

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/REG/M/3**

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## **Committee on Regional Trade Agreements Third Session**

### NOTE ON THE MEETING OF 29-31 JULY 1996

Chairman: Mr. John Weekes (Canada)

#### **A. Adoption of the Agenda**

1. The following agenda was adopted:

- A. Adoption of the Agenda
- B. Examination of Regional Trade Agreements:  
Enlargement of the European Communities - Accession of Austria, Finland and Sweden;  
and the North American Free Trade Agreement<sup>1</sup>
- C. Procedures to Facilitate and Improve the Examination Process
- D. Other Business

2. The Chairman indicated that he would revert to the discussion held at the Committee's previous session on the biennial reporting requirements under "Other Business".

3. The Committee agreed to grant observer status to EFTA and OAS in conformity with the guidelines adopted by the General Council and in the light of informal consultations with delegations on this matter.

#### **C. Procedures to Facilitate and Improve the Examination Process**

4. The Chairman said that consideration of this agenda item immediately following the examination of the EC Enlargement and NAFTA demonstrated the interactive nature of the Committee's agenda. He noted the relevant documents for the discussion under this agenda item: the revised Standard Format, the joint proposal by Australia, Hong Kong and Korea in WT/REG/W/5 and the non-paper introduced by Japan at the last meeting. He hoped that agreement on the non-binding and flexible nature of the Standard Format would enable the Committee to successfully conclude its discussion on the format at this session. The revised Standard Format set out in more detail the information required, and specified clearly its non-binding nature. Duplication of functions would not be a problem, as the information required was in relation to intra-trade, not to trade on an m.f.n. basis. The distinction between agricultural products and industrial products had not been included in the revised Standard Format. The explanations under each section of Part II had been elaborated to indicate, *inter alia*, that information was needed only in cases where provisions of the agreement differed from those applied

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<sup>1</sup>Reports on these examinations will subsequently be circulated as separate documents.

on an m.f.n. basis. With the exception of further clarifications on what sort of information was required, Part III was unchanged. Part IV no longer specified what could be included in trade-related provisions, giving delegations the option to submit information they considered relevant. The Standard Format did not cover information on agreements on trade in services, as this was a new facet of the work of WTO, which made it difficult at this stage to identify elements of relevance. However, he expected that after review of aspects related to trade in services in the examination of NAFTA and the EU Enlargement, the Committee would be in a better position to identify elements that could be included in the Standard Format. He furthermore suggested that there was merit in exploring possibilities for an increased role of the Secretariat to collaborate with parties to regional trading agreements (RTAs) in responding to the questions posed in the Standard Format.

5. The representative of Korea said that the revised Standard Format reflected the views expressed by delegations at previous sessions, but he was unclear why subsidies and state aid should be included in Part III General Provisions. It would be logical if they were placed under paragraph 8 of Part II. The Standard Format should apply to newly notified regional trade agreements (RTAs) and those agreements in respect of which the preliminary stage of questions and answers had not commenced. The informal nature of the format enabled the Committee to review it at some stage and make the necessary improvements. He welcomed the readiness of the WTO Secretariat to assist parties to regional trading agreements in replying to the questionnaire. His delegation supported the adoption of the Standard Format in its present form.

6. The representative of Switzerland fully supported the main parameters set out by the Chairman in his introductory statement, in particular the non-binding nature of the format and its adaptability to the specificities of each agreement. He recognized that the revised version had taken into consideration much of the views of delegations. He suggested that the Committee request the Secretariat to prepare at an early stage a draft containing elements applicable to trade in services, taking into account the questions on trade in services put to the parties of NAFTA and EU Enlargement. A format which applied to both trade in goods and services would increase transparency, and benefit both the parties to RTAs and the Committee.

7. The representative of the European Communities (EC) welcomed the effort which had gone into the revision of the Standard Format, and noted the Chairman's introductory statement. It would be necessary to identify those regional trade agreements which were sufficiently advanced in the questions and answers process, with a view to exempting them from the use of the Standard Format. He suggested that the Chairman revert to this issue in his concluding remarks, bearing in mind the Committee's previous discussions on this matter. He considered the Standard Format an instrument to improve the examination process. Turning to the revised draft, he suggested that the first paragraph be redrafted to make clear that the scope and coverage of information requested did not in any way pre-judge the scope and coverage of the examination regarding the consistency of the agreement with the relevant multilateral rules. In his view, the footnote meant that information on trade in services could at a future stage be integrated as a part of the Standard Format. He referred to Part II.1 of the format, which touched on the question of whether the requirements of Article XXIV: 5(b) were applicable to existing preferential agreements. Since this question had systemic implications he cautioned that the Standard Format should not in anyway pre-judge this or any other related issue. Any Standard Format should be flexible, in line with the evolutionary nature of the work of the Committee. He hoped to be using the revised non-binding Standard Format for his delegation's future notifications. A drafting exercise at this stage was not useful. The guidelines would not be of much use unless they allowed for a brief overview of the import and export regimes at the time of notification.

8. The representative of the United States said that a Standard Format would benefit both the parties to a RTA and the Committee and could be of assistance in the biennial reporting process. She emphasized the importance of the initial collection of information, both for reasons of transparency and the evaluation of the consistency of an RTA with the multilateral rules. The Committee needed to identify at an early stage the information requirements related to trade in services. The non-binding nature of the format certainly precluded complex negotiations, and it left the flexibility for delegations to put specific questions. While she agreed with the delegation of the EC that information on preferential agreements predating the RTA might not be relevant in an examination of the consistency of an RTA, such information was needed for transparency reasons and should be available to the Committee. Her delegation supported the adoption of the Standard Format.

9. The representative of Brazil said that, while he acknowledged the voluntary and non-binding status of the Standard Format, he nevertheless suggested that its applicability to the initial collection of information only and to agreements where this process had not started, could be stated more clearly either in the body of the document or as a footnote. It should be quite clear that the information required under Part IV was only for purposes of transparency.

10. The Chairman, speaking in his personal capacity, said that the submission of information which was not required specifically under Article XXIV: 5 was useful not only for reasons of transparency but also for understanding the dynamics of the agreement and delegations should feel encouraged to do so. The examination of NAFTA had shown that it would be difficult to understand the full scope of the agreement without any knowledge of its investment chapter. Moreover, most of the obligations related to trade in services were encompassed in the investment chapter.

11. The representative of Israel said that the Standard Format was as a response to the wishes expressed by many delegations. Formal adoption of a non-binding document would be superfluous; instead, a statement by the Chairman should suffice. The representative of Japan said he was prepared to go along with a consensus. It was important that elements related to trade in services should be included in the Standard Format in the near future. What mattered in an examination of a RTA was knowledge of which trade regulations were affected by the agreement, so that the Committee could determine whether they had become more restrictive. He suggested that a new version of the Standard Format require the provision of this information.

12. The representative of Australia accepted the Standard Format as a way of facilitating and streamlining the examination of RTAs. An appreciation of the mechanics of the agreements to be examined by the Committee was important. She welcomed the possibility to include other elements such as those related to trade in services, which would simplify and improve the examination process. The representative of Canada supported adoption of the Standard Format, as it would help the Committee's work significantly. He agreed that work should be undertaken to develop a similar format applicable to trade in services, though this should not hold up the use of the current document. The representative of New Zealand said that the additional details included in the revised version improved the Standard Format. He supported further elaboration of Part IV, even if it were only for reasons of transparency. Past experience had shown that such elaboration benefitted examinations in the Committee.

13. The representative of Mexico welcomed a format which would also be applicable to trade in services. While he recognized that the document would take the form of Chairman's non-binding guidelines, he suggested to replace the term "applied" as it related to tariffs, by "applicable" in Sections I and II since it was not clear to which tariffs it referred; whether those applied to third parties, to those applied within the RTA or those in force during the transitional period. He recalled that a Working Group had dealt with this issue in the past. Another alternative was to say "tariff quotas and charges

having an equivalent effect as customs duties and fiscal duties on trade of products covered by the agreement"; if the omission of the descriptive term was accepted the same could be done in Sections I and II. The Chairman commented that there was no uniform use of equivalent adjectives in Article XXIV, and that the Committee should take note of the views of Mexico.

14. The representative of Argentina said that his delegation would accept the Standard Format, subject to a few comments. He was uncomfortable with the term guidelines: rulings or decisions by Chairmen had acquired under GATT tradition the force of law. He shared the EC's point of view that it should be clear which information the Standard Format would cover. It should be stated clearly that duplication of work undertaken by other Committees of the WTO should be avoided. As the format applied to all Annex 1A agreements of the WTO Agreement, it would be necessary to clarify unambiguously what were the other trade-related provisions referred to in Part IV. As restrictions were *prima facie* illegal, he sought explanation of the scope of other restrictions referred to in Part II. A regional agreement entailed the amendment of trade regulations, as envisioned in Article XXIV of GATT 1994 and the Understanding on its interpretation. It was unclear what the representative of Japan meant by "regulations" in its statement. The evolutionary quality of the document made the guidelines subject to change and needed to be clearly understood. A format applicable to trade in services should be developed. He called for a clarification of the term "applied" as it related to tariffs.

15. The representative of Peru welcomed the Standard Format and suggested that the Committee just take note of it since such an approach would stress its voluntary character. The representative of Hong Kong said that there seemed to be an emerging consensus to adopt a pragmatic approach to the issue of reconciling the objective of increasing transparency with the wish to avoid creating any legal obligations. He hoped that paragraphs 1 and 2 took care of this concern. He was ready to accept the format, as he did not interpret it as creating any additional legal obligations. Because of its voluntary status, wider use would result if there was active encouragement. Noting general support for a format applicable to trade in goods of a voluntary nature, he suggested to develop one with a similar nature applicable to trade in services. Data for intra and extra trade as requested under Section I.4 should cover more than one year, if there was to be any meaningful assessment of the impact of RTAs.

16. The representative of Hungary accepted the Standard Format as an informal non-binding tool meant to expedite the examination process by replacing the traditional questions and answers process. It was her understanding that the format would apply only to new examinations. The representative of the United States requested that provision should be made for document reference and date of notification; the requested information could be updated as and when required. This would increase the usefulness of the information as an historical record.

17. The Chairman suggested that the Committee take note of the following. The first paragraph would specify that the format concerned the provision of initial information; paragraph 2 would be reformulated to give it added precision in the following manner: the information requested in the Standard Format does not prejudice the consistency or otherwise of an agreement with the relevant multilateral rules. Section I.4 would relate to the most recent period. However, given the voluntary nature of the document, this could not be made mandatory. Section II.1 dealt with intra-trade restrictions currently in place, as well as with those that would remain after the agreement was fully implemented. The term "applied" in its relation to tariffs should be deleted. The sections on subsidies and state aid should be transferred from Section II to Section II, Trade Provisions. Section IV should be entitled "Other" with the following additional language: for transparency purposes, any other relevant information related to the provisions of the agreement being examined.

18. He continued by saying that he intended to circulate a revised draft shortly. He had detected the wish of Members to start using the format. Outlining the various stages of the examination process, he said that it was clear that the format would be applicable in cases where questions had not yet been submitted. Its use in cases where the process of examination had only just started would be subject to a process of consultations with the parties to the RTA concerned, and decided on a pragmatic basis bearing in mind the question which had already been submitted. He noted that while the format would clearly replace the initial stage of questions and answers, it would not preclude putting additional or subsequent questions. He was optimistic that the use of the Standard Format would expedite the examination process. He suggested that a Standard Format applicable to trade in services should be developed as soon as practicable. Information as to how an RTA affected trade regulations would become clearer, as the Standard Format came into use.

19. The Committee took note of the draft guidelines in the light of the statements made.

20. The representative of Korea, in introducing the joint proposal by his delegation, the delegation of Hong Kong and the delegation of Australia, said that it aimed at improving the examination process, by way of introducing general guidelines ensuring a degree of predictability. Procedural rules should be an integral part of the process to strengthen the legal requirement of notification. Target time-frames should be introduced for the first examination of the RTA, as well as for the entire process. Such time-frames would serve as benchmarks for the Committee's work programme. Adoption of a set of procedures would serve to introduce a high degree of clarity and predictability to the examination process. The Standard Format would be an integral part of the procedures and would be submitted as a part of the notification process. Information on areas other than those relating to trade in goods could be submitted within a reasonable time after a decision to start the examination. The co-sponsors were committed to avoiding rigidity and welcomed any suggestions from delegations.

21. The representative of the United States welcomed the suggestion contained in the joint proposal to start the review process as soon as practicable in a systemic manner. The submission of the Standard Format at the time of notification or very shortly thereafter would facilitate and quicken the examination process. She suggested that Members be given the opportunity to ask further questions based on the responses of the parties to the questions contained in the Standard Format. The Secretariat should have the responsibility to structure the questions relating to both trade in goods and trade in services in one consolidated document. The presentation of questions and their transmission to parties could perhaps be done electronically. Circulation of the questions by the Secretariat to all Members would have the merit of avoiding the risk that not all parties to an RTA would receive such questions. While she accepted the importance of structure and discipline, she nevertheless cautioned against the setting of time-frames, as this could be counter-productive. While the RTA was still under consideration in the national legislative body, it was important to distinguish between the concept of advance notification and the actual starting point of the examination process. Advance notification i.e. an early warning system had several advantages, especially where bindings would be broken. Compensation negotiations could get under way as soon as notification was received.

22. The Chairman, speaking in a personal capacity and recalling his experience with NAFTA, said that NAFTA parties had notified the Council in February 1991 of the decision by the three countries to enter into comprehensive negotiations. While the formal notification was in February 1993, the three parties had issued an agreed description of the agreement in August 1992 at the conclusion of the negotiations. The parties could have notified the agreement to Members immediately thereafter. However, given the lengthy and sometimes difficult process of ratification (especially in the case of NAFTA), it was necessary to strike a reasonable balance between transparency and flexibility. Continuing in his official capacity, he proposed that the Committee request the Secretariat to draw

up a checklist of points made in the discussion on the issue of improvement of the examination process, to guide the Committee in its further work on this matter.

23. The representative of Israel said that while it was important to improve discipline and transparency, it was not necessary to consider a change in the applicable rules. He noted that about two-thirds of world trade was not on an m.f.n. basis. Changes to the existing rules would make their observance more difficult for smaller nations and developing countries entering into RTAs. His delegation was reluctant to accept the proposal in its current form.

24. The representative of the European Communities said that he would like to set his comments on the joint proposal against the background of the purpose of the review of RTAs; such reviews had to have an operational purpose or otherwise risk being redundant. The Committee needed first of all to define the problem it was setting out to resolve, as well as determine what had gone wrong so far. It was important to bear in mind the political dimension of RTA's. He saw merit in the Chairman's proposal for a checklist of points, as it had the potential of assisting the Committee to come up with ideas which would improve the examination process. His delegation could, however, not accept the assumption underlying the joint proposal of an automatic case for formalization. It should be borne in mind that the scope and content of RTAs varied widely. It was reasonable to expect some flexibility with regard to procedures. The significance of the link in paragraph 3 of the paper between the examination process and the notification process was somewhat unclear. He saw a clear case for prompt notification consistent with domestic political and negotiating realities. The fundamental purpose of the examination process needed to be espoused. Undue emphasis on the formal procedure of notification had the potential of obscuring the purpose of the examination.

25. The representative of Argentina associated himself with the comments made by the EC. He considered the joint proposal by Australia, Hong Kong and Korea as relating to procedures. Whereas the non-paper presented by the delegation of Japan concerned systemic issues. Point 4 in the second paragraph of the Japanese proposal which referred to government procurement ignored that the Agreement on Government Procurement was only voluntary and was plurilateral. There seemed to be no legal basis for Japan's suggestion. The reference to an arbitrary application of preferential rules of origin was a pre-judgment, and the legality of any such rules should be a matter for the Committee on Rules of Origin. This Committee was concerned with these matters for reasons of transparency and not for reasons of legality.

26. The representative of Japan said that his delegation's non-paper did not deal exclusively with procedural questions related to notification. The first round of examinations of NAFTA and EC Enlargement which had just taken place in the Committee showed the difficulties which could arise from the different interpretations of the requirements of Article XXIV. The lack of clear criteria weakened the examination process. The proposals now before the Committee had significant merit but they would not result in an effective examination, if there were no clear criteria for determining compatibility with WTO provisions. This was the context of Japan's suggestion to establish guidelines for examination in order to rationalize the process. His delegation's paper was concerned mainly with tariff and non-tariff measures raising the level of protection faced by third parties in a manner which was not compatible with WTO provisions. These included for example the automatic extension of territorial application of anti-dumping measures and preferential rules of origin in the application of safeguard measures. While these could be considered systemic issues, his delegation was seeking to establish guidelines on the basis of the existing provisions in Article XXIV. The Committee could perhaps establish a Working Group to that end. His delegation was looking to the Singapore Ministerial Conference to reaffirm the superiority of the m.f.n. principle and the need to ensure that RTAs were compatible with multilateral principles. This Committee should, for its part, be able to make concrete

proposals to Ministers to improve and facilitate the examination process and seek clear directions on a work programme which would mandate it to review the provisions of Article XXIV.

27. The representative of Canada said that the joint proposal focused on a number of important issues. Referring to the suggestion for advance notification, he said that a requirement to notify before ratification would have posed problems for NAFTA parties. On the other hand, a requirement, on a best endeavour basis, for advance notification with a more efficient review process once the agreement was notified merited serious consideration by the Committee. Any time-frames would have to recognize the need for coordination between parties. Even though the voluntary nature of the Standard Format had been agreed upon, its Annex seemed to imply that parties to RTAs were under an obligation to use it. He agreed with the representative of Argentina that Japan's non-paper was seeking an interpretation and amendment of the provisions of Article XXIV.

28. The representative of New Zealand recalled his support for an improvement of the procedural rules for the examination of RTAs. There was a need for pragmatism when assessing the impact of RTAs on other countries. It was imperative that RTAs which had the potential to significantly affect the commercial interests of third countries be examined as promptly as possible. He cautioned that drawing undue attention to the purpose of the examination process carried the risk of raising questions as to the purpose of this Committee and indeed of Article XXIV and the its related Understanding. He shared the intention of the sponsors of the joint proposal to improve the examination process. Establishing time-frames could be beneficial to non-parties to the RTAs.

29. The representative of Korea supported the underlying motive for Japan's non-paper. The suggestions made were meant to improve the notification process and the efficiency of the examination process and to reinforce existing rules by establishing criteria for determining consistency of RTAs with WTO provisions. The suggestion that there should be an advance notification of all RTAs so as to improve transparency was particularly attractive. Earliest possible notification of the agreement and all other relevant documentation would assist the Committee in appreciating the mechanics of RTAs and their implications.

30. The representative of Mexico reiterated his delegation's support for procedures to streamline and facilitate the examination process. The procedural aspects of the examination process needed to be distinguished from the substantive issues such as the adequacy of the provisions of Article XXIV. Changes to Article XXIV would necessarily involve negotiations between Members. Prior notification presented practical and political difficulties. He preferred a concept of prompt notification, possibly through an announcement at a Council meeting. He shared the importance attached to having a draft report for consideration after two formal examination sessions and to avoid going over ground already covered. He recalled the importance which his delegation attached to "back-to-back" consideration of provisions relating to trade in goods and trade in services, and said that the differing legal regimes must not be ignored. He could not agree with the suggestion in paragraph 6 that a Member could require the convening of a third formal examination session. To prevent abuses, that decision should belong exclusively to the Committee. General time-frames could serve a useful purpose. Turning to Japan's paper, he said that it appeared that it covered more than procedural issues. The ideas contained in it touched on the interpretation of the provisions of Article XXIV, and as such could be considered a basis for negotiations.

31. The representative of Norway said that the joint proposal had focused attention on the need to improve and facilitate the examination process. However, the approach adopted in paragraph 1 seemed to be overambitious, and could undermine the general theme of the proposal. This had been borne out by the experience. To start the examination process on the basis of a notification done after the signing, rather than ratification, of a RTA was impractical. The rejection in a referendum of the EC Enlargement Agreement by the citizens of Norway demonstrated that it was prudent to start examination after the ratification of an RTA by the relevant authorities of the participating members of the regional trading arrangement or initiative. On the other hand, he agreed that advance notification before ratification could be considered, as had been suggested by the representative of Canada. He supported the EC's suggestion that simplified procedures should be used in examining some RTAs; and the Chairman's suggestion that the Secretariat compile elements relevant to the examination process. He shared the view expressed by the representative of Japan that the Japanese non-paper dealt with a broad range of issues. Paragraph 2 thereof envisaged clarification of the provisions of Article XXIV of GATT 1994.

32. The representative of Argentina said that paragraph 6 of the Annex to the joint proposal was unnecessary, as it was within the right of every Member to ask questions or demand information even after the second formal examination session. Japan's proposal concerned the renegotiation of Article XXIV - a systemic issue which was not appropriately discussed under this agenda item. The Committee would require detailed information before it could carry out such an exercise.

33. The representative of Korea said that the sponsors of the joint proposal had achieved their basic aim, which was to focus attention and stimulate discussion of this issue. The concerns and views expressed by delegations would be taken into account in the new version which would be prepared. The Chairman's suggestion for an increased role for the Secretariat was something which needed further reflection. He supported the suggestion that the Secretariat prepare a check-list of issues.

34. The representative of the European Communities said that it was evident that more thought and more time was needed before the Committee could determine how to proceed. This was a discussion with far reaching implications and needed to be carefully pursued before the Committee could come to firm conclusions relating to guidelines and procedures. The procedures suggested in the Annex to the joint proposal had been overtaken by the Chairman's guidelines and by the discussions in the Committee. His delegation was of the view that there was a need to define the overall purpose of the examination process; he wondered whether any initiative should be taken bearing in mind the Singapore Ministerial Conference.

35. The representative of the United States said that her delegation saw the issues before the Committee from a somewhat different perspective than the one taken by the EC. Incremental steps, however small, would result in concrete benefits such as improving transparency. She cautioned that setting one's goals too high could result in lack of any progress. She also supported the suggestion that the Secretariat draw up an the informal check-list of issues.

36. The representative of Hong Kong said that the joint proposal sought to contribute to one of the tasks mandated to the Committee, in particular the improvement and facilitation of the examination process. He agreed with the representative of Korea that this had already been partly achieved; the Committee should now decide how to take its work one stage further. The experience of the last two days in examining the EC Enlargement and NAFTA had convinced him that the Committee would be handicapped, unless it looked at the overall purpose of the examination process. The terms of reference foresaw the interlinkages in the Committee's work; and it was against that background that the three co-sponsors had submitted their proposal. The work programme of the Committee in the run-up to the Singapore Ministerial Conference made provision for dealing with these issues in a parallel



fashion. Their proposal dealt with one aspect, but he was interested in pursuing discussion on others, such as those put forward by Japan.

37. The representative of Argentina said that the ongoing discussion did not draw clear lines between renegotiation of Article XXIV and the work programme of the Committee. He wondered whether the Japanese proposal aimed at a full renegotiation of Article XXIV.

38. The representative of Australia said that the check-list should not only reflect the procedural and systemic issues that had come up in the discussion of their joint proposal, but also the issues raised during the examination of EC Enlargement and NAFTA. There were systemic issues that needed to be considered by the Committee. She invited the delegation of the EC to submit a proposal.

39. The representative of Switzerland said that the Committee should operate within its terms of reference. During the examinations of the EC Enlargement and of NAFTA, some delegations had raised issues outside the Committee's terms of reference. The same thing had happened in the course of today's discussion. Whereas it was true that the Committee had been mandated to improve and facilitate the examination process, some of the proposals before the Committee went beyond what was intended by its terms of reference. Some issues could be considered as requiring an interpretation of Article XXIV, and even of the relationship between regionalism and multilateral trading system. The terms of reference did not contemplate a renegotiation or a fresh interpretation of the provisions of Article XXIV. Members needed to be clear on what could be pursued in this Committee and what needed to be pursued in other fora. Agreeing on the usefulness of a check-list of issues setting out the various views, she suggested categorization on the basis of those directly within the mandate such as the Standard Format, and those which fell outside the terms of reference of the Committee. The Committee would have to use ingenuity in injecting the second category into discussions within its terms of reference.

40. The representative of Japan said that he had noted the views expressed and would be taking them into consideration. He had intended to distinguish between the need to clarify the provisions of Article XXIV and any eventual negotiation of new rules. Japan's proposal placed emphasis on the clarification of the existing provisions, as a first step, with a view to improving the examination process.

41. The Chairman said that the examination of NAFTA and EC Enlargement had shown that effective procedures were needed to examine RTAs. It had also thrown light on the systemic implications of RTAs. He pointed out that the terms of reference mandated the Committee to consider the systemic implications of RTAs and to make recommendations to the General Council. The Committee thus had the possibility to recommend, at a later stage, a change in its mandate to the General Council. Moreover, the terms of reference themselves envisaged the possibility that new tasks be assigned to the Committee by the General Council. He had noted that delegations shared his view that it would be useful to request the Secretariat to prepare a check-list of views expressed on the issue of improving the examination process. He hoped that the document would be ready before the next meeting of the Committee. It was not necessary to make a distinction in the check-list between items which fell within and those which fell outside of the mandate of the Committee. This task was best left to Members.

42. The Committee took note of the statements made and requested the Secretariat to draw up a checklist of points made in the discussion on the issue of improving the examination process.

43. The representative of Argentina noted that the Chairman had not reflected the point made by his delegation and that of the EC that the purpose of the review process be clarified. The check-list to be prepared by the Secretariat would have on the one hand issues relating to the joint proposal, and on the other hand issues relating to the systemic implications of RTAs. He suggested the following steps for the debate on the systemic implications: first, there should be clarification of the scope of the exercise; recommendations could then be made and a work programme established; and eventually a renegotiation of the terms of Article XXIV. There was a consensus that the discussion should proceed systematically. The check-list would provide an impetus for further work, as would the Annex to the joint proposal. However, the proposal by Japan went beyond the mandate of the Committee.

44. The Chairman said that his summing up principally related to the agenda item on facilitating and improving the examination process. However the check-list would also cover points of systemic relevance which had arisen in the course of the examinations of the past two days and in today's discussion. He invited delegations to make an input to the work that would be carried out by the Secretariat. He noted that at the Committee's September meeting, a number of RTAs would be examined by the Committee; in addition, one day was set aside to take up other items of the Committee's agenda. Delegations might use that opportunity to reflect on the kind of directions the Committee would wish to seek from the Singapore Ministerial meeting.

#### **D. Other Business**

45. The Chairman recalled the statement he made at the start of the meeting where he noted his intention to discuss under this agenda item the issue of biennial reporting. He referred to WT/REG/W/3 and said that it contained a checklist of points on reporting on the operation of regional agreements. Four major areas were identified in the document: (a) the extent of coverage and whether reporting was required for agreements notified under the Enabling Clause and for agreements dealing with trade in services; (b) the nature of the reports and whether they should be based on some kind of Standard Format; (c) the body/bodies receiving the reports; and (d) appropriate follow-up. He reminded delegations that there were about 74 agreements which had to be examined by the Committee. The Understanding on the Interpretation of Article XXIV obliged parties to RTAs to submit these reports. He invited delegations to make their views known on this agenda item.

46. The representative of the United States said reporting was important for transparency, for surveillance, and for understanding the impact of RTAs. Work should be conducted effectively and efficiently. She said all preferential agreements should be subject to reporting requirements. She did not think reporting on non-reciprocal agreements should be dealt with in this Committee; the same could probably be said of agreements implemented pursuant to waivers under Article XXV. She said this Committee was the proper forum for examining other RTAs. She did not see the Council for Trade in Goods examining reports on 74 agreements. A Standard Format for reporting would be useful; Members could use the format to provide updates on original submissions. She suggested that two meetings of the Committee should be devoted each year to the review of these reports. She further suggested that agreements be grouped for review according to an established time-table as done by the other bodies of the WTO such as the Trade Policy Review Body. Success would rest on the willingness of parties to RTAs to participate in the process.

47. The representative of the European Communities was of the view that WT/REG/W/3 should be looked at systematically and suggested the item be taken up again at a future meeting. It would be important to think carefully how the reporting requirements fitted into the rest of the Committee's work. The particular circumstances of the EC made it subject to reviews by both the TPRB and by this Committee. While they accepted that the review of the EC Enlargement was important, they thought there was the need to avoid duplication of functions and avoid overburdening parties to RTAs. Since the EC was regularly reviewed by the TPRB, it was not necessary to require it to submit biennial reports on the operation of the customs union.

48. The representative of Hong Kong thought the most important aspect of the ongoing discussion was the nature and objective of the report. He concurred with the United States that transparency and surveillance were two important reasons for the reporting requirements. The examinations just conducted confirmed the need for biennial reporting, so that trade effects, both for parties and for third countries, could be better understood. He stressed the importance of giving an opportunity for Members to seek clarifications, whether in the form of additional questions, additional information or any further elaboration as necessary. Noting the back-log of agreements that needed to be examined, he said the Committee needed to agree on a mechanism that would be the most efficient. It was clear that the examination of agreements had priority over the biennial reporting process. It would be more appropriate to look at aspects such as the forum and coverage after the definitive establishment of the objectives of the examination process by the Committee. He reserved his right to come back to this issue, as his authorities were presently analysing the document.

49. The representative of Switzerland said the Understanding on the Interpretation of Article XXIV and the terms of reference of the Committee called for reports on agreements not for review of agreements. The examination of biennial reports as suggested by the U.S. would present a formidable challenge given the magnitude of the tasks involved. He was quite positive that the exercise was not aimed at determining the consistency of agreements. It was entirely logical that the sectoral Councils (the Council for Trade in Goods (CTG) and the Council for Trade in Services (CTS), and the Committee on Trade and Development (CTD) receive the reports that would be presented by parties to RTAs. Reports on systemic issues could, however, be presented to the General Council. It would be for these bodies to decide whether further action on the reports was necessary. The Chairman's guidelines could probably be used by parties who are obliged to report on their agreements. Any mechanism which would be devised should improve transparency and not be complicated.

50. The representative of Korea thought WT/REG/W/3 set out the major elements that in his view needed to be considered. The purpose of reporting was to improve transparency by obliging parties to update information on their agreements at regular intervals. Experience had shown that knowledge of the operation of a RTA was more important than knowledge of its provisions, and this was exactly the objective to be achieved by the biennial reporting process. He thought biennial reports should give details on the operation of the agreement, and particularly on the trade impact on non-members. Non-members should be given the opportunity of expressing their views. He also noted that biennial reports were required only for RTAs involving goods; a requirement, he thought, should be extended to RTAs involving services. It would be advisable for the Committee to develop a standard outline for all reports. Since the decision to examine a RTA rested with the sectoral Councils and the CTD, it would seem that biennial reports should be presented to them. His delegation was, however, of the view that it would be more efficient if the reports were presented to the Committee, which would in turn make a consolidated report of a factual nature and present it to the relevant body. He placed importance on giving WTO Members the opportunity to review and comment on biennial reports. They were willing to look at ways this could be done without over-burdening the Committee.

51. The representative of Argentina reflecting on the statement made by the EC, pointed out that the mandatory reporting requirement did not permit exceptions. The TPRB was concerned with the rationality of trade measures. There could be discussion on the nature and contents of the reports, but not on the basic requirement to submit a report every two years. Apart from enhancing transparency, examinations in this Committee could lead to the creation of rights in Members. It would be efficient if this Committee received the reports and later transmitted them to the relevant WTO body. This Committee needed to think through the amount of time it wanted to devote to this exercise bearing in mind the agreements which have to be examined. Every attempt should be made to have straightforward discussions; politicization of the discussion should be avoided.

52. The representative of Australia thought it was inevitable that discussion of procedures should bring up systemic issues. She noted that biennial reporting was required by the Understanding, and that it would be helpful to have a standard guideline for such reports. This would ensure consistency in the information that would be provided by parties to RTAs, especially on trade effects between the parties, and between them and third countries. It was necessary to strike a reasonable balance between the need not to overburden the Committee and the parties to RTAs and the need to give an opportunity to interested delegations to raise issues of concern to them.

53. The representative of Egypt stated the importance Egypt attached to this issue to which they would come back at a later meeting when WT/REG/W/3 had been examined by his authorities. The representative of Canada thought it would be crucial to determine whether the Committee was looking for an extensive report or one just focusing on major developments. He did not think an extensive report such as those presented to the TPRB was contemplated by the Understanding.

54. The representative of Peru thought the nature and content of the report was very clearly established in paragraph 11 of the Understanding: parties to RTAs were required to give information on the operation of the agreement, on any amendments and on significant developments. The purpose of the periodic report was neither examining trade policies of the parties nor considering the consistency of the agreement with Article XXIV. A Standard Format would simplify the procedure and make it more efficient. He stressed that agreement in the Committee as to the nature of the format would pave the way for the Secretariat to do further work taking into consideration past experience. This Committee was better placed to receive and comment on the reports. He agreed with the United States that it would be useful to establish a calendar so delegations could be well prepared. The item under discussion was an important one to which the Committee should revert at a later meeting.

55. The representative of Japan agreed that this was an important issue on which delegations needed to reflect. He thought that even though the Committee had no agreed procedures for review, it was important to ensure that delegations who wished to comment on the report were given the opportunity to do so. He was flexible on how this could be done. As there was no agreed mechanism for biennial reviews, an agreed format would give an indication of the type of information that was required. An agreed format had several advantages including enhancing transparency.

56. The representative of New Zealand thought a biennial report should reflect key developments since the implementation of the agreement. Changes in trade data and effects on third countries were possible elements which could be included in the report. Reviews of such reports should not detract the Committee from its main task. Members should be given the opportunity to raise questions or demand additional information from the parties to the agreement. The review clearly needed to be done in this Committee, with a report going to an appropriate body of the WTO.

57. The Chairman observed that the focus of the discussion had been on the purpose of biennial reporting; which was to enhance transparency and to determine whether changes and developments had been consistent with the provisions of Article XXIV. He also noted the importance of having updated trade data and of examining the trade-creation and trade-diversion effects of RTAs; and the possibility of using a Standard Format that made clear what information was required. There was a clear need to avoid duplication of work done by the TPRB. Most delegations, he noted, thought that this Committee was the appropriate body to receive the reports and make comments on them.

58. The representative of the United States wanted to know whether parties to RTAs which would be examined after the summer break would make available through the Secretariat information which would enable delegations to adequately prepare for the reviews on a timely basis. She sought information from EFTA parties, and noted that MERCOSUR parties had failed to provide information on trade and tariff data despite being asked about a year ago. She informed the Committee that parties to NAFTA would be supplying answers to questions on services as soon as possible. The representative of Argentina asked delegations which had any questions or queries for the parties to MERCOSUR to put them in writing. The representative of Switzerland said that EFTA parties had not yet coordinated their response to the request for information from the United States, but they expected to finalize it as soon as practicable.

59. The Chairman stated that he would be contacting delegations regarding the updating of information on agreements scheduled to be reviewed in September. In case of reviews to be carried out subsequently he would be considering, in the light of discussions at this meeting, what part the Chairman's guidelines could play. He mentioned the agreements that would be examined in September by the Committee, and stated that the Committee would resume its discussions on the systemic implications of RTAs, the procedures to facilitate the examination process and the reporting on the operation of agreements at the meeting scheduled for 20 September. The meeting was then adjourned.