

again it had to be clear that while the US intended to take a flexible approach to development issues, it remained firm that all Members had to participate in these negotiations. On the issue of credit for autonomous liberalisation, her delegation was continuing to develop a position, however, its preliminary view was that credit should be based on a Member's willingness to bind its tariffs at the newly liberalized rate.

1.86 The representative of Philippines stated that she was pleased to note that for the EC, nuisance tariffs were not 1% to 3%. Time and again, her delegation had expressed its difficulty at the elimination of such "nuisance tariffs" of 1% to 3%. She was also heartened to hear the US indicate that it would be difficult for the US to eliminate these duties because of political considerations. For the Philippines, such rates were maintained for revenue purposes. On the nomenclature, her delegation proposed, for practical reasons, the use of the HS96 nomenclature. As Members might know the conversion of schedules in the HS2002 nomenclature which was taking place in another Committee had not been successful. Her delegation welcomed the contribution of Korea on the need to define the terms "tariff peak" and "tariff escalation".

1.87 The representative of the United States stated that she wished to clarify her comments on low tariffs. Her reference in fact to the 3% figure was not an effort to define low tariffs, it was simply a stated fact that a huge portion of the US, EC and Japanese trade came in at that level. The quantity of trade that was involved resulted in a large value of trade in a negotiating context which was not an insignificant point. She had not meant either to infer that the US was not interested in working with this component in terms of its elimination or liberalisation. The Group would have to see how to handle it.

1.88 The representative of Canada stated that Canada's preference was to use the HS2002 nomenclature particularly since it would be the implementation nomenclature. Additionally, there had been some experience where changes in nomenclature had taken place during the process of the negotiations and where the status of concessions on certain important products became uncertain. At least in one case it was being addressed in a more legal way. However, Canada understood that most delegations had not yet managed to bring the HS2002 into force and his delegation would continue to reflect on how this bridging problem might be addressed.

1.89 The representative of Brazil stated that the bound rate was the only point of departure for the negotiations. The bound rates constituted the obligation each Member had within this organisation and to start negotiations on any other basis would be very strange indeed. Brazil was also more favourable to using the HS96 nomenclature. At the beginning of this year, Members had put into effect a procedure hoping to expedite the HS2002 transposition exercise. However, experience had shown that it was not so simple and it seemed that completion of this exercise would take some time for all Members. On tariffs peaks, high tariffs and tariff escalation, he welcomed the comments made by Korea. It would be useful if the Group could try and arrive at some definition. He took the point that if appropriate modalities were reached then these modalities should address tariff peaks, high tariffs and tariff escalation but it would be useful to have some kind of a measuring system. Brazil felt that it was still premature to go into too much detail into the question of staging as this would depend a lot on the modalities, ambition and the broader context of the Round. On special and differential treatment, Brazil did not consider "special and differential treatment" and "less than full reciprocity" as being the same. They were two different elements which had to be addressed separately. Less than full reciprocity was a concept which had to be built into the modalities, and special and differential treatment could take the form of other approaches. On the subject of nuisance tariffs/low tariffs, he took the point that they represented a significant portion of trade of major trading partners. However, a concession on the tariff lines carrying low duties would not be distorted by an agreed upon modality. To give an example, if the Group agreed on a 50% reduction, the impact that this reduction would have on a tariff of 4% and a tariff of 20% would be quite different, and the effective market

access granted by such a concession would be very different as well. Participants would have to weigh the effective tariff concession that was being granted.

1.90 The representative of Romania stated that her delegation supported using bound rates of duties as a starting point for the negotiations. In order to make this principle as equitable as possible, Romania wished to fix as a goal the binding of all tariff lines for non-agricultural products. For the unbound tariffs, Romania supported the idea of using the applied rates, mainly in cases where these applied rates were constant for a long period of time. At this moment customs duties still remained the main if not the only way to protect national industries for many WTO Members. Under these circumstances, tariffs differed from country to country according to their level of development. These concerns had to be taken into consideration when establishing either a formula or a system of levying tariffs. Romania also backed the proposals regarding the non-exclusion of any sector from liberalization, and consequently the inclusion of textile and clothing into the negotiations. Regarding the nomenclature to be used, Romania wished to see the HS2002 nomenclature being used, but could accept the HS96 nomenclature. Romania supported the idea of eliminating tariff peaks, however, it was not enough; such elimination had to be bound by the WTO Members.

1.91 The representative of India stated that his delegation was attracted to Korea's suggestion in terms of trying to reach a definition of peak tariffs. Even in a graph which showed the tariff average of a country, the peaks were reflected as a certain multiplier of that average tariff. So this was how a tariff peak should be defined. What that multiplier would be had to be discussed. Both the delegations from the EC and US had cautioned participants about the problem of entering a definitional discussion. But India had found that some of the submissions proposed modalities that tackled high tariffs, but complementary or supplementary modalities were required to address peak tariffs. This was why it was important to have such definitions. For instance, using the EC formula, a tariff of 18% would come down to 12%. That was not the way India wished to see peak tariffs addressed. On the other hand there would be a flattening of high tariffs. These definitional aspects could become important, otherwise one aspect of the mandate would be addressed and not the other.

1.92 The representative of Costa Rica stated that his delegation had three additional questions for Korea with respect to the definitions proposed on tariff peaks and high tariffs. The first question was how would non *ad valorem* tariffs be dealt with within the context of these definitions? The second question related to the reference made by Korea to the latest available information. Did that mean that Korea was thinking of using applied tariffs? If Korea was referring to bound tariffs, such tariffs were already in Members' schedules and it would not be necessary to obtain additional information or would it have to be updated? The third question related to the definition of high tariffs. For example if the X proposed was 15% and a given Member had a uniform bound rate of 20%, would this mean that all tariffs of that Member would be considered to be high and therefore would have to be reduced more than the tariffs of other Members? This would be of some concern to Costa Rica and to developing countries in general which normally had bound rates at higher levels. There might be an incentive for the X to be fairly high precisely to avoid the situation he had described. However, if X was a high figure then what would be the purpose of the exercise? Costa Rica believed that it was preferable to concentrate on a definition which would go along the lines suggested by Korea for tariff peaks.

1.93 The representative of Egypt stated that as Egypt was still in the process of formulating its position, the following comments were preliminary in nature and without prejudice to Egypt's final position. Egypt supported the use of bound rates as a starting point for the negotiations, and the use of the HS96 nomenclature. With regard to staging, the formula used should reflect the level of development in developing countries. As far as special and differential treatment was concerned, there was a clear mandate in Doha Declaration and the formula agreed to should contain special and differential treatment. Concerning tariff peaks, high tariffs, tariff escalation, Egypt took note of Korea's statement. Egypt was of the view that a definition was required for these expressions.

1.94 The representative of Korea stated that Costa Rica's first question had dealt with non *ad valorem* duties in the context of the definition of high tariffs and peak tariffs. In this connection, the methodology suggested by Japan could be followed. The reason why he had made reference to the latest available data had nothing to do with Korea's position on the base rate. In order to come to an agreement on which tariffs were high or peaks, one had to obtain specific figures for X and Y. The latest available data would serve as a good basis for discussions regarding the definition of these two concepts and also on the specific figures for X and Y. Regarding question 3 he was not in a position to respond fully, but Korea had not put specific figures for X and Y because there was a controversy between developed and developing country Members on these concepts. Decision on these figures was best left to the future negotiations.

1.95 The Negotiating Group took note of the statements made.

1.96 The Chairman stated that as the Group had agreed to at its last meeting, he had sent a letter on 21 October 2002 to participants urging them to provide updated information to the IDB and if that were not possible requesting them to authorize the Secretariat to source the required information from other inter-governmental agencies on that Members' behalf by a certain target date. An example of such an authorisation letter was also attached to facilitate matters for participants. As of today there had been 4 positive responses to this initiative. While this was a nice beginning there was still a long way to go. So he urged those Members concerned to either provide information to the IDB or if that was not possible to send as soon as possible the authorisation letter in order for the Secretariat to source the required information from other inter-governmental agencies. He underlined the importance of participants acting on this request as it would provide them with a better instrument for the work that would need to be undertaken the following month.

1.97 On NTBs, as agreed at the last meeting of the Group he had requested participants, through a letter dated 10 October 2002, to notify the difficulties encountered by their exporters when exporting to various market. The deadline for the submission of this information was 31 January 2003. He recalled that in addition to the fact that NTBs had been dealt with in a number of submissions, New Zealand had specifically dealt with this subject in a submission. The need for more clarity in terms of NTBs had been underlined time and again. In this regard, he underlined the importance of Members responding to the request for information which had been addressed to them.

1.98 The representative of the United States stated that the Chairman's letter was very helpful in getting her delegation started on this work. However it might be useful to consider in a little more depth how each participant could provide this requested information in a manner that would ensure more consistency. For example, it might be important to have an associated HS number to the products affected by the non-tariff barrier. This was an important element when looking at categories of issues and their impact. Her delegation had also noted the Chairman's request for a sense of the value of the products, however, that was very difficult to do. From the US perspective, the frequency of complaints from its business community was an indicator of the importance or the reality of a problem so her delegation would continue to work with that information. One also had to look at the work which was ongoing to address NTBs in this institution and in others. For example in the ITA Committee there was a process underway. There was also work in APEC for example on NTBs with respect to the automobile and chemical sectors. In the ITA Committee, participants had not attributed NTBs to specific Members necessarily. The Committee was looking at what the major barriers were and trying to find ways to discuss them and find solutions.

1.99 The representative of Korea stated that on the issue of NTBs, discussions should be focused on the classification issues identified in the New Zealand paper as it raised very important and relevant points to be considered for future discussions on this subject. The key point was how to define the scope of negotiations in the context of both the Doha mandate and the regular WTO work programme. In Korea's view, it boiled down to the question of whether or not and to what extent the

Group was going to deal with the issues or proposals involving existing WTO rules and agreements within the negotiating context. New Zealand had further classified the second category of issues involving existing WTO rules and agreements into 3 sub-categories: 1) issues involving substantial change to existing WTO agreements; 2) clarification of the existing rules; and 3) disputed interpretation of rules. As New Zealand had rightly pointed out in its paper, re-opening negotiations on existing WTO agreements would be possible only on the basis of additional guidance and there had to be different views on the extent to which clarification should be seen as part of this Negotiating Group's mandate. Mixed views might also be raised in regard to what specific issues had systemic importance that required further clarification. All were extremely difficult exercises which might need more than what New Zealand called additional guidance. Such exercises, if not undertaken in a carefully coordinated manner might turn out to be like opening Pandora's box. While supporting an ambitious approach to achieve greater liberalisation on NTBs than in the UR negotiations, his delegation wished to re-emphasize the need not to let the negotiations on NTBs derail or delay the entire negotiating process on market access. The Group had to therefore agree early in the process on the scope of negotiations with a particular focus on how to deal with issues involving existing WTO rules and agreements. A balanced consideration of both the open nature of the Doha mandate on NTBs and the limited time-frame for the conclusion of the negotiations was crucial to the success of the negotiations in this area. In this connection, the following were the key elements to be considered in the Group's work for defining the scope of negotiations on NTBs: 1) non-duplication of work with other Doha Development Agenda negotiating bodies, 2) achievability of negotiating objectives within the agreed time-frame for the Doha Development Agenda negotiations; 3) non conflict of NTBs subject to negotiations with Members' economic sovereignty; and 4) critical mass calling for relieving trade distortion caused by the NTBs in question. On a procedural aspect, Korea appreciated the Chairman's request for Members to identify and notify to the Secretariat by 31 January 2003 the NTBs which they considered to have a negative effect on their exports. In this regard, Korea proposed that a uniform format for notification be prepared by the Secretariat in order to help facilitate participants' work.

1.100 The representative of the European Communities stated that based on his experience in negotiating non-tariff measures in the UR, he would advise the Group to deal with this area carefully. In this regard, he agreed with the US and Korea that it was important for the Secretariat to come up with a simple format for the notification of non-tariff measures otherwise the situation could become unmanageable. Secondly he agreed with some of the points made in the New Zealand submission. With such a format, the Group should be able to achieve a certain form of classification of these measures. There were non-tariff measures which were compatible with the existing agreements such as the Agreement on Customs Valuation or Rules of Origin. However, the question to be raised was whether improvements to such Agreements were possible. Then there were clearly measures which were not compatible with WTO Agreements and such measures should not be negotiated; they should be eliminated. Some other measures were in a grey area i.e there were WTO rules, however they might need to be made more specific. However, such cases could become very complex. At this stage and until the Group had seen the notifications from participants, it would be useless to create more difficulties than necessary. He was somewhat concerned by what Korea had indicated in terms of criteria for judging whether a non-tariff barrier should be negotiated. He understood Korea's intention perfectly, but if that was the criteria to be used, nothing would ever be negotiated in this area. So he urged delegations in this room to focus their request on issues that were really worthy in terms of value of trade otherwise no results would be reached in these negotiations as was the case in the UR where ultimately what was achieved was the multilateralizing or possibly the modernizing of the Tokyo Round Codes.

1.101 The representative of New Zealand stated that the area of NTBs was hard as his own delegation had discovered early on in the year when it was trying to develop some thoughts on how the NTB negotiation might be framed. In its paper, his delegation had done the easy part which was to offer some thoughts on how the Group might exclude certain issues from the negotiation in this forum. However, the difficult part which this morning's discussion was confirming was to come up