerland had addressed paragraph 2 of Annex D, and the need for flexibility in the negotiations for each developing-country Member in order to facilitate the application of future commitments. The proposal gave very useful and precise guidance on how a possible mechanism might be devised and on complementary information such as how to draw up the inventory of measures and identification of specific interests, not just in the context of the NG but also on a bilateral basis. A question was how the authors would include the bilateral mechanism operationally in the development of the proposals and whether the bilateral contacts would be only in respect of the suggestions under paragraph 21(iii), for example, or whether they would extend beyond TA&CB. Her delegation agreed on the need for an assessment to be an ongoing process. Bolivia attached considerable importance to paragraphs 33 and 34 of the proposal, which highlighted the role of Members receiving assistance in the discussions and the building of the mechanism in particular to meet needs such as those of landlocked countries.

70. The representative of Chile welcomed the submission from Switzerland and Pakistan. This was a topic that needed further development, although it was difficult to do that without clarity on the range of trade facilitation disciplines that would be involved. Some disciplines could be in the form

of general obligations that would not require action plans for implementation. Her delegation believed that if the proposed mechanism of action plans was adopted, some room should be provided for establishing country funds. Often a country might base its commitment to implement some measures, within a defined period of time, on S&D treatment considerations rather than donations for TA&CB. Not all countries were in a position to seek the support of donors, and this needed to be borne in mind in the context of grouping countries together to seek assistance. With regard to paragraph 30, her delegation's view was that it would be difficult to rely on a process of the committee approving action plans since there could be Members who would want a country to do more, when the country itself felt there was a need for it to receive more support. The ideas in the proposal should be discussed further once the scope of the disciplines was clearer.

71. The representative of the European Communities thanked Switzerland and Pakistan for their submission. There were many elements in the paper that the EC would agree with. In particular, it liked the emphasis on the identification needs and priorities, which was clearly a priority in the short term but would be needed in the longer term as well. It agreed also on the need to establish a specific mechanism to strengthen the link between negotiations, implementation of commitments and the provision of technical assistance. The proposed mechanism was very specific and would require further reflection, particularly once the scope of the new disciplines became clearer.

72. The representative of the Philippines expressed appreciation to Switzerland and Pakistan for the proposal. It acknowledged the long history of trade facilitation as a subject, as well as the positive contributions that had been made by other delegations, particularly in TN/TF/W/41, TN/TF/W/29, and the African Group paper. She particularly appreciated the paper's emphasis that trade facilitation as a trade-enhancing objective was an ongoing process and needed to be customized, with specialized approaches to various needs and requirements on a country-by-country basis or a region-by-region basis. She also noted that the paper was sensitive to the question of how to ensure that countries which were not required to commit themselves to new disciplines on trade facilitation could be assured of access to funding for trade facilitation measures. She noted positively paragraphs 31 and 32 of the proposal which linked strongly technical assistance, capacity building and financial assistance to the issue of binding obligations on trade facilitation measures, and that a developing country was not bound to comply with its action plan absent assistance from donor countries.

73. The proposed trade facilitation committee was a positive response to the question of how to monitor and continue trade facilitation as an ongoing process within the WTO. She enquired whether the trade facilitation committee would be centred in Geneva, whether there was a possible role for regional trade facilitation committees, and what would be the role, if any, of regional trade facilitation action plans that were already in existence in certain regions of the world.

74. The representative of Chinese Taipei welcomed the joint proposal from Pakistan and Switzerland, and noted that it shared essentially the same spirit and goal of his own delegation's proposal.

75. The representative of Argentina thanked Pakistan and Switzerland for their important, comprehensive and substantial contribution. The five elements listed in section 3 of the proposal could well provide the NG with an initial outline of a possible mechanism as an outcome of the negotiations and an agreement that would truly reflect its progress. His delegation agreed with and appreciated the imagination that went into the design of the mechanism, and agreed with the feasibility of having this type of mechanism. He welcomed the fact that the mechanism was intended to be firmly based within the WTO. Some doubts of a practical nature could be raised, for example about individual action plans being discussed in a fully transparent manner in the proposed committee and the role that consensus would play. Nevertheless, his delegation viewed the negotiation of the disciplines and rules and the definition of the mechanism as two parallel elements that needed to be discussed together. Each would help define the other.

76. The representative of Brazil thanked Pakistan and Switzerland for their proposal. It was a sophisticated and imaginative mechanism concerning TA&CB, which needed to be reviewed thoroughly. By way of a preliminary comment, his delegation wondered about the need for the kind of comprehensive action plan that was presented in the submission in order for a Member to receive support and technical assistance, especially in light of the proposal that the action plan should be reviewed by the committee. Perhaps Members should be able to receive technical assistance in this area without having to prepare an action plan. Many of the elements of the proposed action plan would have to be based on decisions at the national level by governments with regard to the implementation of obligations, and it was difficult for his delegation to envisage why this should be submitted to the committee in order to get technical assistance.

77. The representative of Sri Lanka joined other delegations in thanking Pakistan and Switzerland for their useful joint submission. It very rightly in its introductory part highlighted the enormous difficulties that developing countries had encountered in implementing various disciplines under the Uruguay Round Agreements. In the context of any possible future multilateral discipline in the area of trade facilitation, his delegation wished to avoid such difficulties and discuss that issue at an early stage of the negotiations to find solutions. The proposal had come up with, in concrete terms, specific mechanisms, a step-by-step approach on how to implement, and what capacity-building requirements needed to accompany certain commitments. His delegation supported the basic aspects of the proposal, including the proposal that developing countries should implement trade facilitation measures at their own pace taking into account their own development needs. Appropriate balance was needed when setting the ambitious target of this negotiation.

78. The representative of Peru congratulated Switzerland and Pakistan on their proposal. His delegation shared the observation made by Pakistan when introducing the submission that trade facilitation was a win-win situation. In the trade facilitation negotiations, unlike some other areas of the Doha negotiations, there was no doubt that achieving a result would be for the benefit of all Members. His delegation was unsure that the commitments entered into for trade facilitation would be accompanied with appropriate levels of TA&CB, so the proposal was valuable in trying to chart a course and provide a framework for discussions and development. He noted and welcomed the similarities between elements of this proposal and the proposal from Latin American countries contained in TN/TF/W/41. His delegation felt that the proposed action plan was a very good basis for further work and discussion. It would be important for WTO Members to be kept informed about these plans with a view to transparency. He welcomed the proposal from Chinese Taipei as well, particularly its emphasis on the need to develop a long-term mechanism.

79. The representative of Malaysia thanked Pakistan and Switzerland for their joint paper and gave some preliminary comments. The paper provided a good synthesis of the discussions that had taken place in the NG and tried to set out the steps to be undertaken in identifying technical assistance and capacity-building needs, sequencing measures, and the implementation phase. His delegation looked forward to more details, particularly on the best possible options for developing countries in obtaining such TA&CB. In this connection, Malaysia wished to reiterate its position that it supported a well-coordinated approach in implementing TA&CB to undertake trade facilitation measures. It also welcomed discussion on a possible mechanism to carry forward the work on trade facilitation. Details of the creation and function of possible mechanisms required more thought and consultations. It was important for such discussions to give serious attention to the needs and capacities of developing and least-developed countries and to step-by-step implementation of measures. Malaysia was currently in the process of identifying its own technical assistance and capacity-building needs, using the questionnaire contained in TN/TF/W/59. Consultations were being carried out at the domestic level with stakeholders and his delegation hoped to have some responses soon.

80. The representative of Kenya joined previous speakers in thanking Pakistan and Switzerland for their comprehensive submission on development-related issues in trade facilitation. There were

quite a number of elements which his delegation could share in the submission, such as the observation that special and differential (S&D) treatment should extend beyond the granting of the traditional transitional period for implementation of commitments. There was also an attempt to elaborate the linkage between implementation of the results of the negotiations on trade facilitation and the availability of capacity on the part of developing countries, as well as support for TA&CB to implement commitments, which his delegation also in principle fully supported. The paper highlighted the difficulties faced by Members in using the existing assessment tools in order to identify their needs and priorities, which was one issue that had been highlighted also in the African Group submission. His delegation was pleased to note that the Secretariat has attempted to address this issue in their self-assessment questionnaire and inventory document (TN/TF/W/59), which could be a good basis for Members, particularly developing countries, to identify their needs and priorities. While there had been general support in principle to put in place a coordination mechanism, his delegation was also pleased to note that the submission by Pakistan and Switzerland had attempted to move one step further and define what this kind of mechanism should look like. His delegation had always supported a simple and efficient mechanism. With regard to the proposed trade facilitation committee to oversee the implementation of the results of the negotiations, this was hard for his delegation to envisage at this point since it believed that this would be dictated by the format of the final outcome of the negotiations in this area.

81. The representative of Canada welcomed the new contribution from Pakistan and Switzerland on the very important issue of how to address development-related issues in the negotiations, especially the provision of TA&CB in relation to the commitments that would result from the negotiations. There was definitely a need to think creatively about new ways to integrate these issues in the context of the negotiations. By way of preliminary comments, his delegation believed that the most efficient way to ensure that the S&D treatment and TA&CB aspects of the mandate were made operational was in the context of consideration of specific proposals for potential trade facilitation commitments. The review of specific proposals made it easier for Members, especially developing and least-developed countries, to conduct a self-assessment of their implementation capabilities. As mentioned already by Argentina and Chile, it was very difficult to conceptualize what could be the possible means of delivering S&D treatment and TA&CB in the abstract. His delegation believed therefore that the NG should focus primarily on the consideration of specific proposals as captured by the compilation.

82. His delegation shared several of the views expressed by Switzerland and Pakistan with respect to some of the essential steps identified in their communication. The need for Members to conduct a self assessment of their needs and priorities on an ongoing basis as negotiations progressed could not be overstressed. The idea found in paragraph 15 of the paper that proposed measures listed in the Secretariat's compilation involve different levels of complexity in terms of implementation, and hence that these different potential commitments should be treated differently, was interesting. This would seem to be in line with what was set out in the NG's modalities, where paragraph 6 specified that in the limited number of cases where implementation would require support for infrastructure development and such support to countries lacking the necessary capacity would not be forthcoming, that implementation would not be required. In this case, it was considered necessary to be more prescriptive with respect to those very limited commitments requiring infrastructure development than for the rest of the proposed measures.

83. Regarding the suggestion of establishing a new mechanism to relate TA&CB and financing to commitments on trade facilitation, his delegation appreciated Switzerland's and Pakistan's efforts to come up with a system that could work in practice, but noted that the suggested approach would appear to be relatively complex. Also, the proposed mechanism would seem to be aimed at serving a similar purpose as existing mechanisms, notably the integrated framework for technical assistance for LDCs for which an initiative to extend it to other developing countries through "aid for trade" was

under consideration. The proposal could be assessed in light of the "aid for trade" initiative being discussed currently in various fora.

84. The representative of Rwanda welcomed all of the new proposals that had been tabled at the present meeting. The proposal by Pakistan and Switzerland was particularly welcome, since it helped move the discussions further towards trying to come up with practical ways in which a possible mechanism for TA&CB could be implemented. In an earlier African Group proposal, the adoption of a mechanism had been suggested that would enable the provision of technical assistance at the multilateral level and also a link to the level of implementation of rules that might be agreed upon in the NG. The proposal from Switzerland and Pakistan built on this and came up with practical ways in which such a mechanism could be adopted. Her delegation believed that these were workable suggestions and wished to seriously and deeply think about them with a view of coming up with an agreeable mechanism. It liked the suggestion of coming up with an action plan by Members, which was a good basis and showed the clear need for a continuous assessment of needs and priorities as a whole as discussed in the NG. Her delegation also noted that it therefore became important for continuous assistance to Members to carry out needs assessment if such an action plan was to be developed by Members. She requested more information from Pakistan and Switzerland on paragraph 30, where they envisaged a final approval of the action plan in the trade facilitation committee. Did they envisage the approved final action plan to be final as it would spell out the terms and conditions of implementation or did they see the need for a flexible action plan even if it may be finally approved by the trade facilitation committee? In her delegation's view it was very difficult to come up with exact or very accurate needs for different measures to be adopted, and because of that it believed that it was important to have a flexible approach that would be modified in light of the experience of other countries.

85. The representative of New Zealand said that his delegation was committed to giving effect to the undertaking of Annex D in respect to TA&CB. The NG's modalities recognized the integral role of TA&CB in these negotiations and in implementation. They also recognized that in certain limited cases where commitments led to the need for support and infrastructure development, developed countries would need to make every effort to ensure that support and assistance was forthcoming to enable such Members to effectively implement the outcome of the negotiations. The challenge was to give practical effect to these undertakings in a way that contributed to the NG's work, whether in respect of developing the substantive outcome or in the implementation of the results of the negotiations.

86. By way of a preliminary reaction to the proposal by Pakistan and Switzerland, his delegation welcomed the emphasis on needs and priorities assessment and the recognition that it was recipients, not donors, that were best placed to clarify precisely what their TA&CB needs were. Needs and priorities assessment was one of the most urgent issues facing these negotiations. New Zealand was currently exploring internally what assistance it may be able to provide so that developing countries could conduct a needs and priorities assessment promptly, so as to better inform the negotiating process.

87. His delegation had some queries about other aspects of the paper. Like Brazil and Chile, his delegation was concerned about the workability of the elaborate mechanism that had been outlined. It wanted to see processes that served to help achieve the NG's goals, as Kenya had said, in a simple and efficient way, not overly elaborate engineered solutions that hindered them. It was not clear how realistic it would be to have a trade facilitation committee responsible for monitoring and agreeing to individual action plans, especially as these focused on priorities and implementation decisions which were essentially to be taken at the national level by each Member. His delegation was also concerned about the scope for duplication with existing mechanisms such as the integrated framework, as mentioned by Canada. It fully recognized that the provision of TA&CB was a vital part of the

negotiations and that the NG needed to deepen its discussion and find a pragmatic and workable way to address this critical issue within its modalities.

88. The representative of Djibouti said that everything that had been said by delegations was important, in particular what had been said by Switzerland and Pakistan concerning development and technical assistance in particular for the LDCs. Technical assistance was vitally important in the WTO. The WTO did what it could in this regard, and his delegation was grateful to the countries that financed technical assistance, but it should be fleshed out by other donors because, as regards trade facilitation, this could not be serviced by a single organization. Organizations, be they international or regional, should cooperate so as to come up with worthwhile results – for example, the World Bank, the regional development banks, the WCO, the European Commission, and the OECD should be put on an equal footing so that each shouldered its share of the burden to ensure that the needs were met. It was not enough just to second certain staff to LDCs' customs services; LDCs must be able to ship goods from one country to another, and to do this a certain amount of infrastructure was required which they did not have. The WTO did not have the technical know-how to ensure that countries had infrastructure which permitted them to trade. Everyone had to shoulder their part of the burden in a field which was of importance for the LDCs, who were particularly handicapped in this regard.

89. The representative of Japan joined others to thank Pakistan and Switzerland for their efforts in preparing this comprehensive framework. By way of a preliminary comment on the coordination mechanism, the sense of ownership by developing countries was the most important element in the process. His delegation felt that in the case of trade facilitation it might be necessary for coordination to be conducted in the field, not centrally. The coordination mechanism should be practical and efficient. He noted that the issue of "aid for trade" was expected to be discussed later in the month by the IMF and World Bank, and that it included a proposal to expand the integrated framework which could effectively cover the trade facilitation needs of LDCs.

90. The representative of Australia welcomed the Pakistan-Switzerland paper as a contribution to stimulating the debate on the important questions on an appropriate mechanism for TA&CB efforts. It seemed that there was motivation to ensure that the mechanism was truly workable, efficient and allowed for the implementation of the modalities. Thought had also been given to differentiate disciplines in terms of how S&D treatment and TA&CB would be applied to them. The proposal was constructive and Australia wished to help with developing it further.

91. The representative of Thailand introduced his delegation's experience paper in TN/TF/W/61. The Electronic Data Interchange (EDI) system currently served many areas of customs activities in Thailand. For example, export and import declarations, sea and air cargo manifests, and export/import processing. More than 90 per cent of declaration forms were processed through this system. The Thai Customs Department was trying to develop a web-based EDI system to replace the existing EDI system via the value-added network (VAN). Companies using the EDI via VAN needed to have appropriate computer and network hardware and software, which many small- and medium-sized companies in Thailand could not afford. Most SMEs used services operated by the private companies which were located at the Customs Department in order to get access to the system. When the web-based EDI system was fully developed, Thai exporters and the importers could directly log on to the Internet and process the declaration and other import and export activities from their office.

92. Thailand also had a project to establish a Single Window system. The project was under the logistic master plan that the National Economic and Social Development Board had proposed as part of the national agenda to enhance the competitiveness of the country. It was now in the process of cabinet approval. Once the master plan was officially approved, Thailand could start implementing its Single Window project, hopefully in fiscal year 2006. Meanwhile, a pilot project called the One-Stop Export Service Centre for exporters had been put in place. This project aimed to provide export

services to manufacturers, particularly those exporting agricultural and textile products. The Centre provided export certificate applications to exporters, which were required by different government agencies. At the Centre, officers from related agencies, such as the Fishery Department and the Agriculture Department, sat together and issued certificates to the exporter. The applicant needed to fill in the information and submit the document only one time, and the rest would be processed by the Centre. He drew attention to other aspects of the paper covering Appeal Procedures, the Risk Management Programme and the Gold Card Privileges.

93. The representative of Guatemala informed the NG that in line with what was stipulated in GATT Article VIII relating to the need to reduce to the minimum the effects and complexity of import and exports formalities, the Guatemalan Customs Administration had been constantly assessing its procedures with a view to strengthening trade facilitation procedures and identifying needs and country priorities related to those. His delegation felt that the issues raised in the submissions by the United States and Chinese Taipei relating to urgent deliveries were absolutely vital in helping small- and medium-sized enterprises become more competitive by reducing the delivery time for goods. The Customs services in Guatemala recognized the need for rapid delivery of goods transported via courier companies, and had now set in motion procedures to reform the Customs services for quicker customs clearance. They had also changed customs procedures in order to have immediate clearance of these goods, and adopted a manual which was now being used for air cargo and freight. These reforms had already started to yield positive results. There were now facilities in the air freight customs services in Guatemala for rapid clearance which, since June 2004, had been working 24 hours a day, seven days a week. Customs clearance of goods based on early transmission and receipt of the manifest now took an average of three hours compared to five to six hours.

94. Since April 2005, prior electronic submission of the manifest had been implemented. This meant that courier companies were able to transmit cargo information that would be coming into the country prior to the arrival of the goods, at a minimum half an hour in advance, along with a simplified declaration with the cargo manifest. In other words, when the goods were presented for clearance, the customs officer, on the basis of the manifest number which had already been authorized by the Customs Services, could automatically produce the information on the simplified declaration and then move to the selective and random procedure to determine which goods would be inspected. All consignments up to \$1,000 were cleared under a consolidated declaration without any intervention of the customs agent. Express items with a value of more than \$1,000 had to be cleared separately, in the courier storage area, and had to go through the normal procedures there. Those consignments could be cleared within two hours or less, as long as the proper documents were submitted.

95. Since July 2005, Guatemala had a checking system when the goods came in. This reduced delays because of inspection requirements. Half of the goods were given what was called "green" status and were cleared without a physical inspection. Consignments with "red" status were physically inspected before they were cleared. Selection was carried out via a risk analysis system. "Green" or "red" status was determined when the customs clearance documents came into customs with the customs declaration.

96. His Government believed that this system for handling urgent consignments brought with it the following advantages: The simplified declaration was generated via a system rather than just a custom agent; there was a very important information database which was extremely useful for day-to-day working in the Customs services; there were greater levels of control and access to goods and dispatch, less paper work, and less discretion; and there was also risk analysis, so that customs clearance procedures were speeded up and urgent consignments now had a separate mechanism applied to those items which were covered by the normal customs procedures. The customs administration in Guatemala had had a lot of help from the express service operators working in Guatemala to implement these new procedures, and it frequently had discussions with the private sector to see how to improve the system. Guatemala was now looking at its resource and technical

assistance needs in order to implement the mechanism relating to rapid clearance. It would certainly continue to examine customs procedures.

97. The representative of India thanked Thailand and Guatemala for sharing their experiences. They reflected how developing countries were also making enormous efforts in modernizing and simplifying import and export procedures. He asked whether Thailand's EDI system accepted not only invoices but also other supporting documents such as certificates of origin and bills of lading, and whether there was any time frame for keeping supporting documents in the EDI system.

98. The representative of Djibouti thanked Guatemala and Thailand for their excellent documents which showed what developing countries could achieve. There were other developing countries who had not yet been able to acquire such experience and practice in these areas, but they were doing the best they could to understand how other countries had made progress. Was it through simulation exercises, or had they learned from other countries?

99. The representative of the Philippines, speaking on behalf of the Core Group, welcomed the experience sharing by Thailand and Guatemala which was constructive in enabling other developing countries to see how other countries had assembled trade facilitation measures within their own national systems. A further sharing of experiences would be welcome as to the quantification of costs and resources that had allowed the implementation of particular trade facilitation measures. That would be useful for the discussions on technical and financial assistance. It would also be interesting to know the time frames involved. Furthermore, it would be useful to know how those programmes were implemented and the costs and resources leading to the implementation as well as the involvement, if any, of technical and financial assistance from donor countries or bilateral partners.

100. The representative of Japan thanked Thailand and Guatemala for their excellent briefing on their experiences. The projects introduced by the Thai Government addressed most of the proposals made by Members in the negotiations, and the experience in Thailand sounded quite positive as encouragement to other developing Members to undertake the same kind of reforms. His delegation was further encouraged by the explanation that the case was the same in Guatemala. Japan was ready to cooperate with the Thai authorities to further enhancing trade facilitation processes through its specialist technical assistance service located in Bangkok.

101. The representative of Guatemala said that his delegation's document would be circulated in the Negotiating Group.¹

B. TECHNICAL ASSISTANCE AND CAPACITY BUILDING

102. This part of the meeting was conducted in informal mode.

C. 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

103. 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.

104. It was so agreed.

¹ TN/TF/W/65.

D. OTHER BUSINESS

105. The representative of Turkey informed that it had prepared written responses to India's question raised during the last meeting regarding the establishment of national enquiry points and asked the Secretariat to circulate this information to Members.²

106. The Chairman then referred to other responses to questions that had been submitted by China in JOB(05)/176; Japan, Mongolia, Peru and Chinese Taipei in JOB(05)/191; Chinese Taipei in JOB(05)/193; Hong Kong, China in JOB(05)/197; Canada in JOB(05)/198; and the European Communities in JOB(05)/199, and said that he hoped delegations would study these responses.

107. The representative of the Philippines said he wished to express his delegation's appreciation to all Members that had responded in writing to queries or requests for clarification and echoed India's suggestion that to assist delegations on this matter a compilation of the queries and responses, whether by proposal or by Article, could be made. The Philippines said it would also be ensuring that members of the Core Group, to the extent possible, would respond to the questionnaire in TN/TF/W/59.

108. The representative of India reserved its right to respond at the next meeting of the Negotiating Group to some of the papers that had been tabled during the last meeting.

109. The Negotiating Group took note of the statements.

110. The representative of UNCTAD then reminded delegations of an expert meeting on Trade Facilitation that would take place at UNCTAD on 21-23 September. The meeting would cover the following issues: trade facilitation and development, trade facilitation in the context of regional integration, private-sector expectation from the WTO negotiations on trade facilitation, and implementation on trade facilitation measures.

111. The Chairman then proposed that the next meeting of the Group take place on 5-6 October.

112. It was so agreed.

113. Before closing the meeting, the Chairman said that he hoped that more progress on technical assistance and capacity building could be made at the next meeting.

114. The meeting was closed.

² JOB(05)/212.