

# WORLD TRADE ORGANIZATION

RESTRICTED

TN/S/M/7  
30 June 2003

(03-3460)

---

## Council for Trade in Services Special Session

### REPORT OF THE MEETING HELD ON 19 – 22 MAY 2003

#### Note by the Secretariat<sup>1</sup>

1. The Special Session of the Council for Trade in Services held a formal meeting on 19-22 May 2003. The agenda for the meeting, chaired by Ambassador Alejandro Jara of Chile, is contained in document WTO/AIR/2097.
  2. The representative of Hong Kong, China indicated he wished to raise a matter concerning a document circulated by the European Communities under "Other Business".
  3. The Chair proposed that the agenda be adopted including the item to which reference had just been made.
  4. It was so agreed.
  5. The Chair informed the Council that, under the item "Organization of Future Work" he wished to make a statement about a letter he had received from the Chairman of the General Council and on his report in preparation of the Fifth Ministerial Conference. He also said that he would like to turn to item E, "Review of Progress in Negotiations" on the first day of the meeting in order to consult with delegations on public information regarding offers.
- A. ASSESSMENT OF TRADE IN SERVICES
6. The Chair recalled that at the last meeting a number of interventions had been made based on an earlier assessment communication from China and a new communication from the United States on an assessment of services trade and liberalization in the United States and in Developing Economies, which was contained in TN/S/W/12. Reference had also been made to the broader objectives of the assessment exercise, the negotiating guidelines in this regard, and the difficulty faced by developing country Members in conducting an assessment. He encouraged Members to reflect on how to organise work under this item.
  7. The representative of Poland stated that the best way to move ahead with this item was to continue to gather information on a sectoral basis. Quoting Article XIX:3 of the GATS, she said that "the Council for Trade in Services shall carry out an assessment of trade in services [...] on a sectoral basis". She believed that assessing sectors separately would allow Members to conduct their analyses and take more active part in the discussions. She felt that the assessment was a continuous process

---

<sup>1</sup> This document has been prepared under the Secretariat's own responsibility and without prejudice to the positions of Members and to their rights and obligations under the WTO.

and she felt that work on the item was not complete. The assessment should be objective, so as to ensure that all Members benefitted from it.

8. The representative of Indonesia making a general statement said that he wished to underline the importance of conducting an assessment before embarking on further liberalization of services trade. An assessment would allow Members, especially developing countries, to identify if they had benefitted from the liberalization process, and in what sectors. He recognised the potential benefits of liberalization in services trade for economic development, however, questions remained as to whether developing countries had gained from this process. He noted that liberalization gains had often been nullified by limited access in modes and sectors of interest to developing countries, as well as weakness of export capacity in the services area. Although the services sector contributed to development and employment, he felt that the assessment should, as mandated, be conducted in overall terms and on a sectoral basis, in line with the objectives of the agreement, included those in Article VI:1. He felt that if developing countries were obliged to make commitments without having made an assessment of current bindings, imbalanced results in the negotiations could occur. The solution, he believed, was the effective conducting of the assessment in order to allow the negotiations to be adjusted in light of its results. He concluded that the assessment should be an on-going exercise, and that the negotiations would be adjusted in the light of its results.

9. The representative of Pakistan, noting his frustration with the work on this item, said that it had been under discussion for a long time, and that the Council had indulged in various experiments to try to move work forward. He recalled that the Council had decided to elevate the item from the regular session to the Special Session in 2000, and since then, the Council had tried to move forward and culminate in a manner of benefit to the membership, but in vain. He asked why Council was engaged in this exercise, which he felt should not remain an academic exercise as appeared to him to be the case. In response to the intervention by Poland, he quoted the full text of Article XIX, and underlined that it referred not only to a sectoral assessment, but also one in overall terms. He noted that he had not seen any practical manifestation of the results of the assessment, for instance in the requests and offers. Although he agreed that good submissions had been made that included relevant national and sectoral experiences, he inquired as to the purpose of the exercise which seemed to have been lost. He suggested that the Chair engage in informal consultations with a view to find ways and means to move forward. He recalled that in an intervention at the last meeting, he had cited all the relevant records under this item, which had recalled to memory what Members had intended under this agenda item. He felt the process to date had been futile and meaningless.

10. The representative of Hong Kong, China, making a few comments on the United States assessment of services trade, noted that the services industry in the United States had been fast growing and had become the single most important component of private sector GDP (paragraph 4 noted that it accounted for some 79.2 per cent of GDP). It was also the largest sector for employment (81.1 per cent as noted in paragraph 5). Likewise, the paper noted that the services industry accounted for a significant component of middle- and low-income economies. There was certainly a direct correlation between the level of income and the proportion of the services component in the economy. She felt that this highlighted the importance of the services sector to economic development and was underscored by the above average annual growth rates of services sector GDP in all economies, and the fact that services served as a major input to many manufacturing and trade activities. Services liberalization was particularly important in her view in strengthening economic infrastructure and sustaining long-term economic growth. Drawing one conclusion from the assessment, she stated that liberalization in services trade could give rise to a win-win situation for all WTO Members at all levels of development. For developing economies, services could be a major source of foreign investment, employment and economic development. For developed economies, where services comprised a major part of the economy, import of competitive services at lower costs could enhance economic efficiency and sustain productivity gain. Referring to the United States submission, she noted that the its development of services had outperformed the rest of the world:

from 1995 to 2001, the share of services exports accounted for by middle- and low-income economies had risen by 4.9 per cent, while that of the United States alone had risen by 8.4 per cent, while that of high-income economies had declined over the same period. Apparently, the United States had benefitted significantly from services liberalization since 1995. In order to assess the win-win situation of growth in services, she stated that it would be necessary to have information on the proportion of services imports to GDP in the United States over the same period, as well as the share of developing economies' services trade in such services imports, particularly if that share had been increasing. She acknowledged the benefits brought about by services liberalization and said that her delegation would be interested in knowing if any research had been conducted which could shed light on the benefits brought to consumers if trade in services sectors in which developing economies had a comparative advantage were liberalised.

11. Turning to a few general observations on the assessment of trade, the representative of Hong Kong, China stated that the assessment was an on-going exercise. In particular, the collection of services statistics should continue to be improved in order to provide more accurate figures on services trade in addition to an assessment of its impact. In many cases, liberalization and reforms were still on-going and an assessment could not be fully completed without following these reforms and appraising their impact with statistics. In her view, an assessment was probably best conducted at the national level using domestic economic figures. She felt that the economic benefits to the domestic economy could be demonstrated through research on the following: (a) domestic services liberalization and the importance of competitive services at lower costs, and (b) services liberalization by trading partners and export of services without comparative advantage. Her delegation welcomed assessments by Members and suggestions on how to move work forward in a concrete manner, especially from developing Members. She suggested that where necessary, technical assistance could be considered for developing Members to undertake such assessments in order to fully appraise the positive and negative aspects of services liberalization and the policy options involved.

12. The representative of Poland, seeking to clarify her earlier comments, stated that she had not said that an assessment in overall terms was not needed, but felt that pursuing work on a sectoral basis would help move the discussion forward.

13. The representative of Nigeria associated his delegation with the statements made by Poland, Indonesia and Pakistan. He recalled that the purpose of the exercise involved an assessment of trade in services, and particularly its impact on developing countries. He felt that national experiences were important in this regard, as the experiences in developing countries were not the same as elsewhere. He felt that the assessment should focus on determining the achievements attained in terms of the objectives of Article IV.

14. The representative of China, making a general comment on the assessment exercise, said that her delegation shared the concerns of Poland, Indonesia and Hong Kong and felt that the assessment was an important element in the current negotiations. She agreed that the exercise should not be an academic one, but that the negotiations should be adjusted in light of it. Turning to the submission from the United States, she noted it would be helpful in the negotiations. She was glad that the United States shared the World Bank's view on the relationship between liberalization, reform and regulation, when it said, in its paragraph 48: "However, a World Bank report indicates that the success of services liberalization depends on well-structured reform programs and effective regulation." She recalled that this point had also been noted in China's earlier assessment, and she felt that it was important for Members to bear it in mind during the negotiations. She agreed with paragraph 51 of the submission on the importance of multilateral liberalization, namely that foreign market access barriers could be reduced through multilateral liberalization efforts while domestic reform could be facilitated through multilateral liberalization, and thus "the opportunity to increase market access abroad could reduce opposition to liberalization in the home market". For this reason, her government supported the multilateral system, despite the hardships it had faced in the accession process. She noted that

Chinese service suppliers were business-minded and expected China's trading partners to accommodate their trading interests in sectors in which they were competitive, in the same way as China had done for its trading partners in its accession negotiations. She hoped that their expectation would be fulfilled at the end of the current negotiations. She noted that the paper stated that a 33 per cent reduction in services barriers would increase United States economic welfare by US\$150 billion and that of developing economies by US\$59.9 billion. Her question was not whether the benefits of trade liberalization would be spread evenly among Members, but rather she inquired as to how the United States delegation had arrived at these estimates, specifically in the case of developing economies. Did the number reflect the benefit of imported services only or did it also contain the proportion of exports that benefitted developing economies? If so, she inquired as to the proportion of export benefits to developing economies.

15. The representative of Mauritius agreed with those delegations who had underscored the importance of the present exercise. However, it was a complicated exercise and, for a small country, it was a difficult one. This difficulty was amplified by the many offers on the table that needed to be assessed. He welcomed the suggestion by Hong Kong, China that technical assistance be provided by developing countries in order to enable them to conduct an assessment exercise.

16. The representative of the European Communities noted that this exercise was important for his delegation and he reiterated its commitment to it. He agreed that it was an on-going exercise carried out over the past two years marked by interesting and useful contributions, including more recent ones from Thailand, South Africa, China and the United States. The Communities shared many of the same experiences as the ones outlined in the United States submission: for example more than 70 per cent of investment entering the European Union was in the services sector and more than 50 per cent of all European FDI in developing countries was in services. This demonstrated the contribution that trade in services could make to growth and development. With regard to the exercise he felt that, since it had begun, a number of useful assessments had been made both in overall terms and at the level of individual countries and in specific sectors. He did not share a sense of frustration or disappointment. He felt that it was important for those Members who had conducted national assessments to present these in order to further discussion. He supported the suggestion by Hong Kong, China that it was necessary to provide technical assistance to this end in order to conduct national or sectoral assessments.

17. The representative of Cuba, noted that more than two-thirds of its GDP and more than half of its foreign earnings were accounted for by services. He felt that the assessment of trade in services needed to be conducted objectively in order for developing countries to ascertain the repercussions of liberalization on their economies and to determine the extent to which they could make further commitments. He agreed with recent submissions from Thailand and China which stated that liberalization must be part of a gradual process cast within a national regulatory framework to be formulated in line with development objectives as determined by individual Members. He shared China's concern regarding the asymmetry of benefits. He expressed concern that assessments had been based on statistics from international institutions, and often did not include statistics compiled by developing countries. Turning to the United States submission, he noted that it had portrayed a positive vision of liberalization which had been arrived at using a reduced framework. Paragraph 16 referred to the increase in services exports in some developing countries, a sample which he felt was insufficient and whose meaning could not be extrapolated if one took into account the large number of WTO Members. He felt that the approach had led to a simplified approximation of the results of liberalization in trade in services, and to generalisations based on insufficient data that tended to stress the benefits of liberalization. He noted that the assessment led to the conclusion that developing countries would benefit by importing services, and yet only a handful of unproven examples had been given of developing countries which could become competitive. This conclusion was a partial one, and ran the risk of calling for an opening of the market of developing countries without taking into account the markets or modes of supply of interest to them. He stressed that a compilation of useful

statistical data was required based on the definition and interpretation of the GATS on trade in services and its modes of supply. Turning to the negotiations, he stressed some of the contradictory elements which his delegation had observed. For example, in Cuba's case requested market openings were limited due to the unilateral action of the United States, which although promoting liberalization, was applying restrictive measures to Cuba, and which had announced further strengthening of these measures. These restrictions had a serious effect on all services trade, including for financial transactions, consumption abroad by nationals, and extraterritorial regulation. With respect to this last example, he cited the case of international maritime transport in which a ship anchoring in Cuba was barred from anchoring in the United States for the following six months. He summarised his remarks by stating that the information gathered was not sufficient, and that it would not allow for an assessment from the perspective of Articles IV and XIX of the GATS. He recalled the initial mandate, which called for the assessment to be general and sectoral, and to include an analysis of the implications of liberalization of trade in services, through a standing item of the agenda as noted in the Negotiating Guidelines.

18. The representative of the United States, seeking to clarify a point about its submission, said that it should be seen as one contribution to a larger exercise and did not seek to be definitive. She agreed that there could be improvement in the collection of statistics, and indicated that the United States in its domestic context was working to this end. She felt that it was important to note that the United States submission, as others, was part of an overall exercise to collect available information. With respect to the specific question on paragraph 47 of its submission, she indicated that, given that it cited a specific study that would need to be consulted, her delegation would revert to the question at the next meeting.

19. The representative of Canada stated that the International Trade Centre had a programme of assessment activities for services trade for developing countries. The Centre conducted assessments in coordination with international consultation firms and governments. She noted that this had been done in a number of African countries and felt that the ITC could be of practical assistance to Members in this regard.

20. Summarising the discussion, the Chair noted that a number of interventions had called for a sectoral assessment of trade in services. Most had underlined that the exercise was on-going, and some had highlighted the importance of the exercise for developing countries. Others noted that it was not an academic exercise, which he took to mean meant it had a practical purpose. A few delegations underlined the importance of providing technical assistance to developing countries in order to undertake assessments. Some delegations highlighted the limitations of the information available and the need for a wider range of sources of information. He noted that a number of delegations had reverted to the presentation by the United States with comments and questions, which would be taken up at the next meeting. He had noted the suggestion that the Chair hold consultations in order to determine how to make the Council's work on this item more focused and practical, and would initiate contact in this regard. He suggested that the Council take note of the statements made and revert to this item at its next meeting.

21. It was so agreed.

#### B. MODALITIES FOR THE SPECIAL TREATMENT FOR LEAST-DEVELOPED COUNTRY MEMBERS

22. The Chair recalled that at the last formal meeting, the representative of Bangladesh informed the Council that the LDC group was reviewing Members' comments made on a draft of the modalities at an informal meeting held in January. As indicated in March, in the light of these comments a revised draft had been prepared by the LDC group and was contained in document TN/S/W/13. He thanked the LDC group for their extensive efforts in preparing this draft and recalled that, as stated by

a few delegations upon the adoption of the Modalities for Autonomous Liberalization, there was an opportunity to build on that achievement by addressing the modalities for the special treatment for LDCs in an expeditious manner. He thought that there was agreement that the modalities were an important element of the negotiating architecture and of particular interest to an important group of Members of the Council.

23. The representative of Zambia, introducing the revised draft modalities contained in document TN/S/W/13 on behalf of the least-developed country group and recalling the relevant provisions of Articles IV and XIX, stated that the modalities for the special treatment for LDCs constituted an important part of the Doha mandate. The LDCs felt that this was perhaps the most significant instrument for increasing the participation of LDCs in trade in services. He said that the effective implementation of GATS Article IV for LDCs rested on the success of achieving agreement on the modalities. He stated that the revised draft of the modalities had been based on the comments made at an informal meeting in January as well as in consultations. He affirmed that the main guiding principles of the draft document remained the identification of the special needs of the LDCs as the basis for special treatment in the context of the negotiations. He recalled that Article IV noted that special priority was to be given to the LDCs and recognised that particular account should be taken of the serious difficulties of the LDCs. The Negotiating Guidelines reconfirmed that special priority would be granted to LDCs as provided in Article IV:3. While recognising that the modalities for autonomous liberalization stressed the special consideration to be given to LDCs, he said that the objective of the LDC modalities was to provide the understanding as to what this special priority and consideration would mean in real terms, and in such a way as to ensure that the special treatment referred to in Article XIX:3 of the GATS was achieved. He said that the elements in the revised draft aimed to show the way for addressing the special economic situation and the development, trade and financial needs of the LDCs so that special priority and consideration and particular account might be granted in the course of the negotiations. He said that the modalities aimed at creating a framework for making GATS provisions for LDCs effective and operational and through which LDCs could engage more effectively in the negotiations in accordance with their special situation. The modalities should not be seen as a simple repetition of the GATS provisions in favour of the LDCs without giving value added to them in the negotiations. He recalled that LDCs accounted for 0.4 per cent of total export of commercial services and that the increasing participation of LDCs in services trade would not be achieved without providing for special treatment and the adoption of special measures in their favour. He invited all Members to support the revised draft as a way of demonstrating their commitment to promoting the interests of all participants, including those weakest among them, on a mutually advantageous basis and through securing an overall balance of rights and obligations. In this way, Members would be effectively assisting the LDCs to secure beneficial and meaningful integration into the multilateral trading system and global economy. He concluded by proposing that Members conclude their work on this item at the present meeting.

24. The representative of Senegal associated his delegation with the intervention by Zambia. He said that the modalities were an integral part of the negotiations on services. He said that the modalities should aim to make it possible for the LDCs to understand more fully on what footing they would negotiate, including the flexibility made available to them in light of their special situation and needs for financing development and trade. As indicated in the revised draft, it was important for Members to make a firm commitment to provide flexibility and assistance to LDCs in order to allow them to achieve the objectives outlined in Articles IV:3 and XIX:3. He felt that the framework contained in the proposal would allow for the fulfillment of these objectives and for the targeting of actions in favour of LDCs. He stated that it was difficult for LDCs to advance in the current trading context and the adoption of the modalities would allow them to move to the next level in subsequent negotiations. He felt that the adoption of the modalities would assist LDCs in participating in trade in services and called upon Members to adopt the draft modalities before the Council.

25. The representative of Cuba said that approval of the modalities had been unnecessarily delayed and expressed her delegation's support for the draft modalities outlined in document TN/S/W/13.

26. The representative of Japan noted that there were many positive elements to the revised draft, including the importance of trade in services for LDCs in achieving the socio-economic objectives outlined in paragraph 2. He noted that, in general terms, many elements of the draft were of an obligatory nature and could prejudice the outcome of the market access negotiations. He said that Japan could consider some flexibility in the implementation of GATS obligations for the LDCs, however, he felt that a more cautious approach was necessary in considering the granting of treatment which went beyond the MFN principle, and should include reflection on the feasibility of granting such treatment under the GATS framework. He sought clarification as to what was meant in paragraph 6, by a "preferential market access mechanism" and how this would be put into place. On paragraph 8, he inquired as to what was intended by "enterprise level actions and schemes" and the type of action that would fall under this. He requested elaboration on paragraph 9 about access to distribution and information networks, and what was being sought under paragraph 13 on technical assistance. With respect to paragraph 10, he recorded his delegation's reservation on the reference to the movement of natural persons, and particularly the reference to unskilled or semi-skilled labour. He acknowledged that this was a part of the GATS negotiations; however, he felt this type of reference to mode 4 in the draft text was not a point upon which there could be agreement in the short term. Some of the needs regarding mode 4, he suggested, could be phrased differently and in a way which would not prejudice the negotiations. With respect to the reference to autonomous liberalization in paragraph 11, he stated that there had been agreement on the modalities for autonomous liberalization and that items pertaining to this should be implemented through them.

27. The representative of the European Communities stated that his delegation remained committed to developing the modalities and sought to move forward towards a useful and workable text. He agreed that LDCs faced a significant challenge in the negotiations and that steps were needed to facilitate their participation in the negotiations. However, he said that the revised text raised a number of concerns for his delegation. It was too prescriptive with regard to the outcome of the negotiations, which he did not believe was the purpose of the modalities. He indicated that he had a number of specific comments, but felt that they might be better addressed constructively in an informal meeting.

28. The representative of Canada recognised the special economic situation and structural difficulties faced by LDCs and reassured the Council that Canada was committed to moving forward and completing this work quickly. She felt that it might be useful to draw from the Decision on Accessions of LDCs, which might contain some useful elements in developing these modalities. She echoed the European Communities' suggestion for informal consultations on this issue. As was the case with the modalities on autonomous liberalization, these types of exercises involved much work outside of the Council which was labour and time intensive. She hoped that this assistance by the Secretariat would be helpful for scheduling meetings and perhaps drafting. She encouraged LDCs to submit initial requests in sectors and modes of interest to them, which Canada would take into account in the bilateral negotiations.

29. The representative of Indonesia noted that Article XIX:3 mandated the Council for Trade in Services to establish modalities for the special treatment for LDCs under the provisions of paragraph 3 of Article IV. He drew attention to the mandatory nature of Articles IV:3 and XIX:3 and the special priority that should be attached to their implementation in the form of special modalities. His delegation believed the request for the establishment for modalities for the special treatment of LDCs was in line with the objective of Article XIX:3. In light of this mandate, he welcomed the submission by the LDC group and he shared the sense of importance attached to the elements outlined in the proposal, which would be useful and valuable in the negotiations. He looked favourably on the

proposal and pledged to work in a constructive manner on the establishment of the modalities. He noted the need for LDCs to exercise the provisions contained in Article IV to their fullest extent and to operationalise such provisions in line with their national policy objectives. He agreed that it was crucial for LDCs to seek broader access in sectors and modes of supply of interest to them. He said that the need to strengthen domestic services capacity was important for both LDCs and developing countries in general to assist their participation in global trade in services. He agreed that the negotiations on trade in services should promote a balanced trading system, and that this would only occur if consideration were given to LDCs. He repeated that the LDCs needed assistance and capacity in order to participate effectively in services trade.

30. The representative of Korea said that the revised draft signalled the willingness of LDC Members to actively participate in the services negotiations. He sought to make some preliminary comments and said that his delegation would reflect further on each element of the draft prior to the next meeting. He stated that his delegation supported the provision that more flexibility be given to LDCs in undertaking commitments which took into account their development needs. He thought that this could be accepted by all Members. However, he recorded a reservation that the full denial of national treatment outlined in paragraph 5 would undermine the value of commitments made by LDCs. Regarding paragraphs 6-10, which described the obligations on non-LDCs, Korea shared concerns about the prescriptive nature of these provisions, and had noticed that some elements appeared to fall outside of the scope of the GATS. In particular, he said that investment decisions depended on various factors including the growth potential and overall business friendliness of the host economy. Making commitments in services negotiations was just one of these necessary conditions, however, it was not a sufficient condition for investment. Concerning the temporary movement of natural persons, paragraph 10 of the revised modalities identified LDCs' priorities for unskilled and semi-skilled persons. His delegation was of the view that the movement of service suppliers *per se* should be differentiated from the mobility of labour as a factor of production. Distinguishing between these two types of mobility became more difficult when speaking of unskilled or semi-skilled persons. He noted that paragraph 2 of the Annex on the Movement of Natural Persons stipulated that the GATS should not apply to measures affecting natural persons seeking access to the employment market of a Member. He thought that this held true for every Member, regardless of its stage of development. He further sought to clarify a point regarding paragraph 11, which stated that LDCs should be granted maximum credit for autonomous liberalization measures without binding them. According to paragraph 4(i) of the adopted Modalities for the Treatment of Autonomous Liberalization, one of the criteria for assessing the value of an autonomous liberalization measure was whether the measure in question had been scheduled and, if not, whether the liberalizing Member was willing to do so. He wondered whether paragraph 11 was not in conflict with the adopted Modalities for the Treatment of Autonomous Liberalization in that non-LDCs Members should grant the same legal certainty and predictability to the unbound measures as to the measures being scheduled. He also thought that paragraph 14 of the modalities for autonomous liberalization, which stipulated that special consideration should be given to the LDC Members, was flexible enough for LDCs, and credits would be agreed upon in bilateral negotiations. Regarding the provision on technical assistance and capacity building, Korea shared the LDCs' keen interest in this area, as testified by Korea's provision of technical assistance to LDCs by hosting various training seminars. He said that further efforts would be made in this respect and Korea would explore how LDCs' concerns and interests could best be addressed. He echoed the suggestion to organise informal consultations on this matter.

31. The representative of Switzerland stated the revision was a concrete sign of LDCs' awareness that participation in services trade was beneficial and all were willing to engage and commit to the process. He noted that the draft included many good elements; however, it had also raised a number of questions as well as a number of elements which could be problematic depending on how they were understood. Referring to paragraph 6, which proposed that the commitments be made in a differentiated manner for LDCs, he wondered about the relationship between this provision and the



obligation under Article II of the GATS. With respect to paragraph 10 and noting Article II, he inquired as to the relationship between this element of the proposal and the negotiations under Article X, which stated that emergency safeguard measures were to be non-discriminatory. On paragraphs 7 to 9, he drew attention to the fact that his country was active in the field of import promotion and was willing to further expand certain activities. He recalled that the Swiss import promotion programme had the goal of strengthening the competitiveness of SMEs in transition and developing country economies in order to facilitate their access to the Swiss market. It offered a series of services in the field of information networks, marketing, consultancy, and export administration. The programme was mainly active in the goods sector; however, he said services sectors were not excluded. He said that Switzerland in some cases also granted credit guarantees that functioned as an export risk guarantee for goods and services supplied by LDCs which were not entitled to export risk insurance because of the high risk involved. These guarantees facilitated exports to LDCs and ensured a constant technology transfer. In terms of infrastructure projects, he noted that Switzerland was funding a number of non-refundable grants and guarantees. For example, 55 million Swiss francs had been allocated in favour of an infrastructure development finance corporation and Switzerland was funding an African infrastructure fund. For more information, Members could consult Switzerland's submission contained in IP/C/W/388/Add.3. Regarding paragraph 10 he was fully aware of the special interests of LDCs in terms of market access and he said that Switzerland's offer considered this. Regarding paragraph 11, and recalled his comments made at the last meeting and prior to the adoption of the modalities, namely, that for Switzerland the provision of these modalities regarding binding meant that at the end of the day the measure should be bound. He reiterated that this was an important aspect of the negotiations for his delegation in the context of autonomous liberalization and in this context. He noted he had other technical comments, but said it was perhaps not appropriate to raise them in formal session. He agreed with the suggestion for informal consultations to move the process forward.

32. The representative of Hong Kong, China said that her delegation remained committed to supporting the development of modalities at the earliest possible juncture that catered to the special circumstances of LDCs. She appreciated that some of the previous comments by Members had been taken into account in the revised draft. She said her delegation was analysing the modalities and would revert at a later point in time with substantive comments; however, she had two preliminary specific comments. She said that reference to the Negotiating Guidelines in paragraph 3 should also include the modalities for autonomous liberalization which was an important guide in the negotiations. She noted that the issue of credits and binding had been carefully negotiated in the autonomous liberalization modalities and she was not sure whether it would be appropriate to re-open the question in the context of the LDC modalities. She said that her delegation was prepared to give special consideration to LDCs in the requesting and granting of autonomous liberalization credits as provided in paragraph 14 of the autonomous liberalization modalities. Secondly, she said that negotiations under Article XIX were premised on the basis of progressive liberalization pursuant to the objectives of the GATS which included MFN obligation and national treatment as a fundamental tenet. She appreciated the need for giving special consideration to the needs of LDCs in the negotiations; however, she was concerned with the proposal's provisions that LDCs should not be required to commit to national treatment (in paragraph 5, line 4) and the establishment of a preferential market access mechanism (in paragraph 6, line 3), which would contravene the objectives of GATS and Article XIX negotiations. She appreciated the need to consider sectors and modes of particular interest to LDCs, but said that in her view negotiations outcomes should apply on an MFN basis, with national treatment guaranteed as far as practicable to individual LDCs' special circumstances. She expressed support for informal consultations and further development of the modalities by the Chair in close co-operation with the LDC group with a view to finalising a set of modalities acceptable to all Members for implementation as early as possible.

33. Reaffirming her delegation's commitment to the process and a positive resolution that all could endorse, the representative of the United States believed that modalities should minimise the

constraints on LDC's actions or requests. At the same time, the modalities should allow developed country Members some discretion in deciding how they would meet the objectives with regard to special treatment for LDC Members. She said that the United States had provided comments on the previous version of the draft modalities with these concerns in mind. While the latest version of the draft appeared to have made some modifications to remove constraints on LDC actions or requests, it did not appear to have taken note of the concerns raised regarding preserving developed and developing country discretion in responding to the objectives of Articles XIX and IV. As a result, she believed that there would need to be additional work and consultation on the current draft. She said that the United States could not accept limitations on requests, offers or other negotiating positions. Paragraph 4 of the draft text retained language mandating Members to present requests "which are limited in terms of numbers of sectors and modes of supply and scope of commitments". The United States could not accept such limitations as formulated in the proposed draft. For example, she said that in paragraphs 6 through 10 and 13, mandatory obligations were imposed on developed and developing country Members to grant full market access and national treatment to LDCs in sectors of interest, to promote and strengthen LDC export/import promotion programmes, to make financial resources available for training and transfer of technology, and other areas that would entail the commitment of substantial resources. While her delegation fully appreciated the objectives that each of these mandatory requirements was intended to achieve, it could not guarantee that it would in fact be able to meet each of these requirements. It was also difficult to imagine that there were many developed or developing countries that would not have difficulty making the political and resource commitments necessary to fulfil these mandatory requirements. She also wished to record her delegation's concern with the new language contained in paragraph 6 requiring the establishment of "preferential market access mechanisms". This language had not appeared in the earlier draft and she requested further clarification. She said that the LDCs had raised concerns about requiring them to offer national treatment or additional commitments. She reiterated that the GATS used a positive list approach and that Articles XVI to XVIII were not universal obligations, but were binding only where a Member had undertaken specific commitments. The LDCs' retained the right to decide where, and if, they would make specific commitments for market access and national treatment. She hoped that the Chair would hold additional consultations on the draft with the LDC group and other interested delegations so that the problems and questions raised could be addressed, and so that expeditious progress would be made towards reaching a consensus on the modalities for LDCs fully in keeping with Articles XIX and IV.

34. The representative of Morocco noted that more than 30 African countries were Members of the WTO and that they represented a mere 2 percent of world trade, and the LDCs 0.2 per cent. In his view it was legitimate for LDCs to seek special treatment in accordance with GATS Article IV and XIX. He echoed earlier calls for the rapid adoption of the draft text.

35. The representative of Poland agreed that establishment of the modalities for LDCs was necessary according to GATS Article XIX, as well as the Negotiating Guidelines. She believed that developing country Members and the LDCs should be given special priority subject to Article IV. She indicated that her delegation had several concerns with paragraphs 6, 10 and 11 of the draft, however, she felt it would be more appropriate for her to go into detail in informal consultations.

36. The representative of Pakistan noted his delegation's immense interest in seeing LDCs integrated into the multilateral trading system in a meaningful manner. With this objective in mind, he felt that a decision on the modalities was required, as this item represented unfinished business in terms of the Negotiating Guidelines and Article XIX. He had hoped that greater progress could have been made, however, following the various tenable and convincing interventions made, he noted that concerns remained. Pakistan too was in the process of examining the modalities which, to his understanding, would impact on the basic architecture of the GATS. He noted that he was willing to work in a constructive and cooperative manner with the LDCs. In this regard, he felt that the proposal for further consultations merited the consideration of the Council.

37. Echoing the comments of other Members, the representative of Malaysia said he understood the concerns of the LDCs and was aware of the reasons and considerations underpinning the revised draft. Recalling a comment made by Poland that developing countries and least-developed countries required special priority, he said this indicated that there was recognition that asymmetry existed, and that, in the case of LDCs, the asymmetry was further exaggerated. He said both groups faced limitations but there was a question of degree. He stressed that there was recognition that something needed to be done for LDCs, and for developing countries as well. He also said that there was a need for a balanced outcome for LDCs in terms of Article XIX:3 which would be workable for all. In this regard, he said that the draft's binding language, such as the use of "shall", would require application by developing countries, and as much as he understood the difficulties faced by LDCs and sought to help, such language might imply a commitment that Malaysia would not be able to uphold. Referring to the intervention by Switzerland, he said that Malaysia also had a technical assistance program, although it paled in comparison to that of Switzerland's. In the context of such limitations, Malaysia had to prioritise its assistance. On the question of market access and national treatment, he recalled that developed country asymmetries in relation to developing countries also needed to be taken into account. He indicated that he would wish to participate in any consultations that might be held.

38. The representative of Hungary noted that special and differential treatment should be provided to those in clear need and that it should be tailored to the conditions of the beneficiaries. He noted that LDCs were a relatively homogeneous group that required such treatment. Turning to the purpose of the modalities, he said that they should seek to help LDCs participate in the negotiations and should not determine the outcome of the negotiations. He echoed earlier comments that some parts of the document seemed too prescriptive and would not easily find consensus, especially on paragraphs 5, 6 and 10. He was not convinced that some of the provisions, for example that LDCs not be required to provide national treatment, would be of actual benefit to them. He thought that the feasibility and appropriateness of some of the suggestions, such as the negotiation of a preferential market access mechanism for LDCs, would require further in-depth consideration. He supported further informal consultations and looked forward to participation in those consultations.

39. The representative of China fully understood the importance of services for LDCs and agreed that disadvantages in their goods trade could be offset by exporting certain services. She recognised the difficulties LDCs faced in the negotiations and felt that it was important for them to have a set of modalities to facilitate their participation in the negotiations. Given that the request-offer process had begun, she felt it necessary to conclude work on this item quickly, and she agreed that consultations by the Chair were desirable.

40. The representative of Nigeria noted that developing and least-developed country Members needed different treatment in the WTO to level the playing field. He understood the need to complete the modalities and he felt that the establishment of all modalities in the WTO should follow the same procedure. He requested delegations to expedite their consultations on this issue.

41. The representative of Singapore appreciated the rationale behind the modalities and reaffirmed that such guidelines were necessary given the particular situation of LDCs in international trade. He said that he would study the draft and revert to it. On a preliminary note, he echoed the concerns raised by other Members regarding paragraphs 4, 6-10, and 13. A number of the provisions appeared to be overly prescriptive and prejudge the outcome of the negotiations. He was also concerned about the obligatory nature of some of these provisions. He agreed with earlier comments by the United States that Members should maintain discretion as to how they could help LDCs. He stated that his country had a number of technical assistance programs for LDCs.

42. The representative of Zambia thanked Members for their interventions and participation, which he had hoped would have indicated wide support. He said that his rough calculation showed

that there remained many points of reservation. Many of the comments did not give him the impression that LDC problems were being fully discussed, but rather no major distinction between LDCs and developed countries had been made, for example in the references made to the modalities for autonomous liberalization. He had heard comments of a more technical nature and less political in nature, and he said that the two needed to be blended, since the political would be of greater help to the LDCs. The hope of the LDCs was that the modalities would not be devoid of substance, but would lead to concrete results. He felt that the suggestion to hold further consultations was consistent with the comments made, and given that the meeting could not endorse the draft, he agreed that consultations were necessary. He hoped that these would see a fundamental political shift. He felt that the credibility of the process would be weakened if experts examining the modalities saw no investment for LDCs, which in turn would not be in the interests of the Council.

43. The Chair noted the gratitude of the Council for the draft submitted by the LDC group. He believed that the modalities were a fundamental instrument that sought not to determine an outcome, but to assist the LDCs in their negotiations and help them reflect their interests as importers or exporters or services. He said there had been numerous interventions, all of which had endorsed the idea of developing the modalities. He recalled a comment by China that initial offers were being circulated and negotiations were advancing well, which made more urgent the need to finalise the modalities. He hoped that the modalities would assist the LDCs to fully participate and reap as many benefits as possible from the negotiations. Many delegations had withheld detailed comments on the draft and preferred to raise them in informal session in which observations and technical questions could be pursued. He suggested, for those who had questions to put to the LDCs, that they could forward these in writing directly or through the Secretariat in order to allow for a prepared discussion on these points. He hoped that following this detailed discussion, the Council could move into a drafting mode to finalise the modalities as quickly as possible. He proposed that the Council hold informal discussions on this issue on 11 June, and that it take note of the statements made and revert to this item at the next meeting.

44. It was so agreed.

C. WORK OF THE SUBSIDIARY BODIES – REPORTS BY THE CHAIRPERSONS

45. The Chair of the Committee on Specific Commitments, Mr. Thomas Lambert of Belgium reported that since his predecessor's report in December, the Committee had held a formal meeting on 12 May 2003 in which it had focussed on two items: (a) Future Work of the Committee, and (b) Classification Issues. He said that in preparation of the meeting, the outgoing Chairman and himself had shared with delegations an informal note on the state-of-play and possible future work of the Committee. The purpose of that note was to assist Members in identifying areas of work in which the Committee could most effectively contribute to the on-going work in the Special Session, both within its terms of reference and in light of the mandate in the Guidelines and Procedures for the Negotiations in order to utilise existing subsidiary bodies to their maximum capacity. He believed that the Committee had held an encouraging first discussion of the issues under consideration, and he indicated his intention to further consult on them in the near future. He was confident that the Committee would agree on a meaningful structure for its work at the next meeting. Under the other item on the agenda, namely Classification Issues, he reported that the Committee had held an in-depth discussion on a paper by the European Communities on the classification of Legal Services. He informed the Council that the Committee would meet during the next cluster of services meetings in July.

46. The Chair of the Committee on Trade in Financial Services, Mr. David Usher of Canada, reported that the Committee had met formally on Friday, 16 May 2003. With regard to the agenda item "Acceptance of the Fifth Protocol", he informed the Council that Poland had completed its domestic ratification procedures, and announced that it would request the re-opening of the Protocol

for its acceptance shortly. Under the agenda item "Technical Issues", Cuba and Thailand made further comments on the IMF document submitted at the previous meeting under the title "Financial Sector Stability, Reform Sequencing and Capital Flows". He indicated that some Members had sought to further reflect on the issue under discussion, namely the scope of Members' obligations under the GATS regarding capital movements attached to specific commitments on certain financial services. He said that the Committee would revert to this agenda item at the next meeting.

47. Concerning the agenda item "Recent Developments in Financial Services Trade", Hong Kong, China provided written replies to the questions raised at the previous meeting on its paper about e-finance. Additionally, Switzerland presented another communication, circulated as document S/FIN/W/26, which addressed the issue of e-banking in that country. Both communications generated an interesting discussion and raised a wide range of issues, such as the regulation for consumer protection, the link between e-banking and traditional banking, the challenges for e-finance posed by money laundering and other fraudulent activities, the question of the so-called technological neutrality both in domestic regulation and in GATS' commitments, and matters related to the enforcement of contracts between consumers and suppliers. He believed that the discussion had shown not only how important it was for the Committee to have up-to-date information on e-finance trends, but also to what extent the developments in e-finance might be related to the current negotiations of specific commitments in financial services. There was certainly a need to continue discussing this issue, both from a regulatory and a trade perspective. He personally encouraged other Members to share their experiences and views regarding e-finance regulation and trade. Also under this agenda item, the Committee heard two interesting presentations by capital-based experts from Turkey, who described and explained in detail the latest developments in that country's banking and insurance sectors. An interesting debate followed those presentations and he thanked the Turkish delegation for its contribution. He encouraged Members to consider making similar presentations on national experiences, which he believed would be of benefit to negotiators.

48. Under "Other Business", he reported to the Committee on his consultations regarding the chairmanship of informal seminars and briefing sessions. In the light of the opinions expressed during those consultations, he had suggested that should future informal presentations be organized by the Committee, the issue of the chairmanship of these sessions would be considered by Members on a case-by-case basis. A decision on the appropriate chairmanship for the event in question should be reached at the same time as agreement was reached on the overall organization of the particular event. He hoped that this would avoid confusion in the future. Also under Other Business, he reported that he had made comments on initiatives that would help Geneva-based officials to be better informed about issues and developments in the financial services sector, particularly taking into account the fact that most Geneva-based delegates were not financial services experts. He had made a specific suggestion to organize a field-trip to the headquarters of the Bank for International Settlements in Basel, which was the site of both the Basel Committee on Banking Supervision and the IAIS. He reiterated his willingness to entertain further suggestions and his intention to consult with Members.

49. Lastly, he said that the Committee would meet during the next cluster of services meetings. In order to take advantage of the presence of financial services experts in Geneva, the Committee decided to try to schedule its next meeting in the week when most bilateral negotiations took place, namely, the second week of the "services cluster". He said that this was the week in which the Special Session of the Council normally met. He felt that Members should aim to hold the meeting of the CFTS prior to the meeting of the Special Session, in order to allow Members to have a complete picture of developments in all of the subsidiary bodies before the Special Session reviews developments in the negotiations. He noted that this proposal was, of course, subject to the decision Members took regarding organisation of the next cluster of meetings.

50. The Chair of the Working Party on GATS Rules, Mr. Santiago Urbina of Nicaragua, reported that the WPGR had held a formal meeting on 13-14 May 2003. In order to structure the debate, an

Annotated Agenda had been issued to propose various themes for delegations' consideration as they had emerged from previous meetings. With regard to emergency safeguard measures, he said that on 14 March 2003, the former Chairperson of the Working Party had circulated under his responsibility a Report on Negotiations on Emergency Safeguard Measures, as mandated in the work programme on ESM adopted on 22 July 2002. He said that delegations had a first exchange of views on this Report during an informal meeting held on 15 April and at the formal meeting, delegations gave further consideration to the Report. Moreover, the European Communities introduced a written contribution on Scope for Emergency Safeguard Measures in the GATS (S/WPGR/W/41). He stated that many delegations favoured discussing concrete examples of situations in which a safeguard measures could be necessary. One such example was presented at the February meeting by Thailand, on behalf of the ASEAN Members, which had prompted interesting comments and questions. He said that the Working Party would continue discussing technical issues, as well as the questions of feasibility and desirability of an emergency safeguard mechanism.

51. Turning to the negotiations on government procurement, he reported that the European Communities had presented a legal framework for negotiations on government procurement in services. Members made preliminary comments on this proposal, which the European Communities indicated it would submit in written form. He stated that several delegations maintained the view that Article XIII excluded from the negotiations the obligations of most-favoured-nation treatment, market access and national treatment. With respect to work on subsidies he informed the Council that, due to a lack of time, this issue would be addressed at the next formal meeting of the Working Party and would appear as the first item on the agenda.

52. Concerning the Chairperson's Reports on Government Procurement and Subsidies, he recalled that both work programmes on government procurement and subsidies stipulated, *inter alia*, that the Chairperson would "circulate a note by 30 June 2003 to report on the progress of work". As to the form of these reports, he indicated that it was his intention was to follow the approach taken in the report on ESMs. Practically, this meant that the reports would consist of (i) a factual introduction, recalling work done so far, and (ii) the Chair's assessment of the situation and suggestions for a way forward. He noted that these reports were to be circulated on the Chair's responsibility and would not prejudice the position of any delegation. He indicated his intention to seek delegations' views on these two reports. Finally, with respect to the stock-taking exercise, he informed delegations that he intended to convene an informal meeting on 20 June to have a first informal exchange of views on the element contained in the three work programmes (S/WPGR/7), which called upon the Working Party "to prepare for the opportunity provided by the Fifth Ministerial Conference to take stock of progress made in the negotiations". He indicated that he would remind delegations of this date in writing.

53. The Chair of the Working Party on Domestic Regulation, Mr. Johannes Bernabe of the Philippines reported that since the previous report to the March meeting of the Special Session, the Working Party on Domestic Regulation had held one meeting on 15 May 2003. Discussion during the meeting focused on the Japanese informal paper on a draft Annex on Domestic Regulation, recognition issues, and the organization of the seminar on domestic regulation. On a procedural matter, he noted that, as the previous Chair was not present, the Secretariat had opened the meeting and immediately moved for Members to approve his appointment. With respect to the item "Development of Regulatory Disciplines under GATS Article VI:4" and the Discussion of Concepts Relating to the Development of Disciplines, he recalled that Japan had earlier submitted a draft Annex on Domestic Regulation, which had been the major topic of discussion at the previous formal meeting. A revised version of the draft Annex had been circulated in advance of the meeting on 15 May as JOB(03)/45/Rev.1. He further recalled that the consideration of draft disciplines was an extremely important step in fulfilling the WPDR mandate under GATS Article VI:4 to develop regulatory disciplines. He noted that some Members felt that the draft Annex marked a turning-point, as it provided elements that draft disciplines could include. He said that Members posed any questions to which Japan provided detailed responses. Members agreed to further discuss Japan's

draft, in parallel with further discussion of the regulatory measures contained in the *Examples* paper, the latest version of which had been circulated as JOB(02)/20/Rev.5.

54. Turning to the Development of General Disciplines for Professional Services, he reported that the United States introduced a formal paper for information purposes on mutual recognition agreements, circulated as document S/WPDR/W/23. Members made further comments in connection with the OECD paper on MRAs presented at the last meeting. Developing countries participated actively in the discussions, emphasizing that the lack of recognition of qualifications of developing country services suppliers was a major issue. A number of Members noted that, while recognition issues certainly included aspects concerning domestic regulation, MRAs themselves were formally covered under GATS Article VII, and might be better addressed in the Council for Trade in Services. He stated that the Secretariat had updated Members on the status of the consultations with international professional organizations, noting that responses had been received from 14 of the 22 organizations selected by Members. He stated that the Secretariat would continue to follow up on the responses, as well as to make further enquiries of the organizations that have not yet responded. Members asked the Secretariat to prepare a compilation of the responses, to be revised as additional responses were received.

55. With respect to the organisation of the proposed WPDR Seminar on Domestic Regulation he informed the Council that the Secretariat had circulated a revised outline in JOB(03)/35/Rev.1 based on comments received at the last formal meeting, as well as on his own consultations. At the 15 May formal meeting, the Secretariat also updated the Working Party on the difficulties of obtaining funding for the event. Members agreed to shift the date of the seminar on domestic regulation from July to October, in order to provide additional time to seek funding for developing country participants. It was noted by several developing country Members that it might be of less value to have a seminar attended exclusively by Geneva-based representatives, since these discussions could simply be pursued in Committee. One of the main objectives of the seminar would be to inform regulators, and to seek their views, on the development of disciplines on domestic regulation, hence the increased importance for capital-based representation. It was agreed that the Secretariat would continue to seek funding in order to help ensure the participation of regulators from developing country Members. He also indicated that he would hold informal consultations to finalise the seminar agenda. Finally, he said that the next formal meeting of the WPDR would be held on the week of 30 June 2003.

56. The representative of Thailand requested that the Chairpersons' statements be circulated to Members. She said that this had been done on a case-by-case basis in the past, and suggested this should become a regular practice. While noting the impartiality of the Chairs of the subsidiary bodies and the factual nature of their factual reports, she said that she was concerned that the reports risked raising certain items of the work of the subsidiary bodies more often than others. She sought to recall that the reports were factual and circulated under the Chairs' responsibility.

57. The representative of Pakistan recalled the usefulness for delegations and capital-based officials to have the reports of the Chairs circulated to the membership. He recalled an earlier discussion on this point; however, he could not remember whether it had been agreed to do this on a case-by-case basis or in principle. He proposed that the report be circulated on a regular basis, as a official document with the caveat that this was done on the Chairs' responsibility.

58. The representative of Uruguay echoed the comments by the previous two speakers. He recalled that his delegation had requested at a previous meeting that these documents be circulated and his understanding was that these documents would be circulated as a rule. The use of electronic media allowed for information to be received in real time. He hoped that, as of the current meeting and as a general rule, the Secretariat would e-mail the documents to delegations. They were

important as they summarised work in the subsidiary bodies. He was flexible on whether the reports should be circulated as formal or informal documents.

59. The Chair, noting that the reports were included in the minutes of the meeting, said that double formal circulation should be avoided. However, he suggested that the reports could be circulated informally in electronic format once the oral reports had been made. He suggested that the Council take note of the reports and statements made with the understanding that these would be circulated on a systematic basis to all Members to the Special Session by electronic means.

60. It was so agreed.

D. PROPOSALS RELATING TO THE NEGOTIATIONS UNDER ARTICLE XIX OF THE GATS

61. The Chair recalled that at the Council's meeting in March a joint communication on negotiations in maritime transport services had been presented by Japan on behalf of 52 Members. He also drew Members' attention to a communication containing a proposed guide for scheduling commitments in energy services, which had been received from the delegations of Chile, the European Communities, Japan and the United States, contained in document JOB(03)/89. He further drew Members' attention to a proposal on the same point from Venezuela that was available as a room document and would be released in the coming days under symbol S/CSS/W/69/Rev.2.

62. The representative of the European Communities, presenting the proposed guidelines for the scheduling of energy services on behalf of the sponsoring delegations, stated that it was an effort by some Members to develop a common approach to scheduling in the context of the current negotiations. Rather than advocating a new classification, he stated that the proposal sought to facilitate the scheduling of existing commitments using the existing classification structure. He announced that the submitters would hold a seminar that afternoon on the proposal. It was to include a discussion on the work of the energy friends group, the proposal, and allow for a question and response session. He underlined that the document was a work in progress.

63. The representative of the United States, recalling its report on the work of the friends group made at the last meeting, sought to make comments on the proposal on the scheduling of energy services contained in JOB(03)/89. She said that it represented the culmination of two years of work, was intended to provide a structure to the different elements which comprised the energy services sector, and indicated W/120 and CPC references which corresponded to those activities. She said that the persistence of the group testified to the importance of the energy sector as a support for economic growth and the creation of wealth in all segments of the economy. Recognising the importance of the sector to both consumers and producers, the United States reiterated the invitation to that afternoon's seminar. She said that the seminar would allow others to express interest in the work of the friends group.

64. The representative of Venezuela informed the Council that his delegation's communication had made available as a room document and would be circulated as a formal document. He thanked the delegations submitting JOB(03)/89 for their communication. He recalled that at the last meeting of the Committee on Specific Commitments the Chair and a number of Members had suggested that there be an open-ended meeting on the proposals being discussed in the friends groups, and he reiterated that his delegation agreed with that request. In that same spirit, he sought to give his delegation's view on the work of the friends group on energy. He noted that the paper had been discussed and input received from many Members.

65. A representative from the Ministry of Energy of Venezuela and oil companies said that he wished to make a few comments about the conceptual bases of the commercial reality list that



Venezuela had included in the second addendum to its 2001 proposal. He believed that, in the context of the WTO negotiations on trade in services, defining classes of economic activities or industrial sectors should have clear and functional objectives, and classifications should be useful for practical purposes. He felt that the basic virtue of the commercial reality list was its capacity for differentiation among separate services markets. He said that developing countries needed and were entitled to differentiated negotiation set-ups in the WTO. The reason for this was that developing countries needed and were entitled to design and implement efficient public policies for promoting development in general and in the services sectors in particular. This implied enabling developing countries to apply differently oriented policy measures to the various subsectors of activities including the assumption of appropriate differentiated negotiating positions in the framework of the GATS. At the same time, he noted that the classification of energy services should help the negotiation process by grouping together services for which a single set of rules and measures could be commonly applied in an agreed manner. He felt that it would be impossible to reach agreement if Members clustered together several sectors of services that were in reality traded in separate and different markets. He stated that energy producing sectors were typically consumers of an extremely wide range of services and that only some of these were specific to energy sectors, i.e. drilling oil wells or processing nuclear wastes. Therefore, by including them all in a broad encompassing classes instead of placing them in distinct positions of the list, he warned that Members risked extending inappropriately their analysis to activities that were already or would be covered by conditions, agreements and/or rules of other sectors, thereby confusing the issue for all parties. He believed that differentiated policy making was inevitable. Except in the cases of total opening or total closing of the markets, commitments and safeguard measures he felt would have to be designed, decided upon and implemented in a differentiated set-up. The classification that served the scheduling of specific commitments should allow this to happen easily. He said that the danger was the stalling of the liberalization process and disagreement. Separating classes of services would help open space to implement policies aimed at domestic capacity-building. Finally, he noted that in the English version of the submission, the beginning of the first sentence in paragraph 5 should read "in most cases" instead of "in those cases".

66. The representative of Japan, making comments on document JOB(03)/89, said that energy services and the securing of an efficient and stable supply of energy were important to economic and social development. In addition, in order to pursue economic growth, it was of prime importance to increase the efficiency of providing energy services. He said that despite the importance of energy services, the W/120 classification did not contain a division for it. He said that those Members who had submitted negotiating proposals had been meeting in a friends group to discuss this issue and that the document presented was a working document.

67. The representative Chile, echoing the comments by the other sponsors of the communication JOB(03)/89, noted that energy experts had contributed to its development, and that it was a working document that sought to facilitate the scheduling of specific commitments in the energy sector. She hoped that it would be useful in broadening discussion on this subject. Chile attached considerable importance to negotiations in this sector since it was important to development. Energy-related services, such as production, transportation and distribution reflected the interdependence of countries, and therefore the relevance of related integration processes and regulatory harmonisation. She felt that open and competitive international trade in energy services would ensure the security and quality of energy supply. She hoped the paper would promote a debate and foster a better understanding of the benefits of liberalization in this sector. She hoped that other friends groups would make similar presentations to promote transparency and familiarity with work being carried out.

68. The representative of Thailand, regretting that she had not had the time to fully review the proposals, expressed her satisfaction that work occurring in a friends group had been tabled in a transparent manner to the Special Session. Referring to the illustrative lists dealing with exploration contained in the European Communities proposal, she requested that the submitters jointly or

individually provide further information on the services listed, and perhaps along the lines of descriptions contained in the maritime model schedule. She understood this request could be sensitive, and suggested that national definitions could be provided by individual Members or common industry definitions. She said that it would be appreciated if Venezuela could provide more detailed information on the activities mentioned in its communication. Energy services were an important sector for developed and developing countries, as witnessed by the level of interest, offensive or defensive, and export- or import-related. She said that her delegation was open to considering various approaches; however, she required more information. In making offers she agreed that clarity and legal certainty were important and she said that her delegation could not commit if it was not clear what the commitment entailed. Noting that she had questions on both submissions and there had not been a consensus in the Committee on Specific Commitments to have a small group discussion, she urged Members to have a technical and detailed discussion on this issue and encouraged the submission of the proposals to the CSC.

69. The representative of Korea believed that the approach presented by the sponsors of the proposal using the existing classification system based on the W/120 classification list and the UN CPC to the fullest extent possible would reduce confusion and possible divergences involved in adopting a new classification regime for this sector. However, he said there was a need to enhance Members' common understanding of the elements in the paper so as to ensure that effective commitments were made, using W/120 categories. He sought concrete examples of how the sectors under paragraph 8 of the proposed guide should be scheduled. His first assessment was that the document outlined a workable guide. He said that his delegation would carefully review the proposal and would revert to it after further analysis.

70. The representative of Canada said that her delegation had been active in the discussions on this sector. She noted that the use of the CPC and W/120 was important to ensure the stability of commitments and improve the understanding of commitments. Energy and its classification were important and she echoed earlier comments that energy was an important element of infrastructure and was essential to development. She noted that Canada was still undertaking domestic consultations on the document, and that this had prevented her country from joining the sponsorship of the communication. She thanked Venezuela for its initiative to start discussion on classification in this sector, and indicated that her delegation might revert to its submission.

71. The representative of Norway stated that the arguments in favour of freer trade and freer investment regimes in this sector included economies of scale and scope, comparative advantage, dispersion of know-how and technology, and the improved allocation of global resources. Norway regarded energy services as one sector with great potential to support growth in the world economy. He was pleased that a number of developed and developing country Members had made proposals and requests in this field and he hoped that the offers would reflect these proposals. He appreciated the work done by the submitters of the documents under discussion that proposed to lay out principles for commitments in this sector. He understood that these principles to be that (1) there was no need to change the existing classification, and (2) that commitments were to be scheduled according to the W/120 list. He said that his delegation was a friend of energy services and noted that it had tabled a comprehensive offer on energy services, reflecting Norway's liberal regime. As was made clear in this offer, Norway favoured an approach to the negotiations in this sector that was broad enough to take into account the commercial realities of the world market. He said that the document presented by Venezuela gave a better picture of the world market in terms of classification and he expressed support for it. He noted that the contribution from Venezuela would improve the understanding of the broad scope of the sector. He associated his delegation with the content of paragraph 7 of this proposal: "The commercial reality list is subdivided into items or classes that follow the actual formation of service markets in the economic and commercial reality. In this sense, a separate service item is included only if specialized suppliers have that particular service as the object of their trade and of their commercial competition for the benefit of customers inside and outside the energy

industry creating thus a particular market." He said that classification issues were a means to help understand the subject-matter of the negotiations and to clarify the meaning of the commitments discussed. He said that the quality of commitments was core to the negotiations and that his delegation was of the firm conviction that a comprehensive list in energy service and broad commitments in the sector would make valuable and cost-effective contributions to global trade in services. He recalled that his country's national experience of open competition in this sector had been very positive. He hoped that other Members would move from discussion on classification to real commitments. He was certain that delegations would put as much effort into their offers as into work on classification. His delegation remained open to discussing this issue with all delegations with a view to achieving meaningful progress for industries and consumers.

72. The representative Cuba stated that the new communications demonstrated that the informal group on energy had spent time to understand fully energy services in order to classify them in a way that reflected the commercial realities of the sector. She stated that, in view of the consensus by the Members concerned as to the scope, contents and activities included in this classification, she did not think it was necessary to change the Scheduling Guidelines in order to describe the activities of the sector. Cuba favoured the document by Venezuela, as well as further debate on it, and hoped others would contribute to further work in this regard.

73. Making comments on the communication contained in JOB(03)/89, the representative of Switzerland underscored the importance of this sector as a motor for growth and development at the international and national levels. He said that commercially and industrially, the sector was international in its workings. He said it was solid base for moving forward with commitments in this sector during this round. On substance, Switzerland hoped to see in the round an improvement of commitments made in this sector, and in particular, bindings on existing levels of liberalization. He said that the distribution of the work done by the sponsors of the document was important step in terms of it being an example of transparency as well as proposing a basis for negotiations. Switzerland expressed support for guides of this type which covered many related activities in the energy field. This was reflected to a large extent in the document. He felt that it was important that the contents outlined in the document, including systematic references to the CPC and W/120 categories, were done so in a clear manner in order to ensure juridical certainty. He said that the document would help move the process forward and favoured proceeding by way of a checklist of relevant activities in the energy sector. The document was a first step towards an approach that would lead to progress in the liberalization of the energy sector.

74. The representative of China thanked the sponsors of the submissions for their work and indicated her delegation would revert to them at a future meeting.

75. Making reference to the proposal contained in document JOB(03)/89, the representative of Chinese Taipei said her delegation supported the approach it outlined, as it did not make the distinction between core and non-core services as had previous communications. She felt that such an approach avoided the discussion about what constituted core energy services and helped focus the discussion on negotiations. Making two preliminary comments, the first on the third part of JOB(03)/89 titled "Energy Commercialization Services", she said that in her view these activities were linked with distribution services. Although she felt that the cluster approach taken was useful, she expressed the concern that areas under discussion should mirror similar areas in distribution services. Her second comment pertained to part 4, "Other services important to the provision of energy, energy products and fuels", which she said also concerned professional services that were subject to licencing and qualification requirements under Article VI of the GATS.

76. The representative of Australia welcomed the guide as a means to further commitments in this sector. On a preliminary basis, she said that her delegation would need to reflect further on a number of points made in the proposals, including, for example, whether the list went beyond W/120 and the

CPC. She agreed with the need for stability in scheduling and the need to consider the impact on existing commitments, particularly those by Australia. She wondered whether there was overlap with mining and pipeline services. With respect to "Energy Commercialization Services" she requested more clarification, especially given that ownership and trading of some of these services rested with public services. Finally, she echoed comments regarding the release of the guide as an model of transparency.

77. The representative of Colombia indicated that proposals had been sent to capital for analysis. Making a few preliminary comments, she said that the proposal clearly presented and demonstrated a relationship between energy, mining, construction and engineering services, and sought the view of other delegations on this point. She echoed the suggestion by Thailand that a technical discussion be taken up at the CSC and that the communications be presented in that body. She urged Members to make presentations on the work of other friends groups.

78. The representative of Indonesia stated that his delegation would study the proposals and might revert to them. He said that energy was an important sector to his country, and which played a crucial role in economic development.

79. The representative of Saudi Arabia, making a preliminary comment, said that the approach outlined by Venezuela would help move the discussions forward. He said that the focus on commercial reality had rightly been concentrated on.

80. The representative of Uruguay said that the documents would be sent to capital for analysis. He asked whether a guide for the presentation energy commitments would mean that there was no need to change the current classification because it was sufficient. He further asked whether the proponents of the proposals were willing to list their commitments in the energy sector and in other sectors using the various codes contained in the W/120 classification list and the UN CPC.

81. The representative of Kuwait expressed support for the statement by Saudi Arabia and indicated that the proposals would be sent to capital for further analysis.

82. The representative of Oman, speaking on the proposed guide for the scheduling of energy services, said the documents concerned a sensitive sector for his delegation, would be studied and he would revert to them at the next meeting.

83. The representative of Venezuela wished to thank delegations for their support and stated that his delegation was honoured to have received comments. He recalled that the communication and the list of commercial reality of these services were circulated as a revision to a 2001 proposal and included important and useful technical observations made by the group of friends during its sessions; therefore, Venezuela could not claim responsibility for the initiation of this process. He noted that his delegation's active participation resulted from the fact that Venezuela had enormous energy resources, which it had exploited for over a century. He sought to clarify that the submission was a further step in the process of the work of the WTO to establish the basis and references for specific commitments in this sector. He believed that the next step would be the participation of other Members, which would pave the way for them to participate in the process in order that the work done have an impact on the taking of specific commitments. Responding to the intervention by Thailand on the need for definitions and descriptions of the items indicated, he agreed that there would be a need for such descriptions and for them to be concise and exact. He said that up to the present the technical language of experts in the field had been used in order to move the process forward, but he confirmed that there would be a point when definitions would need to be drawn up and that these would be made available to all Members.

84. The representative of Mexico thanked the submitters of the communications on energy services and indicated his delegation's interest in contributing to work in this area. He said that his delegation wished to make a statement on cultural industries, namely, video, audio and editorial services, in light of certain concerns which had arisen over the previous weeks. He underscored that it should remain very clear in the mind of all participants that any negotiations on cultural services did not in any way target the cultural policies of any Member, which he agreed should be a fundamental premise of the negotiations. The preamble of the GATS recognised the sovereignty of each Member to regulate domestically services in general. He recalled that this clause stated: "Recognizing the right of Members to regulate, and to introduce new regulations, on the supply of services within their territories in order to meet national policy objectives and, given the asymmetries existing with respect to the degree of development of services regulations in different countries, the particular need of developing countries to exercise this right". Mexico considered that a discussion on trade in audiovisual and editorial services and its relation with cultural diversity required the joint and coordinated participation of the authorities responsible for trade policy and cultural policies. He felt an analysis from only one of these perspectives would lead to an isolated analysis that would lead to a partial result and probably to an incomplete design of public policy. It was necessary to address the relationship between trade and culture in a creative manner and to seek a suitable mechanism to protect cultural objectives without creating unnecessary barriers to trade. He stated that, while it was recognised that culture could not be reduced solely to its economic aspect, it could not be denied that the GATS represented a multilateral instrument that established disciplines for the progressive liberalization of trade in services. The GATS also respected the right of Members to adopt the measures necessary to fulfil legitimate policy objectives, which included the one related to the protection and promotion of national cultural industries.

85. The representative of Mexico stated that at the present juncture, the international community was approaching each topic separately. On the one hand, efforts were being made on the development of an international instrument on cultural diversity, while on the other, trade in services was being negotiated in the Special Session. In this context, it was important to underline that Mexico's preference was to work towards a supplementary approach by defining the scope of each instrument rather than a substitution between these two approaches. He reaffirmed his country's position that no *a priori* exclusions were allowed in the negotiations. Mexico was fully convinced that the GATS provided for sufficient flexibility to address the commercial sensitivities of the cultural sector. It was also important to distinguish between a total exclusion of one sector from the negotiations and the legitimate decision of a given Member not to undertake specific commitments in a given sector or mode of supply which it considered sensitive. He said that Mexico's experience included domestic consultation mechanisms that had been created in order to identify trade sensitivities and interests in different sectors, with the objective of maintaining permanent communication between the industry and government agencies related to these services sectors. His delegation sought Members' views regarding a joint exercise between cultural and trade officials whose main objective would be to open a dialogue in order to develop a common language for better coordination among them. Finally, he reiterated that Mexico was open to discuss ideas in order to find the most suitable ways to continue consultations towards a common understanding on the issue he had raised. He indicated that he would revert to this issue.

86. Making a statement pertaining to maritime transportation services, the representative of Senegal expressed his delegation's support for the joint statement on this sector which had been presented by Japan and was contained in document TN/S/W/11. Senegal agreed with the Members sponsoring the communication that, owing to its central role in trade in goods, the liberalization of maritime transport services could contribute to improved economic efficiency for all Members, including developing and least-developed countries.

87. The representative of Japan, referring to audio-visual services, recalled that Negotiating Guidelines contained in document S/L/93 stated that "there shall be no *a priori* exclusion of any

services sector or mode of supply" and that his delegation adhered to this principle. However, he noted that some trading partners had been unable to engage in substantive discussion on this sector, and he sought to reflect on how to creatively and constructively pursue work in this important area. Turning to maritime transport services, he thanked Senegal for its intervention and emphasised that it demonstrated the widespread support for the joint statement on this sector from developed and developing country Members. Referring to paragraph 9 of the submission by the United States, TN/S/W/12, which stated that "[b]arriers to the provision of services may raise manufacturing prices and prevent productivity gains, as services are often used as production inputs. In contrast, efficiency in service industries such as telecommunications, transportation, and financial services improves competitiveness in the goods sector, enables firms to track consumer demand, facilitates product distribution, and builds capability to engage in international trade", he said that his delegation strongly echoed the view that the efficiency of transportation was important. He reiterated his delegation's belief that liberalization in maritime transport services would be beneficial to all Members in facilitating trade. He urged Members not having made offers in this sector to participate in these negotiations.

88. Welcoming the statement Senegal, the representative of the European Communities said that it testified to the crucial role played by this sector in development, as well as the importance of the sector in allowing developing and least developed Members to improve their access to world markets, and trade in goods.

89. The representative of the United States, referring to the joint statement on maritime transport services, agreed that maritime transport was an important facilitator of world trade and noted that the United States maintained a very open maritime services regime and a high level of liberalization, including transparency, in its maritime sector. She said that 96 per cent of United States waterborne trade was carried by foreign-flagged vessels. She noted that previous negotiations in the maritime sector had failed to address restrictive practices and had offered no prospect for liberalization. She said that only at the end of the extended negotiations had WTO Members recognised that maritime transport services were conducted on a point-to-point rather than port-to-port basis. In order to effectively manage cargo shipments, modern liner vessels operators generally offered door-to-door services that involved the establishment of, or at least access to, other connecting modes of transport, such as truck and rail. She said that restrictions on these and other land-side aspects of maritime transport had a pronounced impact on liner vessel operators' ability to offer competitive and low-cost services and that these were the kinds of interests that the United States believed were most importantly addressed in the context of maritime negotiations.

90. The representative of Panama welcomed the Senegalese statement and, responding to the statement by the United States, said that the venue in which to discuss the restrictions to which it had referred was the negotiations.

91. The representative of Hong Kong, China welcomed the statements from Senegal and Mexico. He also felt that, in the face of certain reactions of certain Members to decline to discuss issues regarding the liberalization of the audio-visual sector, it was necessary to establish an open dialogue on this issue with trading partners. He indicated that he would reflect upon and respond to Mexico's suggestion in due course.

92. The representative of Chile thanked Senegal for its support of the joint statement on maritime transport services. On the intervention by Mexico, he stated that this sector combined national policies and sensitivities and protection of industries, which meant that cultural sectors needed be examined carefully. He called for continued dialogue in this respect, and reiterated that no sector or mode was excluded *a priori* from the negotiations. He felt there was a need for a creative approach based on constructive suggestions such as bringing together trade and culture experts in order to avoid pitfalls and lack of information.

93. The representative of Chinese Taipei, referring to the comments made on audio-visual services, reiterated her delegation's position that there was no *a priori* exclusion of sectors in the negotiations.

94. The representative of Thailand sought to highlight that health-related services was an important sector for her delegation and other developing countries, and recognised that discussion on this sector had perhaps been curbed given its sensitive nature. She took note and understood fully the concerns that many Members had in relation to these services, but she reiterated that her delegation had a keen interest and competitive advantage in some modes of this sector. She indicated that Thailand's request had included certain modes of supply of health services. She felt that the socially-sensitive nature of the sector did not preclude it from negotiation. She reiterated that mode 4 was important to her delegation and she supported the statement by India in this regard at the previous meeting. She said that implementation of Article IV, with respect to priority for sectors and modes of interest to developing countries, would require meaningful results.

95. The representative of Nigeria welcomed the statement by Senegal on maritime transport services and thanked the sponsors of the submissions on energy services which was of importance to his country. The submission would be sent to capital for analysis.

96. The representative of Korea thanked Senegal for its support of the statement from 52 Members on maritime transport services. He felt that it was a positive sign that substantial and meaningful liberalization in trade in maritime services could be made in the current round of negotiations. He encouraged others to join the statement on maritime transport services.

97. The representative of Switzerland recalled that his country was supportive of the maritime transport services initiative and that general economic rationale motivated this position. Citing section 11.H, Services auxiliary to all modes of transport, of the W/120 classification list, he said that logistics services were a priority sector for his delegation, as they underpinned the economy. He recalled that maritime transport was essential to trade and a major factor for growth, and that logistics played an important role in the provision of these services. He said that the competitive and efficient export of goods required that the entire logistics chain from the point of production to the point of consumption was smooth and streamlined. He said that companies wanted one-stop shopping with a company able to handle all logistics services in order to make sure that the cargo moved quickly and efficiently. He said that this was possible only if there were no administrative and legislative hurdles that restricted access to the markets covered in section 11.H. A restriction in one of these segments would mean that the logistics company would not be able to ensure quick delivery of the exporter's product. As a result, the exporter would need to have the good handled through several companies. Surveys with trade representatives in Switzerland suggested that this type of trade hurdle was a cumbersome one. It was in the interest of the trade community worldwide and especially for developing countries to tackle these hurdles. He said that Switzerland had tried to make this a priority in the request-offer process and encouraged Members to give careful consideration to this sector, which fostered economic growth and trade in all goods across all regions of the world.

98. The representative of the Philippines lent support to the comments made by Thailand regarding the health services sector. Referring to the sensitivity of health related services, he said that mode 4 trade could also be included under professional services, although he stressed that, beyond the question of classification of these services, the key issue remained the need for trading partners to open markets in this activity. He also thought it useful to point out that the service could be provided through other modes, such as telemedicine. In this regard, he noted that this raised the spectre of other regulations, such as the protection of personal data, which could be a barrier to trade. This suggested that Members might wish to give further attention to this issue in the Special Session or in Working Party on Domestic Regulation.

99. Summarising, the Chair said there had been a lively discussion and, on behalf of Council, thanked the Members concerned for their proposals relating to energy services. He highlighted that the submissions constituted a further act of transparency by a group which had endeavoured to share their work with other Members in a consistent manner. He recalled the suggestions made by some delegations to the effect that this was an example for others to follow. He said that there were groups of friends for other sectors, and he felt that it was in parties' interest to enhance transparency, further discussion and, in turn, help the negotiations. He noted that a contribution from Mexico on cultural services had been made which had touched upon the complexity and sensitivities of the negotiations in this sector and reflected on how to overcome these. He presumed Members would wish to revert to this intervention. He said that more support for the proposal on maritime transport services had been recorded; health services and their importance to some delegations had been highlighted; and one delegation had underscored the role of logistics services in international transport. Overall, the discussions reflected an on-going process in the negotiations and the need for transparency. He invited the Council to take note of the statements made and to revert to this item at the next meeting.

100. It was so agreed.

#### E. REVIEW OF PROGRESS IN NEGOTIATIONS

101. As he had foreshadowed at the beginning of the meeting, the Chair indicated that he wished to consult with delegations and solicit their ideas, suggestions and points of view with regard to making public basic information concerning the negotiations. He said that delegations in capital and himself were subject to questions from civil society and media on how the negotiations were proceeding. He said that for delegations too, as the negotiations progress, it would be helpful to have some global information. One way to respond to these requests could be by way of a measure of the number of offers, for instance that 25 had been submitted to date and others were in preparation. He felt that this measure might not be sufficient and that a preliminary qualitative appreciation of the offers could add some value. At this early stage of the negotiations he felt it would be helpful to have this type of information for delegations and also for the outside world. He observed that offers were complex, and even though some Members had circulated their offers as unrestricted documents, there were relatively few people in the general public in a position to understand the meaning of these offers. He thought it could be helpful to all if a clear and understandable summary of the offers were made available. He made reference to a few bullet points outlining the types of information that could be provided. With regard to sensitive sectors, he observed that these were of particular interest to civil society and suggested that, by indicating in which sectors offers had been made and not made, the public could draw its own conclusions. He did not mean to suggest that he would define what constituted a sensitive sector. He reiterated that he had raised the matter in order to solicit Members' points of views on this item.

102. The representative of Australia noted that information had been released on her country's offer, which itself was published on her government's website. She felt that aggregate information would be useful to her delegation in its consultations with industry and civil society. While she appreciated that Members might have reservations on releasing certain types of information, she felt that aggregate information would give the community a better sense of the offers made without being specific about which Members had made them.

103. The representative Switzerland felt that the suggestion made held merit because it would improve transparency. He was concerned, however, that references to sensitive sectors could prove problematic, as which sector was sensitive was a often national issue, and it would be difficult to distinguish between sensitive and non-sensitive at the aggregate level. In this regard, he urged caution.



104. Speaking on a preliminary basis and noting he wished to consult with capital on this question, the representative of Malaysia said he took note of the purpose of the exercise, and of those delegations who had made their offers public. Making reference to potential legal implications of this exercise, he inquired as to how the exercise might mesh with existing regulations concerning the circulation and derestriction of documents. With respect to the practice of confidentiality between governments in multilateral negotiations, he said that he was not sure that all Members could publish their offers. He also wondered about the systemic implications of the suggestion and inquired as to whether any such practice had occurred during the Uruguay Round or the extended negotiations, and if so had any understanding been reached at that time. He also asked whether an understanding in the Special Session might have implications for other negotiating bodies, and whether this could lead to unintended consequences, such as a negative message if a limited number of offers were forthcoming. He wondered whether this type of information could be purely neutral or whether the facts could put some governments under pressure to present offers or force them to explain why they had not presented offers. Also, he thought that the exercise could involve a value judgement on the level of ambition they represented, and he felt that was best left to Members to decide what constituted a valuable offer. Lastly, he felt that the suggestion could give the wrong signal to the business world, as some Members had legitimate reasons for delays in presenting initial offers, however, this could be interpreted as a proxy for indicating investment environments, and business might look disfavoured on these Members.

105. The Chair affirmed that Members decided whether to circulate documents as restricted or unrestricted and that the exercise would have no legal implication in this regard. He clarified that the issue was that public observers be given an overall view of the state of the negotiations in terms of the quantity and general quality of the offers. He felt that those not making offers had the opportunity to explain their reasons to the Council and that the information would not put pressure on governments.

106. The representative of European Communities stated that his delegation had been heavily involved in consultations with various partners and had attempted to make an analysis that provided information to the public. With respect to the suggested bullet points, he felt the information could be a useful guide that Members could use in the review of progress. He expressed concern over possible outcomes of providing such information and suggested that the Chair could use the statements made by Members under this agenda item to give him a flavour of the evaluations that Members were making of the negotiations. He said that information that could have a bearing on the negotiations was clearly sensitive.

107. The representative of Thailand underlined that her delegation attached importance to transparency with regard to domestic consultations. Echoing comments from Malaysia and the European Communities, she felt that this information would be useful to negotiators and a tool for in the negotiations, but was perhaps not appropriate for distribution to the public as it involved value judgements and it would not be clear for whom it might be sensitive. For instance, indicating what constituted an improvement to a existing commitment might not be clear-cut. While reiterating the importance she attached to transparency, she registered a preliminary reservation in order to consult with capital. Further, she said that information was also lacking with respect to other areas of the negotiations, such as domestic regulation, for which the public also needed information.

108. The representative of India said there seemed to be a good number of systemic issues involved and he sought an opportunity to consider the issue further and revert to it at a later point in time.

109. Making a few preliminary comments, the representative of the United States said her delegation supported broader transparency, however, she wondered whether naming Members was necessary in order to achieve overall transparency. She wondered whether indicating in what sectors

offers had or had not been made could prove sensitive, and whether there could be disagreements over what constituted a new or improved commitment.

110. The representative of Chile felt that the exercise was useful in that a basic evaluation would indicate to the private sector the situation in partner countries and would encourage them to participate in the process. It was also important, he thought, because information might encourage the private sector to support commitments in areas where others were willing to make commitments. With regard to the sensitivity of information, he felt this could be overcome by making it strictly factual and aggregate.

111. The representative of Norway said that his country's offer had been made public and that his government's website gave guidance to the general public on how to better understand the terminology used in the negotiations. He supported measures aimed at greater transparency. In response to interventions which had touched upon substantive and systemic concerns, he felt that these could be reflected upon under this item.

112. The representative of Chinese Taipei stated that her delegation had engaged civil society in the preparation of its offer and agreed that transparency was important. She indicated that she was awaiting further instructions on this item and requested time to further consider it.

113. Indicating that he had referred the item to capital, the representative of Nigeria echoed statements made regarding possible implications, including value judgements, and reserved his delegation's position.

114. Indicating he would wish to reflect on the issue further, the representative of the Philippines said that the Chair's comments had helped to clarify the parameters of the exercise. His initial thoughts led him to ask to whom the organisation owed transparency and to answer that it was owed to Members. He said that this did not preclude transparency for the public at large, however, primary responsibility for ensuring transparency with these constituencies lied with governments. He felt that one way to address the issue would be for the government to respond to these demands from domestic constituents. He did not preclude that the exercise could have a value added for the Council, as a factual report might give an indication as to the evolution in the negotiations. He felt that issues needed to be carefully discussed and would require further clarification on the question of socially and environmentally sensitive sectors. He also felt that thought should be given on how such information would play into the negotiating dynamic.

115. Noting that his country's offer was public, the representative of Canada affirmed that transparency was an important issue for his country, although he understood that some Members could be uncomfortable with some of the ideas presented. He suggested that the Secretariat prepare a fictitious, illustrative example which might help clarify some doubts. He thought that website links to further government information could be indicated.

116. Making a preliminary comment, the representative of China agreed with the need for increasing external transparency, however, she felt that it should be left to each Member to disclose information about offers.

117. The representative of Bolivia thanked the Chair for raising the issue with the Council and felt that the discussion had identified some aspects which should be further considered.

118. Expressing his gratitude for the views put forth, the Chair said he would take them into account. He felt that some instrument, factual and giving an overall view of the negotiations that could be shared with the public, was needed. He noted the questions raised about possible legal implications and unintended consequences on negotiating positions. He said that the review of

progress in the negotiations was only beginning and that an instrument for use internally and externally to help Members in this regard might be useful. As suggested by Canada a fictitious example would be drawn up for the second half of the formal meeting.

119. Resuming the second day of the meeting, the Chair drew the Council's attention to an illustrative document containing fictitious information as an example of the type of information that could be made public in relations with the general public and governments.

120. The representative of Colombia, on behalf of co-sponsors document TN/S/W7, recalled that this proposal had been introduced in October 2002, and sought to summarise the explanations made orally in December and March, as well as informally with Members. She thanked those Members who had expressed support and she hoped that the Council would be able to agree to the proposal. She said that the goal was to create an independent space for discussion by incorporating a sub-item under the present agenda item entitled "Implementation of Paragraph 15 of the Guidelines and Procedures for the Negotiations on Trade in Services". It would be a separate and permanent space, independent of the general discussion on this item, that would allow Members to focus on items related to the implementation of Articles IV and XIX:2 in order to recommend measures required to promote the goals established therein. She said that these issues were of particular interest to developing and least-developed countries. Debate under this item, she said, would be based on concrete contributions from Members and interested parties that would aim to achieve the effective implementation of Articles IV and XIX:2, and which required analysis in the multilateral forum. This exercise would allow Members to identify issues that would require more analysis and would contribute to the review of progress established in paragraph 15 of the Negotiating Guidelines. She said that the work of the Secretariat would support and facilitate participation of Members on the understanding that this work would need to be requested and agreed to by Members. She reiterated that the proposal, in referring to other international organisations, intended to recognise the interest of Members in the work undertaken by other organisations. Lastly, she stressed that the proposal sought to fulfil the mandate contained in paragraph 15 of the Negotiating Guidelines and she believed it was a practical and simply way of doing so. She hoped that the clarifications she had provided would allow all Members to support the proposal and hoped that a substantive discussion would commence at the next meeting.

121. The representative of Chile took the opportunity to share with Members her delegation's views on the progress of the negotiations in services. She thanked those Members who had submitted offers, particularly developing countries, because this had involved considerable effort on their part. Although her delegation's initial reading on the content of the offers was not as she had hoped, she was aware these were initial offers and she acknowledged that as the negotiations progressed Members would seek further openness and liberalization. Although Chile had not submitted its initial offer, she said that this was not because of lack of interest or commitment to negotiations, but rather because Chile had concerns regarding the difficulties and questions about the Doha Agenda. She affirmed that the multilateral negotiations in the WTO were of the utmost importance to Chile because, as a country dependent on foreign trade for its development, the opening of markets under clear multilateral rules which guarantee access was a priority. Her country had witnessed the concrete advantages of economic openness and liberalization, and she reiterated her delegation's commitment to the negotiations, including in services, and intention to remain a strong participant. However, she indicated that her delegation had encountered some logistical and substantive problems. She said that in the context of cooperation within the Pacific region, for which Chile's private sector saw potential advantages, and in order to save resources, her delegation had refrained from making requests of those Members with whom Chile had free trade agreements, such as the United States, the European Communities, Korea and Mexico. She said the same practice applied to Members with whom Chile was engaged in bilateral or regional negotiations, since the requests submitted in these contexts covered the bulk of relevant markets. Chile's principal markets for trade in services were its Latin American neighbours, with whom negotiations were on-going. In terms of resources, she said that the

benefits of trade negotiations required tremendous effort and expenditure of resources, since each stage of the negotiations entailed translation, approval by parliament and implementation, which represented thousands of work hours. The reality was that resources were limited and prioritisation was necessary. She said that Chile had undertaken considerable trade commitments, which represented true liberalization of trade with a minimum number of restrictions. However, many of Chile's trade partners had made requests in the WTO context, some of which duplicated what had already been achieved bilaterally. She said that their offers were of limited interest to her delegation because they duplicated bilateral achievements.

122. The representative of Chile said that the process of interministerial, private sector and civil society consultations had been difficult. She said that since the Uruguay Round, there had occurred a profound change in the perception of society of the various sectors relevant to the WTO, and this required compromises. Her government had sought to make these elements active participants in the negotiations, and they recognised the benefits and costs of liberalization. They required time to implement new commitments, and these partners saw 2005 as a distant benchmark. They understood the meaning of the single undertaking and had yet to see the trade-offs. She said that in light of national consultations, Chile hoped to make a good offer under mode 3, since increased investment entailed the transfer of technology and knowledge, and a contribution to development. However, on mode 3, questions remained, some of which could be addressed in Cancún, relating to investment. For example, she said that if negotiations on investment were to begin, there would be a practical problem: negotiations on market access and national treatment would be under negotiation in two places at once. A possible solution would see offers on mode 3 made under the GATS, but she said that her delegation reserved the right to withdraw these and submit them under possible investment negotiations. In conclusion, she assured Members that Chile would submit its offer shortly, and she hoped that it would reflect the interests previously indicated at the Special Session. Finally, she expressed support for the proposal for a sub-item as outlined in the earlier intervention by Colombia.

123. Making reference to the information on initial offers, the representative of Malaysia sought to make a few inquiries. Firstly, he asked whether there was any history of such reporting which had been carried out in the past and, if so, what kind of criteria had been adopted by the author of the report and subsequently how had this been taken into account. If there had been no such history, he said that his delegation needed to know the consequence to other negotiating groups of such a reporting system. Secondly, he inquired as to who would be responsible for the reporting and who would monitor the accuracy of the report. He did not believe that this was a question about a difference between a factual report and analytic report, but rather that this was a systemic issue and, seen from this perspective, it had to be asked whether it was prudent to produce a report on the negotiations. He felt strongly that the Council should not be engaged in this type of exercise. He underlined that Members were busy with the negotiations, and he felt that it was not necessary to spend time discussing something which would not bear fruit. He affirmed that the Council should not proceed with this type of exercise, as it could have adverse effects on the negotiations. He further underlined the emphatic nature of his views.

124. The Chair said that in the discussion earlier in the week a number of concerns had been raised and that he had taken those concerns into account. He repeated that the intention was to remain factual. He indicated that, in the interim, he had had a meeting with the press, and that, in response to their questions, he had indicated which Members had made offers, which of these were public, and how many offers included financial services, *et cetera*. He said that the information had been provided orally and under his responsibility and that it had aimed at providing a flavour of the negotiations. He felt that it was one of his responsibilities to provide information to governments, public observers and the TNC about the facts of the negotiations. To his mind, this had included neither analytical content nor value judgement. He felt that this type of communication was necessary. He reiterated that he had raised this issue for Members' input and in the interest of transparency, and that it was not a proposal that required the Council's agreement.

125. The representative of Bahrain stated that his country's open trade and investment policies were well-known and that the banking, telecom and maritime transport sectors testified to the excellent business environment. He said that Bahrain had submitted a substantial offer on 31 March, which included many significant areas, and which was a testimony to his delegation's commitment to the negotiations and multilateral trading system. He informed the Council that his delegation had held many bilateral meetings, which had shed light on the overall context of negotiations, and he hoped to continue to do so. He indicated that Bahrain would submit requests to trading partners, with a view to ensuring a positive exchange of commitments in services and goods.

126. The representative Pakistan, referring to certain information which could be made public to civil society or journalists, said that the discussion had raised certain apprehensions, although he noted that the Chair's comments had provided some comfort. He inquired as to why had it been necessary at this point in the negotiations for the Council to agree to a format of information and, in this regard he recalled the negotiations' sanctity. Having reflected on this issue, he sought to draw attention to certain documents which could facilitate the discussion. First, he stated that the rules of procedure in chapter 10, rules 37 and 38, prescribed that the meetings of the General Council, and *mutatis mutandis* those of subsidiary bodies, were normally held in private and could be public if so decided. He underscored this distinction between public and private meetings, and stated that his understanding was that all meetings of the WTO, unless otherwise decided, were private meetings. Referring to rule 38, he said that after a private meeting had been held, the Chairperson could issue a communiqué to the press. He said that the rules of procedure and the Decision of the General Council gave any Chair a mandate to carry this out in a manner which he deemed appropriate. He sought clarification, notwithstanding the existence of such rules, as to why the Council for Trade in Services needed to discuss and decide upon a particular format. Secondly, he referred to the procedures for the derestriction of documents, contained in document WT/L/452, and said that it contained 5 paragraphs which spelled out how documents were derestricted or remained restricted. He assured the Council that he did not oppose transparency; on the contrary, he felt that the civil society needed to know what work was on-going at the WTO. However, he said that there were two existing divisions which dealt with this subject, namely the External Relations Division and the Information and Media Relations Division, whose role it was to inform the public. He did not think that the organization should be accused of being clandestine; the WTO was an open organization. He stressed the need to keep in view the parameters under which the organization operated. After all, the WTO was a rule-making body governed by the rules. He felt there was a need to reflect on the questions raised by Malaysia. He said that any search of the world-wide web on GATS demonstrated that civil society was well-informed about the WTO's work, including the most recent offers. More careful reflection, he felt, was necessary, and he hoped that the information as well as the apprehensions he had pointed to would be helpful for the Chair.

127. Making a few preliminary comments on the review of progress, the representative of Pakistan said that progress to his mind was a relative term. For example, although there could be many offers on the table, if the offers adhered to the *status quo* and were not forthcoming in terms of further liberalization and deeper commitments in areas of export interest to developing countries including Pakistan, then he did not see progress. Progress in his view meant market access to developing countries. He recalled that the Special Session operated under the mandate of the Doha Development Agenda, which he hesitated to associate with development, because he had not yet seen any in the negotiations to that point, including other areas under negotiation such as special and differential treatment, implementation issues, services and agriculture. He noted that there was time and room before and after the Fifth Ministerial Conference for Members to demonstrate that the WTO took development and economic prosperity and growth for developing countries, and least-developed countries, in the full sense of those terms.

128. The Chair thanked the delegation of Pakistan for drawing the Council's attention to the documents to which he had referred. He reiterated that he was not seeking the Council's approval to fulfil his responsibilities. Indeed, he said that the spirit of his solicitation was to ensure that information provided would be factual and not prejudice the position of delegations, and to seek delegation's views on what information could be useful.

129. The representative of Korea requested that the Chair provide more clarification regarding his intentions on providing public information on the elements of initial offers, although he had taken note of the desire to improve transparency. He expressed concern that simple information could be misleading as it did not provide a full picture of the negotiations. For example, if the Chair were to publicise that, in a sensitive sector, only four offers were currently on the table when in the previous round more than 50 Members had been made commitments in that sector, this information could be misused by some public observers. These observers might lobby their government to refrain from making an offer in that sector since it appeared that others offering to make commitments were few in number. He underlined that there could be negative impacts that could hinder the achievement of objectives. He said that two seemingly conflicting elements needed to be taken into account: the need to enhance transparency and the need to maintain confidentiality on the details of the negotiations. He agreed that transparency was important, which was why Korea had released information through a press release and posted the same information on its government web-site. He felt that information provided by the Council for Trade in Services could have a negative effect on the other negotiations, and require other negotiating bodies to take similar steps. He urged Members to be prudent with regard to information in certain sensitive sectors. To his knowledge there were no precedents whereby a Council issued public information relating to negotiations. Drawing attention to the General Council Decision containing the Guidelines for Arrangement on Relations with NGOs (WT/L/162), he quoted that there was a "broadly held view that it would not be possible for NGOs to be directly involved in the work of the WTO or its meetings. Closer consultation and cooperation with NGOs can also be met constructively through appropriate processes at the national level where primary responsibility lay for taking into account the different elements of public interest which are brought to bear on trade policy-making." Though the Decision mostly concerned the direct involvement of NGOs in intergovernmental trade negotiations, he said that a similar conclusion could be drawn with respect to the public information issue, which should also be left to the discretion of individual Members. He reiterated that the measures for improving transparency should be left to individual Members.

130. The representative of Mexico, referring to the Chair's suggestion on public information regarding the negotiations, agreed that caution was needed in this regard; however, based on the Chair's clarifications he felt that the information involved did not appear to be sensitive to his delegation. Seeking to introduce formally Mexico's offer, he said that, in conformity with the GATS and the obligation to undertake negotiations on progressive liberalization of trade in services as established in Article XIX and in response to the 22 requests made to it, Mexico was introducing its conditional offer. Mexico's offer included entries for all 12 sectors of the W/120 classification list, pertaining to 148 sub-sectors, of which 40 were completely new, and 42 were improvements to existing commitments. Together, the sectors pertained to 55 per cent of the list, which was a substantial improvement. The distribution of the commitments concerned were: 47 in business services sub-sectors, 22 new or improved commitments in financial services sub-sectors, 14 in tourism and travel-related service subsectors, 7 in recreational, cultural and sporting sub-sectors, and 15 in transport services sub-sectors. He said that the majority of new commitments were found in business services (14 sub-sectors), transport services (9 sub-sectors) and recreational, cultural and sporting services (7 sub-sectors). Further, he said that the sector with the most improvements to commitments was in financial services and concerned 14 sub-sectors. He indicated that his delegation saw no problem with the publication of the information he had provided and felt that it was important to underline Mexico's efforts, including offers in environmental services which, while limited in number and scope, reflected Mexico's desire to integrate economically important sectors into the negotiations. He hoped that these efforts would be recognised and responded to in kind by trading

partners. He stated in that elaborating its offer Mexico had based itself on the Scheduling Guidelines, and the classification designated by the WTO in document W/120. He noted that should Members not reach an agreement at the end of the process for the use of a single multilateral system to allow for comparisons, Mexico reserved the right to amend its offer in order to use Mexican classification. He indicated that his delegation was available to provide more detail and clarifications on its initial conditional offers.

131. The representative of India, referring to the suggestion relating to public information on initial offers, said that the Chair's clarifications were reassuring, but he associated his delegation with the comments made by Malaysia. He said that the release of factual points raised concerns that delegations could face peer pressure to make offers in sectors which were not necessarily in line with their priorities and development. In this regard, he referred to Articles IV and XIX, the provisions of which gave certain flexibilities to developing countries, and he felt that Members should not send the message that they might not act in accordance with those provisions. He said that there could be a legal aspect as well, as some Members might wish to keep their offer restricted until a critical stage in the negotiations. On the other hand, he said that there were requests from other trading partners to share offers with those involved in the decision-making process. He felt that the suggestion could give rise to new procedures which might lead to problems in other areas of the negotiations, which could make the issue a systemic one. He strongly urged that further consultations on this issue. Turning to the progress of negotiations, he recalled that mode 4 was an important issue for his delegation, which he hoped would be reflected in the commitments taken in mode 4. He believed that there was a greater convergence of interest in this round on the mode 4 issue, which was not a developed versus developing phenomenon, as reflected in the requests made. He also felt that it was an area of mutual benefit for the supplying and receiving country, and given this, his delegation had expected improvements in the initial offers. Thus far, however, the offers did not reflect such an improvement, and he noted that in some cases there had been no movement in terms of the results of the Uruguay Round. He acknowledged the improvement made in some areas, but registered India's disappointment overall. He reiterated two points: that for developing countries and particularly for India, there was an interest in delinking mode 3 and mode 4, and secondly, the liberalization of categories not linked to mode 3, namely, independent professionals and contractual service suppliers. He acknowledge that the offers indicated some improvement, but that overall, the categories in mode 4 not linked to mode 3 did not find balance in the commitments similar to those which were linked to mode 3. Finally, on regulatory issues which partially determined the extent of market access, he did not feel that the issues were reflected in most of the offers.

132. The representative of Hong Kong, China, making comments on the initial offers, stated that his delegation was pleased to note that 25 Members had submitted their initial offers and that more had indicated that they were in the process of preparing them. He felt that this marked a milestone in the negotiations and the start of another phase of the negotiations, although he regretted that the quality of many offers was not as ambitious as he had hoped. In particular, he registered Hong Kong, China's disappointment at the initial offers submitted by some Members, which did not appear to measure up to the level of ambition reflected in their initial requests. He had expected greater leadership from those Members in the negotiations. He urged Members who had not submitted initial offers to do so as soon as possible, so as to register their interest in these negotiations. For those Members who had interests in the overall negotiations, be it in the services negotiations on market access or on rules, or in other areas of negotiations under the Doha Development Agenda, he felt that it would be important for them to put forward substantive initial services offers. He said that a substantive set of initial offers would demonstrate the opportunities that could be missed if a balanced outcome in the overall negotiations was not reached and it would help Members to prove to their domestic stakeholders that there were substantial interests in these negotiations to warrant concessions in difficult areas. He said that initial offers were by definition conditional upon a satisfactory outcome in the overall negotiations. The absence of initial offers served to support the case of sceptics who sought to stall individual areas of negotiations in accordance with their own agenda.

Given that the prospects in other areas of the negotiations looked bleak, he said that a positive linkage was needed to break this vicious cycle.

133. Turning to the issue of public information on initial offers, the representative of Hong Kong, China felt that a distinction needed to be made between what would require agreement by the Council versus information that the Secretariat or the Chair, on their own responsibilities, could disclose in response to inquiries made by Members, trade negotiators or journalists on the state-of-play of the negotiations. He said that the type of information in the illustrative example would fall into the latter category. However, he cautioned that, were information to be divulged about individual Member's offers, this would be a separate issue, because Members respected the confidentiality underpinning the request-offer process. He felt that specific information regarding publicising a Member's individual offer should be left up to that individual Member. Likewise, in the event that Members wished to have an assessment of the initial offers, then this would need to be discussed in the Council to determine such a need and what would be its effect. As for the information outlined in the illustrative example, his delegation saw no problem with the Chair making the type of references it contained.

134. Wishing to update the Council on his delegation's bilateral consultations, the representative of Hong Kong, China stated that he had held many useful and substantive bilaterals with trading partners, many of whom had submitted initial offers. He reported constructive discussions held in many areas, and through the initial offers, an identification of common interests and possible synergies, which he believed would provide a good basis for progress in the negotiations. Taking the case of logistics services as an example, he said that many delegations had referred to the importance of maritime transport as a facilitator of goods trade. He recalled that the delegation of United States had referred to the need for smooth and efficient door-to-door delivery services in order to meet modern business needs, and that the delegation of Switzerland had referred to the indispensable role played by auxiliary transport services. Hong Kong, China fully subscribed to these views and was of the view that door-to-door delivery through integrated logistics chains was becoming increasingly important as cost-effective delivery of goods and efficient management of supply chains were essential to business and global competition. This required the integrated consideration of various modes of transport, auxiliary services, express delivery, as well as other services relevant to the different components of a logistics chain. He believed that this could be a meeting point of various interests of many Members in all these related areas. In this regard, he recalled the logistics proposals that Hong Kong, China had submitted. He said that his delegation was working on further details of the proposed logistics checklist, in the light of its bilateral and plurilateral contacts with various delegations who held interests in areas directly or indirectly related to logistics services. He hoped to be able to share with other Members these views in the near future.

135. Turning to points raised by Chile and Colombia, the representative of Hong Kong, China said that his delegation was flexible regarding the proposal to include a sub-item on the agenda pertaining to paragraph 15 of the Negotiating Guidelines. In response to the point raised by Chile regarding the relationship between the services negotiations and possible investment negotiations, he observed that should Members decide to start negotiations on investment, there would be a need to explore possible areas of overlap with negotiations under the GATS. However, he believed that, until such time as it might be necessary to clarify that relationship, Members had a clear mandate from their Ministers under Article XIX of the GATS and in accordance with the Negotiating Guidelines. He noted that were there any impact arising from possible investment negotiations, Members would need to reserve the right to make any necessary adjustments in that light.

136. The representative of Brazil stated that a review of the work in the past two and a half years, as contained in the reports of the Council and its subsidiary bodies, revealed important achievements, which underscored his delegation's assessment that the services negotiations were on track. For instance, some 150 proposals had been presented on a wide range of substantive subjects, and the Modalities for the Treatment of Autonomous Liberalization had been approved. He recalled that



since July 2002 Members had been tabling their requests and, since end March 2003, some 25 initial offers had been circulated. Moreover, bilateral negotiations on the improvement of such offers had started. He noted in particular the constructive engagement of both developed and developing Members. However, despite these achievements, he stated that the services package remained incomplete in key areas and that it would be an illusion to believe that the services negotiations were limited to its market access dimension, and various items of unfinished business remained on Members' agenda. He sought to take the opportunity to point out some areas that merited further attention and were essential to the proper functioning of the GATS. Although these areas did not receive much press, he felt that they should be common priorities. For example, on the issue of classification, Brazil was concerned with the consequences of an in-depth modification of classification list MTN.GNS/W/120 in the light of commitments subscribed under the GATS. Since the classification in MTN.GNS/W/120 was used by most Members to formulate legally binding obligations, he felt that changes in definitions and sectoral coverage could lead to a lack of transparency and predictability and affect existing and new commitments. He viewed with concern the reluctance of some Members to fully utilise the Committee on Specific Commitments to clarify aspects related to classification and scheduling conventions. He said that the alternative could be an increasingly unsupervised and segmented classification, which would render the evaluation of new obligations difficult. In fact, the lack of a common benchmark for classification could make comparisons extremely difficult or impossible. Members might be unable to assess whether commitments would have a liberalising effect or, on the contrary, if new limitations had been introduced.

137. Turning to negotiations on GATS Rules, the representative of Brazil stated that seven years had elapsed without a meaningful outcome having been reached. Although he acknowledged the efforts by some Members to explore ways to refocus the debate in a more productive direction, he said that the same questions and answers were repeatedly presented. On emergency safeguards he felt it was unlikely that Members would reach any substantive outcome before March 2004 by pursuing this approach. In his view it was time to further reflect on the stocktaking referred to in the work programmes of the Working Party on GATS Rules. Bearing in mind the Fifth Ministerial Conference, he felt that Members should convey to Ministers an accurate report on the issues at stake and request clear guidance on how to move forward. He reiterated that his delegation was open to suggestion that could contribute to moving the discussion forward. With respect to domestic regulation, Brazil maintained its preference for the development of horizontal disciplines in the context of the on-going work in the Working Party. In this sense he welcomed the draft Annex presented by Japan. He recalled the importance of remembering the indisputable right of Members to regulate and the need to foster transparency in order to ensure the effectiveness of market access commitments. However, he felt that Members needed to acknowledge that, given the difficulties of the developing countries in fulfilling existing commitments, it was prudent to proceed at a realistic pace towards the goal of transparency, which meant avoiding additional and burdensome commitments. Finally, with respect to the market access negotiations, he indicated that Brazil was in the process of finalising its initial offer. He pledged to continue to constructively participate in the services negotiations with a view to achieving the balance required to make them a success. While he found reason for satisfaction in the steady pace of progress in the services market access negotiations, he reiterated that it was important not to lose sight of the fact that GATS negotiations were not an isolated endeavour.

138. The representative of Chinese Taipei, making reference to the public information regarding offers said her delegation understood the Chair's reasoning on this question, and fully recognised that this would be in line with the principle of transparency and would facilitate the creation of positive linkages in the negotiations. She recalled that fewer than 30 Members had tabled their offers, and she felt that it was too early to proceed with such an exercise. She said that some Members at a later stage would require time to review, clarify and verify the content of the offers, while others would have doubts as to the value of making public elements of their offers. Therefore, she felt that the

exercise could only be contemplated once a larger number, and perhaps a critical mass, had circulated their offers. Turning to the review of progress in the negotiations, she felt that progress to date was encouraging compared with that in other areas. She felt that meaningful offers would be the best way to induce progress in the other areas of the negotiations. Regarding Chinese Taipei's offer, she stated that it was an initial response to requests it had received, and built on the extensive commitments undertaken upon its accession. She said that substantial improvements had been made to existing commitments in telecommunications, audio-visual, maritime and computer and related services. She felt that these represented a concrete value to individuals and companies and of Chinese Taipei's trading partners. She stated that bilateral consultations had recently been limited because most Members were engaged in evaluating the offers tabled by other Members, and she hoped that bilateral negotiations could be resumed at the next cluster of meetings.

139. The representative of New Zealand, addressing the issue of information sharing, noted that her delegation was comfortable with this approach suggested and left the issue to the Chair's prerogative under the rules of procedure. Her delegation welcomed the initial offers of further services trade liberalization submitted by Members, and acknowledged in particular the efforts in this regard by developing country Members. This marked a significant new phase in the negotiations and she looked forward to more offers being tabled in the lead-up to Cancún. She said that New Zealand was in the process of studying these offers in detail, and indicated that quality was a focus over quantity. She said that New Zealand had put forward its initial offer as an indication of its continued commitment to a substantially improved multilateral regime governing the conduct of trade in services to the benefit of all Members. It had taken a "front-loaded" approach with its initial offer, which included substantive new commitments. She said that the offer should be considered together with the high quality commitments made by New Zealand in the Uruguay Round and the extended negotiations on basic telecommunications and financial services. In tabling such a substantive offer, her delegation expressed the hope that other Members would match this level of commitment both in the services offers submitted and in other areas of the current round of market access negotiations.

140. Drawing attention to the cover pages of New Zealand's initial offer which set out in detail the approach New Zealand was taking in the negotiations, the representative of New Zealand sought to expand on several issues. She stated that domestic consultation had been an important part of New Zealand's offer preparation process both with sectoral interests and with civil society groups. It had become clear that a source of concern amongst some stemmed from the idea that the GATS might intrude in some way on the provision of public services, and she had a sense that a number of other WTO Members had heard similar domestic concerns voiced. She stated that consolidating domestic support was an important element in achieving the desired outcomes from the negotiations. A key to increasing that support was to be able to reassure domestic stakeholders that trade was seen in its proper perspective, namely as one part of an overall set of policies which work together to promote the welfare of New Zealand citizens. She recalled that a premise of the GATS was the effective carving out of genuine public services from its ambit. New Zealand's overall approach to the WTO services negotiations, and to the preparation of its initial offer, had been on the basis that GATS allowed for government to provide, regulate and fund (including through subsidisation) public services such as public education, public health and social welfare services in the manner it determined would best meet broader policy objectives. In this respect, she stated that such services were not be subjected to the same disciplines as private services with commercial objectives. New Zealand welcomed the opportunity to further explore issues related to the public perceptions of the negotiations with other Members.

141. On the substance of her delegation's initial offer, the representative of New Zealand repeated that the offer represented a substantial improvement to an already solid existing Schedule of Commitments. Improved commitments had been offered at the horizontal level, on the movement of natural persons, in recognition of the significance of this mode of supply for New Zealand and other small exporters, including developing Members. New or improved commitments had also been

offered in a range of specific sectors, in particular ambitious offers in postal and courier services, air transport services and maritime services, consistent with New Zealand's belief that these important traded services should be the subject of commitments by Members under the GATS. While the entire offer remained conditional, she said that in these particular sectors, New Zealand would be looking to other WTO Members to make commensurate commitments, in order for offers to be confirmed. She also highlighted New Zealand's strong interest in working to advance recognition of professional qualifications and registration, and was keen to explore opportunities for discussion with bilateral partners or in other appropriate fora. Finally, her delegation sought to register its appreciation to the Secretariat for successfully undertaking the enormous task of consolidating and distributing the electronic versions of Members' Schedules. The diligence and timeliness with which this task was accomplished greatly assisted her delegation in completing its work on New Zealand's initial offer.

142. The representative of Norway stated, with respect to the issue of information availability, that his delegation had a proactive and open information policy. He took note of the suggestions made by the Chair and expressed his full confidence on Chair's ability to give factual information on the initial offers. Turning to the negotiations, he stated that since last meeting, the negotiations had entered a new phase, in which Members were presenting their initial offers. This allowed bilateral meetings to focus on the main task ahead, namely to conduct real and concrete negotiations on meaningful commitments. This would allow Members to compare requests and offers and map out work programmes in bilateral negotiations that would help move the process forward. He felt that it was high time that Members concentrate on concrete commitments. He noted that only 18 months remained to the single undertaking deadline, and in this regard he recalled that many areas of the services negotiations would entail a demanding workload. He was encouraged by the presentation of 25 initial offers, which represented a significant contribution to the process. He said that in recent consultations, he had been informed that many more offers were currently in preparation, and he believed that these would be circulated by July. He underlined that GATS negotiations were not a zero-sum game, but represented an opportunity to modernise the international framework for trade in services by widening and deepening Members' commitments, and he felt that the content of the initial offers confirmed this positive trend. Norway was also encouraged by the great number of informal meetings that had been held, the good working atmosphere in all services areas, and the participation of many delegations, including the strong presence of representatives from capital. Norway's initial offer, he hoped, would be seen as a positive contribution to the process. He recalled that starting with the Uruguay Round, his country had committed to a Schedule of Commitments which reflected the open and liberal market character of its economy, including full commitments in several sectors. He said that improvements were concentrated in the following areas: the removal of the limitation on foreign citizens regarding the acquisition of real estate, the easing of their establishment and acquisition of companies, improvements to mode 4 commitments, the widening of commitments in the maritime model schedule to include multimodal door-to-door transportation, open market commitments to the whole range of energy services both upstream and downstream, and improvements on financial services, construction services, distribution services and environmental services.

143. Turning to his assessment of progress in the negotiations, he was encouraged by the broad support demonstrated for negotiations in maritime transport services and the joint statement made at the March formal meeting. Norway appreciated Senegal's joining the statement. Substantial offers had been tabled in this area and he said that he would encourage further offers of the same quality. Secondly, Norway put great emphasis on the negotiations in energy services and he drew attention to its comprehensive offer in this sector. He said that the proposed scheduling classification list would allow all Members to work on concrete commitments. He felt that each Member could select services they felt were meaningful and commercially relevant in line with their level of development and regulatory regime. Finally, he said that several offers tabled in financial services indicated a high level of ambition, although others had been more hesitant to revise their Schedules. He hoped to see progress in this important sector to the world economy. Furthermore, he emphasised the need for

Members to remove limitations in the telecommunications sector and he urged Members to commit fully to the Reference Paper, as he was convinced that this was in the interest of developed and developing country Members. In his opinion, the telecommunications offers only met these criteria to a certain degree. In order to keep momentum in these negotiations, he believed that Members should refer to common definitions in their telecommunications commitments and avoid the application national definitions. He hoped that a fully liberalised telecommunications market could be realised, which would be of benefit to consumers, suppliers and economies in general. Finally, he said that mode 4 was a key issue, particularly for developing countries. He felt that improvements in mode 4 should reflect the modern world, as was the case for Norway's improvements in its initial offer in mode 4. He said that further requests would be referred to capital for analysis and consideration of new improvements.

144. The representative of Australia said that the cluster had been characterised by intensive negotiations in the subsidiary bodies and in market access. She said that the offers had added focus to Members' efforts. Assessing these offers had taken considerable effort, and the bilateral consultations Australia had held demonstrated that Members were willing to make the effort to assess offers, including those Members who had not made offers themselves but had examined Australia's. She felt that this was a positive sign of engagement and she hoped that the Australian offer had made a good contribution to the process. She confirmed that the liberalization undertaken in Australia's economy had made a strong contribution to economic growth. Highlighting a few themes, she said first that not only the quantity of offers on the table, but also the quality of the commitments, was important. The number of sectors had to be taken into account along with the depth of offers without limitations. She echoed Brazil's concern on the use of national definitions and the impact this could have on the stability of commitments. She felt that Members should be forward looking and responsive to the globalisation of the services sector in a way that supply chains were being increasingly integrated. For instance, the transport chain was served by commitments in air, maritime, and logistics to ensure that the market access offered had real commercial application. She said the same for telecommunications, financial and professional services, which were sectors that underpinned the provision of services generally. Second, she highlighted that the balance between market access and rules negotiations was important to many Members. This appeared to be the case not only for systemic reasons, but also because the different elements of the negotiations could impact on each other. Third, she felt that Members needed to consider that progress in the services negotiations could impact on other areas under the single undertaking. She had heard and shared the concerns of the impact of other areas on services and she hoped that the linkages drawn would be positive. Fourth, referring to the strong interest of civil society, including sub-federal levels of government, she said that Australia had sought to be transparent in publishing its offer. She appreciated that this level of transparency might not be possible for all Members; however, she agreed with the comments by New Zealand that domestic stakeholders needed to be reassured. In this regard, she supported the Chair's efforts to communicate some key points of information about the offers to the external community. She said that information about Australia's offer could be included as it became available on her government's website. She said that of late there had been much press about the state of the global economy, and she thought that the contribution of the services negotiations to the single undertaking should be borne in mind, along with the potential of liberalization to contribute to economic growth.

145. The representative of the European Communities, referring to the proposal regarding paragraph 15 of the Negotiating Guidelines, felt that debate under this item allowed every Member to raise different elements of concern, and this was probably a more appropriate way to assess the negotiations rather than restructuring debate around sub-items. On the negotiations proper, he said that Members had entered new phase with encouraging and less encouraging signs. In terms of the 25 offers, he felt that this was an encouraging start, also taking into account that among these were developing country and recently acceded Members' submissions, which was a sign of their engagement. Less encouraging, he stated, was the quality of the offers, which varied substantially. At the end of the day, quality mattered over quantity, and it would be necessary to have significant

improvement on the quality of the offers. He encouraged those still preparing offers to take this into account. In the European Communities' case, the offer had been submitted at the end of April in order to ensure that its quality was high and reflected a commitment to the Doha Development Agenda. He recalled that the European Communities offer was public, and underscored that it included a significant improvement in committed sectors, including professional, business, financial, accountancy, transport, environment, as well as commitments in sectors previously uncommitted, including postal and courier and maritime transport services. He highlighted that the Community took a substantial step forward on mode 4, despite domestic resistance in some quarters, which would require changes to legislation in several Member States if retained. He reiterated that this was done to reflect its commitment to the DDA and to respond to requests, particularly from developing countries. He said that in the run-up to Cancún improvement in terms of numbers and quality was required, so that Ministers could take stock and give new instructions. He said that, in this regard, the July cluster of meetings was the last opportunity for Members to inform this process with their assessments. For this reason, he felt that sufficient time needed to be given for bilateral consultations in the July cluster. Echoing earlier interventions, he stated that for the Communities the negotiations were not limited to the market access element, and that further work in areas such as classification was important and desirable. He drew attention to the proposals made by his delegation and he remained prepared to work with Members in order to achieve the revision of classification in postal, environmental and energy services. He also announced that his delegation had submitted a recent proposal on government procurement which was to be circulated shortly. It demonstrated that it was feasible to achieve an agreement and negotiate commitments on the government procurement of services, which was crucial in many sectors such as construction and computer, and within the architecture of the GATS. He indicated that his delegation would revert to this item at the next cluster.

146. The representative of Switzerland, characterising his own offer, noted that it concentrated on the horizontal commitments, but also focused on a sizable number of sectors. Given the high level of commitments Switzerland had in its existing Schedule, he said that the offers went beyond existing legislation, which would mean that they would be implemented only to the extent that they resulted in a legally binding agreement. He highlighted that in the new offer, Switzerland had eliminated its last ENT, and had sought to remove nationality requirements; indeed, only one such requirement remained. He said emphasis had been put on transparency, which for his delegation, was a major objective of the round. Switzerland had attempted to follow closely the W/120 classification list, had made systematic reference to the CPC, and had drafted its commitments in clean and clear manner. He said that there were no references to national law which were not helpful, and he encouraged Members to conform to the spirit of the Scheduling Guidelines. He felt it was worthwhile to repeat his government's position that it was committed to no *a priori* exclusion of sectors from the negotiations. In this regard, he said that he would follow carefully the movement of the different sectors in the negotiations. Turning to the progress in the negotiations, he stated that he was pleased that a number of developing countries had presented their offers; however, he echoed earlier comments that the level of ambition they contained varied. He agreed that content was more important than numbers, and in this regard felt that progress was required, although he acknowledged that the negotiations were at an initial stage. He remained optimistic because indications he had received in bilateral meetings suggested that Members in capital and in Geneva were working to this end. Referring to the assessment on trade in services and the proposal from the United States, he said that it made a strong case for liberalization by underlining its benefits. He hoped that this would help all Members reap these benefits. Sharing the views expressed by Australia and Hong Kong, China, he underscored the importance of logistics, and how the reduction of inefficiencies in supply chains owing to unnecessary regulation and restrictions could contribute to the improved efficiency of the national and global economies. He also shared the views of the European Communities regarding mode 4, and said he was aware of the importance this mode held for developing countries, in addition to developed countries.

147. The representative of Thailand, speaking on the information about offers made public, recognised that the Chair had certain duties to communicate and maintain relations with the public, and she expressed full confidence in his ability to fulfill these. Referring to the illustrative example, she agreed with the concern raised by Korea that the information in the illustrative example provided did not give a full picture of the negotiations. She also shared the systemic concern raised by Malaysia, namely, that precedence should not be set for other fora on providing public information from the Secretariat or the Chair. Turning to the review of progress, she expressed her support for the proposal referred to by the representative of Colombia, and she respectfully disagreed with the comments by the European Communities, as her reading of paragraph 15 of the Negotiating Guidelines indicated that its purpose was to conduct the review it referred to in order to implement Article IV, which could be achieved through the proposal. Second, her initial appraisal of the initial offers was perhaps less enthusiastic, as her delegation was not satisfied with the overall quality of the offers. In her view, the offers did not reflect the requests her delegation had made, although she hoped that this was attributable to the fact that these requests had only recently been sent. She associated her delegation with the comments made by India relating to mode 4. She also felt that the improvements made were in sectors of little interest to developing countries, such as financial, environmental, postal and courier and telecommunications services. She agreed with Hong Kong, China that the level of ambition of the requests by some Members had not been reflected in their offers. Third, she felt that imbalances in the negotiations between market access and rules had become more visible. Thailand had been active in the work of the subsidiary bodies and was disappointed with the lack of progress, particularly in safeguards and domestic regulation. Fourth, referring to her delegation's offer, she said that Thailand hoped to table it as soon as possible, but she said that this needed to be seen in the overall context of the single undertaking, which meant that there were linkages with other areas. She said that her delegation was not holding back intentionally and sought to engage in good faith, and she called for similar good faith in the rules negotiations. She reiterated a point made by many developing countries that tabling an offer was not a reflection of the importance they attached to liberalization, since all were agreed that progressive liberalization was important.

148. The representative of the United States was pleased with the situation of the negotiations, and was pleased to learn that an offer from a least-developed country had been communicated to the Secretariat and her delegation looked forward to its circulation. She felt it was important to maintain momentum and to achieve a critical mass of requests and offers prior to Cancún. She informed the Council that bilateral and plurilateral meetings held that week had proven extremely helpful in clarifying offers and for the receipt of new requests from regions that had not previously made requests. These bilateral exchanges had helped clarify points and afforded an opportunity for Members to put questions to the United States regarding its offers. She underscored that there was no roll-back in the United States offer, and that the entries were responses to requests from trading partners for clarification. She said that there had been improvements in classification in sectors such as energy and express delivery. The United States offer included accountancy, architecture, engineering, recreational, telecommunications, advertising, real estate, legal, accounting, audio-visual, road transport, environmental and financial services. She said that Members had discussed areas to be addressed by Ministers in Cancún, including progress in the assessment of services and her delegation was exploring ways of rendering that exercise more productive. She also said that her delegation was anxious to see closure on the LDC modalities in a manner which was comfortable and worthwhile for all Members. She said she was reviewing the ways in which capacity building and technical assistance could be improved for developing countries in the area of services. Regarding the Chair's consultation on elements of public information regarding the offers, she felt this was an important transparency issue, and she recalled that the United States had made its offer public with a view to being accountable to its stakeholders. She felt that there was merit in exploring the public perception of the GATS negotiations; however, she took note of the legitimate concerns that had been raised. She supported India's suggestion for consultations to determine a way of proceeding that was comfortable for all Members. Responding to Chile's comments, she sought clarification on a

comment concerning a reservation on the right to withdraw concessions on the table in the services negotiations were there a decision to begin negotiations on an investment agreement. Finally, on the proposal expanded upon by Colombia, the United States would consider it favourably and refer it to capital.

149. In the interest of time, the representative of Argentina said that he would not describe his country's initial offer, but would allow Argentina's trading partners to assess it, and stated that in his view it was a good offer that built on the level of commitments made in the Uruguay Round. With respect to the negotiating process, he said that Argentina had started to analyse the offers, and his initial concern pertained to the need for clarification of some existing offers, as the clarifications that had been given in the offers, by adding detail, may have had the opposite effect. He said the same result could occur when changes occurred in classification, which often sought to take account of national legislation, but which needed to be examined to ensure that the scope of the commitment had not been altered. With respect to GATS rules, he agreed that it was important to know what rules were being applied to the commitments being negotiated. With respect to the information to be provided regarding the offers, he shared the concerns expressed by Korea that the information might not provide a full picture of the negotiations in comparison to earlier negotiations and could give a false picture of the likely final result. For example, civil society might note that Argentina had not made a commitment in a particular sector, but this would not mean that his country would not make a commitment in that sector prior to the end of the negotiations. He concluded that information should not be provided too far in advance of the final results. Finally, he expressed support for the proposal for a sub-item to be inserted under this agenda item on the Council's agenda as outlined by Colombia, noted that this proposal had been raised in at least four meetings, and felt it was timely to make a decision.

150. The representative of Mauritius stated that his delegation had been actively participating in the services negotiations, but he admitted that as a small economy his delegation was confronted with capacity constraints. He said that Mauritius had submitted its initial requests by the target date of June 2002; however, it had not been able to formulate its initial offer by the indicative 31 March 2003 deadline. He said that the task of preparing the offer was becoming increasingly difficult given the taxing nature of examining and evaluating the new offers. He said this was a severe constraint to small delegations such as his own, and he reiterated the need for technical assistance in the evaluation of initial offers so that staff-constrained, small economies could participate effectively in the negotiations.

151. The representative of China, responding to the Chair's suggestions on public information, stated that, although China did not oppose increased transparency, she shared the concerns of previous speakers that it might raise systemic implications. With regard to the proposal spoken to by Colombia to include a sub-item on the agenda, her delegation could agree to this. Turning to the offers, she noted that China, subsequent to its accession a year earlier, was in the process of implementing its extensive commitments. This situation constrained China's ability to table its offer in the counter negotiations; however, this did not mean that no offer would be submitted. In fact, China was making every effort to prepare this offer for circulation as soon as possible, although she indicated that the internal consultations which preceded it were not complete. It appeared that market access in services had moved forward; however, she said that progress was less evident in other areas of the services negotiations, such as in domestic regulation, a safeguard mechanism, and barriers to mode 4 which she felt should be dealt with at a multilateral level. She hoped that the meeting in Cancún would help stimulate negotiations in this areas, and she associated her delegation with the proposal by Brazil in this regard.

152. The representative of Japan stated that his delegation was encouraged by the number of offers that had been tabled to date. He reported that his delegation had conducted a first round of fruitful negotiations and looked forward to pursuing the process. He urged Members to submit their offers as

soon as possible, and indicated that Japan would welcome requests Members might have. With respect to Japan's offer, tabled on 31 March, he said it had been submitted with a view to advancing the negotiations, and was predicated on the basic belief that the liberalization of trade in services would benefit both the exporting and importing Member. He said that Japan had made substantive improvements and expansions to existing commitments and had made entirely new market access commitments. He said that Japan had taken into account the interests expressed by many developing country Members through improvements in areas such as the movement of natural persons, other business services, and tourism. On the quality of the offers, he said that Japan was not satisfied with the offers presented and all the more so with offers not presented. In terms of the question of multilateral processes, Japan remained actively engaged in these areas, and thanked Members for their feedback on his delegation's draft Annex on Domestic Regulation. On the illustrative example for elements of public information, he supported the effort by the Chair to ensure an appropriate level of transparency to outside observers and, although he did not feel that the Council needed to approve the Chair's initiative, he felt that some guiding ideas would be useful for this purpose. He said that his delegation would be concerned with specific information that could include value judgements, however, the illustrative example struck a balance between transparency and the nature of the negotiations and his delegation go along with it.

153. The representative of Cuba stated that his delegation had received a number of requests from trading partners and that work was underway in capital to respond to them. He said that Cuba was participating in bilateral consultations with Members making requests with a view to achieving shared benefits. He said that Cuba was preparing its offer bearing in mind the indicative nature of the 31 March 2003 benchmark and the cost-benefit balance of the requests and offers it had received. Cuba believed that the number of offers thus far circulated and their contents had fallen short of its expectations. Regarding the implementation of paragraph 15 of the Negotiating Guidelines, he said that this must appear on the agenda and supported the joint proposal in this regard. Such an exercise would ensure greater transparency on the results of the negotiations and would help ensure that the package obtained was balanced. He thought that work could be facilitated if the interests of developing countries and the sectors and modes of supply of interest to them were liberalised. He stressed that benefits could not be achieved solely through market access negotiations, but that other issues needed to be addressed in parallel. In his view, many Members had not presented offers because they had seen neither the results nor had the political will necessary to move forward in areas such as implementation, special and differential treatment, TRIPs and public health, and agriculture, among other developmental-related areas. With respect to future work, he said that the planning of formal and informal meetings should avoid affecting bilateral consultations, and that the situation of small delegations should be taken into account in order to allow them to participate in issues of interest to them.

154. The representative of Barbados, echoing comments made by Pakistan, also qualified its definition of progress in the light of its experience to date. While it was certain that the negotiations were advancing, progress defined as satisfactory development remained elusive. Barbados took note of the initial offers and her preliminary assessment was that in the area of mode 4, many developed country offers could be characterised as conservative. She informed the Council that her delegation had held a number of bilateral consultations; however, capacity constraints in the analysis of Barbados' trade interest meant that it had not been able to engage extensively in the market access negotiations. She stressed that this did not lessen its commitment to the negotiations. She urged trading partners to grant flexibility to developing countries such that liberalization was undertaken in line with their developmental needs. She agreed with Colombia that the implementation of paragraph 15 of the Negotiating Guidelines had become more important with the tabling of initial offers, and expressed support for the proposal it had outlined. She believed that the inclusion of this item would facilitate a more focused discussion on special interests and challenges faced by the developing countries in the negotiations, with a view to enhancing their participation in the process. In the area of rules negotiations, Barbados supported the establishment of multilateral disciplines for domestic



regulations particularly in the context of emergency situations. She felt that the pace of market access negotiations outpaced the negotiations on rules and could lead to a stage where the rules and disciplines would lack an effective basis on which the negotiations could proceed. She hoped to see a constructive advance on these issues, which would help to achieve a positive stocktaking exercise in Cancún.

155. The representative of Uruguay stated that his delegation had submitted its offer on 31 March in compliance with paragraph 15 of the Doha Ministerial Declaration, and was actively participating in the negotiations. He reiterated the importance of bearing in mind paragraphs 47 and 49 of Doha Declaration, and that it was important to achieve a balance in the overall context of all the negotiations and not solely in one sector. He thought that this principle was essential to success in the negotiations, although he regretted that it had not been taken on board by all delegations, which could affect the achievement of results in the DDA. Referring to earlier comments made by two Members regarding their substantial offers, he said that the problem to date was that there had not been a substantial offer by them in other areas under negotiation in the WTO, such as in agriculture. He said that these Members had a fundamental role to play in ensuring the success of the negotiations. Progress in areas of interest to developing countries, such as in agriculture, he felt would make a positive contribution to greater and more substantial participation by delegations. If he compared the current market access negotiations in services with those under the Uruguay Round, he believed that the situation was positive, because there was greater participation by developing countries as testified to by the requests and offers. With regard to the elements of information concerning offers, he said that he understood this to include the provision of factual information on the present status of the negotiations, and he was not aware of any negotiating group having discussed or approved such an exercise. As such, he did not feel that was an issue which needed to be approved by the Council, since the Chairs of negotiating bodies under their own responsibility could provide the relevant factual information to the press. He did not think that discussion on a format would prove fruitful. With respect to Colombia's intervention, he said that Uruguay supported this proposal. Given that this had been raised in a number of meetings, he suggested that the co-sponsors request that the sub-item be placed on the agenda as they were entitled to do so as to move discussions forward. In conclusion, he thanked Mexico and all Members who had submitted their offers and urged others to do the same.

156. The representative of Poland, referring to information on initial offers, stated that, as Poland's conditional offer had not been made public, she had reservations regarding the role of the Secretariat in providing information. While she supported transparency, she suggested that each Member which had presented an offer could prepare such information. In her view Members alone could evaluate their own offers. This information could be compiled by the Secretariat and made public. She felt that it was premature to make information available on initial offers, as they would be subject to many changes, although general information could be presented.

157. The representative of Canada informed the Council that her delegation had participated in some productive meetings which had led to interesting discussions on sectoral and systemic issues. On the whole, Canada was pleased that 25 offers had been circulated, and she encouraged the tabling of additional offers prior to and after Cancún. She welcomed the recent requests that Canada had received and pledged to review them. With respect to the Canadian offer, she said that her government had made a particular effort to respond to requests for information on sub-federal matters and had engaged in federal-provincial consultations in that regard. She said that Canada had also made a special effort on mode 4 and looked forward to further discussions in the friends group and in bilateral negotiations. With respect to the negotiations, she reiterated the importance that Canada attached to the use of the CPC, as it improved legal certainty of enforceable documents. She felt that the CPC gave an objective measure of commitments, through which roll-forward or roll-back could be ascertained. In this regard, she said that the negotiations concerned roll-forward of commitments and that any roll-back was governed by Article XXI. With respect to work under this agenda item, she agreed with the European Communities that any Member could make the comments they wished and

that these would be considered, as well as with Uruguay that any Member could request the inclusion of an item on the agenda. With respect to the inclusion of a permanent sub-item, she said that Canada would give this consideration. Canada also attached importance to making progress on the modalities for the special treatment for LDCs and remained open to consultations in this regard. She also indicated that Canada was reviewing its technical assistance and capacity building initiatives and how these might be related to the assessment of trade in services exercise. On the information sharing initiative, she indicated that Canada could be named as having made an offer, which was public. Her delegation saw no problem with the aggregate information that had been discussed, however, she noted the concerns of other Members and could support India's suggestion for any necessary consultations.

158. The representative of Mexico, referring to his earlier intervention on cultural and audio-visual services under the previous agenda item, reiterated the need to find effective mechanisms to ensure the appropriate complementarity between trade negotiations in the WTO and negotiations in other international fora related to cultural services. He said that the statement he had made had been translated in the spirit of maintaining an open and on-going discussion on this issue.

159. The representative of Malaysia indicated that his delegation was analysing the initial offers, and he echoed comments on the modest nature of the offers in mode 4 which did not reflect developing country interests. He thought that this needed to be borne in mind to ensure that it did not become a negative issue in Cancún. Second, he indicated that Malaysia was preparing its offer, but that its circulation would be based on his delegation's need for a comfort zone or safely valve in the form of an ESM. He said that the offers would also need to be assessed in the light of the requests made and that balance in the negotiations also needed to be ensured. Third, making reference to Thailand's and Hong Kong, China's disappointment with the offers made, he said that, seen from his perspective, it might be difficult for his government to make a comprehensive initial offer. Last, he said that the lack of an offer from his delegation should not be taken as a lack of interest on its part, but rather that there were capacity difficulties. What was more important, he felt, was the reality on the ground, which reflected the fact that a number of autonomous liberalization measures had been implemented.

160. The representative of Paraguay noted that his delegation was committed to the Doha Development Agenda, and had met the initial deadline for the circulation of its offer. He said that Paraguay sought to achieve positive linkages in the sectors where he felt Members should be more ambitious, for instance in agriculture where deadlines had been missed without achieving significant progress. He said that Paraguay stood ready to negotiate and be ambitious in services. However, he recalled that the negotiations contained an 'all-or-nothing' element and, as such, its ambitions in services were tied to ambitions in other sectors, particularly agriculture.

161. The representative of Colombia, seeking to clarify her earlier suggestion, said that her proposal sought to divide discussion between the overall review of progress in the negotiations and the discussion dedicated to the implementation of paragraph 15 of the Negotiating Guidelines. She hoped that Members could demonstrate flexibility in order to allow for this item to appear on the agenda of the next meeting.

162. The representative of the European Communities, in the light of earlier clarifications, indicated that his delegation could support the inclusion of this sub-item. The representative of the United States said her delegation could also agree, *ad referendum*.

163. The Chair said that he would seek final confirmation on the inclusion of a new sub-item under this agenda item at the next meeting, but that it appeared to him preliminarily that this would be the case. Making a few summary remarks, he said that the Council had held a very rich debate. With respect to his initiative to solicit Members' views regarding information which he made public

regarding offers, he expressed gratitude for the points mentioned and had taken note that it was particularly important for him to communicate in a manner which did not prejudge or hinder the position of any Member. He said that Members had informed the Council of the rich and wealthy exchange of views and work accomplished over the preceding week. With respect to the offers, a good number of these had been submitted, and while others were under preparation, more were required. He recalled that many Members had underscored the importance of the quality of offers and that they needed to carefully assess the content of the offers in order to better judge the level of ambition in terms of the proposals submitted and the results forthcoming. He said that the process had entered the initial phase of the final phase. Members had informed the Council of the intensive consultations that had been held. There had been mention of the need to seek clarification on concerns about possible roll-back. A few delegations had made reference to the need and the willingness to explore technical assistance in order to help some Members assess offers. Some Members had taken the opportunity to describe their offers, and many underlined that they had sought to establish positive linkages. Some Members pointed out that there remained unfinished business and an imbalance in terms of the market access negotiations versus work on rules and classification. He highlighted comments that a positive atmosphere prevailed in the Council and in bilateral meetings. He suggested that the Council take note of the statements made and revert to this item at the next meeting.

164. It was so agreed.

F. OUTLINE OF THE CHAIRMAN'S REPORT TO THE TRADE NEGOTIATIONS COMMITTEE

165. Giving an outline of his report on the meeting to the TNC, the Chair indicated that under the item Assessment for Trade in Services he would inform the TNC that the Council had held a substantive discussion which included statements noting the importance of this exercise for developing countries and calling for further assessment work on a sectoral basis. Most delegations had emphasised that work on this item was an on-going process and that it was not an academic exercise, but had practical implications. Members noted that the information required for conducting an assessment could be lacking; that there was a need for a broader range of sources of information to be used where those sources exist; and that developing countries required technical assistance to conduct assessments. The suggestion had also been made that the Chair hold consultations on this item in order to better focus the Council's work.

166. The Chair said that with respect to the Modalities for the Special Treatment for Least-Developed Countries, he would report that a revised draft of the Modalities had been presented by the LDC group. A substantive discussion was held in which Members expressed their desire to move forward in a constructive, positive and expeditious manner. The view was expressed that the modalities should not seek to determine an outcome, but rather allow LDCs to better formulate and pursue their interests in the negotiations. Given the fact that initial offers had begun to be circulated, the Council also took note of the relative urgency of its work on this item. A number of delegations noted that they had withheld detailed comments on the draft in order to present these in an informal meeting to be held on 11 June.

167. Regarding the item Proposals Relating to the Negotiations under Article XIX, his report would state that the Council held substantive discussions, in part on two proposals on the scheduling of energy services. The importance of this sector in supporting economic growth for all Members had been underlined. The proposals presented were the fruit of considerable on-going work of a friends group on energy services. He had encouraged others to follow this example and to apprise the Council of the work of such friends groups, as further transparency helped to advance discussion in these sectors. A contribution was also made on cultural services, in which the sensitivities and complexities of conducting negotiations were touched upon, as well as suggestions on how to

appropriately overcome them. Further support was expressed for a joint communication on maritime transport services presented at the last formal meeting. Interventions were also made highlighting the importance of logistics services in international transport, as well as certain aspects of health services.

168. Under the item Review of Progress in Negotiations, the Chair said that the Council's discussion had been characterised by a large number of interventions and the raising of substantive points demonstrated that the negotiations had moved to a new level following the circulation of the first initial offers. Delegations indicated that there had been a healthy exchange of views in bilateral consultations, both in terms of clarifying initial offers and, in a few cases, requesting deeper commitments. In this regard, concerns were raised with respect to possible roll-back, which would require clarification. Most Members indicated that they felt that the 25 initial offers circulated to date was a positive sign of engagement; however, it was observed that a clearer picture of the level of ambition would require a qualitative assessment in addition to the quantitative analysis. Some developing country Members expressed disappointment that sectors which they had indicated as being of interest to them were not sufficiently reflected in the offers. A number of delegations indicated that their offers were in the final stages of preparation; others underlined that capacity-related delays in submitting an offer should not be interpreted as a lack of interest on their part. A number of Members took the opportunity to present their offers and indicated that these had been formulated with a view to establishing positive linkages. There were interventions to the effect that there remained important unfinished business in areas outside the market access negotiations, namely in GATS Rules and Domestic Regulation. The Chair also thought it worthwhile to point out that Members indicated that bilateral consultations and the work of the Special Session was characterised by a positive atmosphere.

169. Finally, he would report that progress had been made with respect to a proposal originally tabled in October 2002 by a group of developing country Members. The proposal concerned paragraph 15 of the Guidelines and Procedures for the Negotiations on Trade in Services, which referred to an evaluation of the results obtained in the negotiations in terms of the objectives of Article IV (Increasing Participation of Developing Countries) of the GATS. It was agreed to include a permanent sub-item on the agenda under the item "Review of Progress in Negotiations".

170. With respect to Outstanding Issues, the Chair would report that there was a sense that the Council must pursue its work on the Modalities for the Special Treatment for Least-Developed Countries with a sense of priority. An open-ended informal meeting would be held on 11 June to allow a technical discussion on the revised draft.

171. Under the item Organisation of Future Work, the Chair said he would note that he had informed the Council about a letter he had received from the Chairman of the General Council regarding Agreement-specific proposals on Special and Differential Treatment. These proposals had been referred to negotiating bodies for their consideration. The Special Session of the Council for Trade in Services would hold an informal meeting in June in order to prepare the groundwork for the consideration of a report to the General Council at the July cluster of services meetings. Lastly, he would report that he had informed the Council that, in preparation for the Fifth Ministerial Conference, he was preparing a report on his own responsibility for submission to the TNC on the work of the Special Session since the Fourth Ministerial Conference.

172. The Council took note.

#### G. ORGANIZATION OF FUTURE WORK

173. The Chair informed the Council that he had received a letter from the Chairman of the General Council referring to the Special Session a few proposals on special and differential treatment relating to the GATS. Given that this work needed to be considered during the July cluster, he

suggested that the Council take up this issue when meeting informally on 11 June. He said that he would have circulated the items which had been referred to the Special Session of the Council for Trade in Services on special and differential treatment. Finally, he also said that a report would need to be prepared containing an outline of the work of the Special Session conducted since the Fourth Ministerial Conference. This was a factual report to be drawn up under the Chair's responsibility. Finally, turning to the organisation of the next cluster, the Chair stated that he felt that for the July cluster, the Special Session would need to reserve two full days to complete its work. He also suggested that the Special Session hold the first day of its meeting late in the first week and hold the wrap-up session late in the second week. This would leave more time for the organisation of bilateral consultations.

174. The representative of Mauritius stated that it was difficult for small delegations to dispatch experts from capital for a lengthy period of time. He had been inclined to suggest that the Special Session remain in the second week in order to save resources.

175. The Chair indicated that he would consult on the matter in the coming days and suggested that the Council take note of the statements made and revert to this item.

176. It was so agreed.

#### H. OTHER BUSINESS

177. The representative of Hong Kong, China, sought to raise an issue for enquiry under the agenda item of Other Business regarding a communication which had come to his attention recently. He said that he was not sure whether this issue was to be raised in the Special Session or in the Regular Session of the Council for Trade in Services. However, since the document referred to trade in services and in view of the need for transparency and time sensitivity, he asked for the Council's indulgence to raise it at the present juncture. He drew attention to document S/DCS/W/EEC dated 22 April 2003 entitled "Communications from the European Communities and Its Member States Pursuant to Article V of the GATS" which was available on the WTO Members website. He noted that the communication indicated that attached to it was a consolidated schedule of specific commitments, and a consolidated List of Article II MFN exemptions. The document stated that the consolidated schedule of specific commitments replaced the existing Schedules of Specific Commitments of the European Communities and its Member States, and it also stated that the consolidated List of Article II MFN exemptions replaced the existing Lists of the Article II MFN exemptions of the European Communities and its Member States. He said that the last paragraph of the document stated that "Pursuant to Article V:5 of the GATS, and in accordance with the terms of Article XXI:1(b) of the GATS, the European Communities and its Member States notify the Council for Trade in Services of their intention to modify or withdraw the specific commitments set out in the attached list." The representative sought to make the following enquiries to the Secretariat. (1) What was the legal basis and what were the applicable procedures for (i) replacing the existing Schedules of Commitments with the consolidated one; and (ii) replacing the existing Lists of MFN exemptions with the consolidated one? (2) Was the document S/DCS/W/EEC a notification for the purpose of modifying or withdrawing a scheduled commitment under Article XXI? Specifically, did the procedures contained in document S/L/80 apply? If so, had the procedures for such a notification as outlined in paragraphs 1 and 2 of S/L/80 been complied with? If not, what was the basis for the notification, what would be its effects, and what would be the procedures to be followed? (3) If any Member considered that its interests could be affected by the possible consequences of the notification, what were the procedures and timeframe for that Member to communicate its claim or objection? (4) Did Article V, Article XXI or the procedures in S/L/80 deal with modification of Lists of MFN exemptions? If not, what was the legal status of the List of MFN exemptions attached to document S/DCS/W/EEC vis-à-vis the existing lists of MFN exemptions as referred to in that

document? Would there be any change after the completion of the procedures under Article XXI and/or S/L/80 in respect of the Schedule of Commitments if those procedures were applicable?

178. A representative of the Secretariat, seeking to respond to the questions, said that the points raised regarding the legal basis for certain actions would depend on what delegations would agree upon and how to interpret certain provisions of the Agreement. In terms of the applicable procedures for replacing existing Schedules, and with reference to the document submitted by the European Communities, he said that it was a consolidation of the European Communities-15 commitments resulting from the enlargement which had taken place in 1995. He said that any agreement under Article V need not have a common Schedule however, he recalled that the European Communities had a special status, since it was recognised as a Member within Article XI (Original Membership) of the WTO Agreement. He stated that the procedure which would apply would either be the procedure for modification relating to Article XXI, which had been developed by the Council in S/L/80; or else the procedure relating to the certification of modifications of Schedules in S/L/84. He said that the latter did not appear as relevant since the European Communities, in the last paragraph of its communication, had indicated the provisions they were invoking related to Article XXI of the GATS. The case under examination was thus the modification of a Schedule in the form of withdrawals or modifications of commitments. He said that the rules outlined in S/L/80 stipulated that, once a Member decided to make a notification, there was a timeframe of 45 days, referred to in paragraph 3 of S/L/80, within which other Members would notify the European Communities of their interest as affected Members. At the same time a notification would be sent to the Secretariat which would be circulated to all Members. With respect to the question as to whether the procedures contained in S/L/80 and the provisions of Article XXI applied to MFN exemptions, he noted that the texts of Article XXI and S/L/80 did not refer to MFN and that a conclusion could be drawn in that respect. He stated that he could not respond to the question in this regard concerning the legal basis. On the question of whether a notification had taken place according to the procedures, he said that the document presented a particular situation, since the reference to the notification was made in the context of the presentation of the consolidated draft schedule of the European Communities, which was part of a larger process of consolidation of all Members' Schedules. However, he noted that the communication invoked paragraph 5 of Article V, which spoke of invocation of the Article XXI procedures, in addition to an explicit reference to the latter. The question was whether a different format would be required, which he felt was a matter of form and not substance. He said that there was clarity in terms of the applicable provisions, namely, Article XXI and the procedures contained in S/L/80.

179. The representative of the United States said that the point raised by Hong Kong, China had become an important question for a number of delegations in the preceeding days. She recognised that the Special Session was perhaps not necessarily the right forum in which to raise this question, however, she thought that a few delegations had a concern because the 45 day timeframe referred to would expire in two weeks if one used the date indicated on the document under discussion. Although she felt that the correct forum to address this question was the Regular Session of the Council for Trade in Services, on a preliminary basis she said that the issue would not simply be one of form because there remained a substantive issue about a timeframe that was about to run out, and with it Members' rights. She enquired of the Secretariat as to which was the appropriate forum for such a notification, which she stated was key to the issue of the running out of Members' rights pursuant to the procedures. With respect to the documents mentioned, she enquired as to the forum in which the consolidated draft schedules were placed and in which body should the notification be made to invoke Article V or Article XXI procedures?

180. A representative of the Secretariat responded that the forum to which notifications were made pursuant to Article XXI, also referred to in S/L/80, was the Council for Trade in Services. Second, while this was the forum for notification, he noted that the terms of reference of the Committee on Specific Commitments indicated that one of its functions was to oversee the application of Article

XXI procedures. Thus, there was a notification forum and an overview function of the Committee in terms of the application of these procedures. Third, he said that the draft consolidated schedules were not produced under the auspices of one forum as such. The process was agreed to by Members in the Committee for Specific Commitments as part of the technical groundwork in preparation for the submission of offers, while the submission of offers as such fell under the auspices of the Special Session of the Council. He said that this was a particular situation which involved a few fora, if one considered the Special Session as separate from the Regular Session of the Council for Trade in Services, and taking into account the role of the CSC.

181. Seeking to clarify the points of concern the representative of the European Communities said he would first explain what the Communities had done. He took note of comments to the effect that the Special Session might not be the correct forum for the discussion and indicated his surprise at these comments. He said that his delegation had notified under Article V the consolidation of the European Communities-15 following the enlargement to Austria, Finland and Sweden. He said that the Schedules consolidated included both the lists of Specific Commitments and the Lists of MFN exemptions. With regard to the Lists of MFN exemptions, as discussed in the Committee on Regional Trade Agreements, his delegation considered that Article V allowed this because these were existing MFN exemptions and they did not extend the scope of these exemptions. He felt that this could be discussed in the appropriate forum. With regard to specific commitments, he said that the Communities was required to notify under Article V:5 if a commitment was withdrawn or modified, which the Communities had done. He stated that the European Communities had notified to the Chairman of the Council for Trade in Services on 9 April 2003 under Article V, with a copy of the notification sent to the Secretariat. He noted that the communication made explicit reference to Article V:5, and to the intention to modify and withdrawal some of the commitments resulting from the European Communities' last enlargement. He noted that the Communities had followed the procedures contained in S/L/80 by attaching a list of commitments it proposed to modify and withdrawal to the communication. He stated that not only had it followed the right procedures, but that it had done more than required by Article V:5. He recalled that paragraph V:5 referred to paragraphs 2, 3 and 4 of Article XXI, which were silent on notification. Rather, he said that only Article XXI:1 made a reference to a notification, and he emphasised that, despite this, the Communities had explicitly mentioned in its notification its intention to modify and withdraw a list of certain commitments in accordance with paragraph 1 of Article XXI. He said that the text clearly stated the European Communities did not intend to apply Article V:5, and by reference Article XXI, to MFN exemptions, only to specific commitments. He said that his delegation had notified the Secretariat on 8 April and on 22 April the document was issued. According to the procedures Members had 45 days to notify any interest. With respect to the question of forum, he said that the European Communities had notified the Council for Trade in Services and that the 45 days, for which the counting had started on 22 April, was unrelated to whether the item appeared on the agenda of, or was discussed in, the Council for Trade in Services. Counting, he reiterated, began as of the day of circulation, namely 22 April. He recalled that his delegation had followed the applicable procedures and had taken extreme care in this regard. He said that any Member which rolled back a commitment should do the same and not handle the situation in the context of Article XIX.

182. The representative of Hong Kong, China observed that the description provided by the delegation of the European Communities raised some issues for his delegation. First, with regard to the notification itself, he said that it was up to individual Members to react to the procedures, which appeared to be applicable in light of the clarifications given. Second, the explanations raised certain systemic issues which he said he would like to have an opportunity to reflect upon and revert to in the future, perhaps in the more appropriate forum. He noted that S/L/80 referred to the inclusion of such an item on the agenda of the Council for Trade in Services and he asked whether this be done at the next meeting of the Regular Session of the Council for Trade in Services.

183. The representative of Uruguay said that he had taken note of the communication under discussion that week, and he noted that its cover page made a reference to Trade in Services. Speaking on a preliminary basis, he remarked that the delegation of the European Communities had mentioned, in relation to the List of MFN exemptions, that they considered that the situation concerning Article V had been covered in discussions in the CRTA. He observed that such a discussion had occurred, however on a preliminary basis; he recalled that there had been no agreement in the CRTA on the Communities' interpretation in this regard. He said that this should be confirmed and delegations informed. Referring to the 45 day timeframe, he asked as of which date would this timeframe begin. If the 45 days referred to began on the day of circulation, this date was unclear since the document was available on the DDF in English only and he was unsure whether circulation referred to English version only or in the three working languages. It seemed to him that circulation referred to all three working languages, which would mean that the clock was not yet running. Finally, he echoed the suggestion that the issue could be included in the agenda of the next Regular Session of the CTS in order to give Members the opportunity to discuss this matter in more detail.

184. The representative of Argentina, making a comment pertaining to the 45 day timeframe, asked whether the circulation date referred to the date on which the document was posted on the web. It was his understanding that the document had not been circulated physically to missions, which he said he had confirmed with WTO documentation. He asked whether Members could consider that the notification had been circulated. He said that paragraphs 4 and 5 of S/L/80 stipulated that the 45 day timeframe started as of the date of circulation of the document.

185. Responding to the point on MFN exemptions, the representative of the European Communities said that his delegation would be willing to discuss this point at the next meeting of the CTS or elsewhere if Members so wished. Second, he stated that the document had been issued on 22 April as a restricted document. He reiterated that the 45 days had started to be counted as from 22 April, and that this point could be discussed in July at the meeting of the CTS if Members wished.

186. A representative of the Secretariat, referring to the question on circulation and translation of the document, said that the date of circulation was the date on the document and not the date on which it had been posted on the DDF, namely, 22 April. He observed that in the introductory paragraph, the date on which the document had been received, 9 April, was mentioned. However, he said that 9 April was not the date of circulation, which was rather 22 April. Concerning translation, he said that the document was a consolidated schedule, which was treated as the other consolidated schedules and was issued only in original languages and not translated, as agreed by Members. With respect to the question as to whether the 45 days noted in paragraph 3 of S/L/80 referred to one language or three languages he said he did not have this answer. He said that normally documents were produced in three languages with a marginal time difference. He repeated that this was a particular exercise because it was a consolidation and notification at the same time.

187. The Chair suggested that the Council take note of the statements made and bring the item to a close. He further suggested that the Council take note of all the statements made and that it adjourn.

188. It was so agreed.

---