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Trade Policy Review Body  
4-5 December 1997

## TRADE POLICY REVIEW

### MALAYSIA

#### MINUTES OF MEETING

Chairperson: H.E. Mr. Munir Akram (Pakistan)

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I. INTRODUCTORY REMARKS BY THE CHAIRPERSON

1. The second Trade Policy Review of Malaysia was held on 4 and 5 December 1997.

2. The Chairperson welcomed the delegation of Malaysia, led by His Excellency Ambassador Hamidon Ali, Permanent Representative of Malaysia in Geneva, and welcomed Mr. M. Supperamaniam, Director of Multilateral Trade Negotiations of the Ministry of International Trade and Industry. He also welcomed the discussants, Dr. Chiedu Osakwe of the Federal Republic of Nigeria, and Mr. Knut Brünjes of the Federal Republic of Germany. As usual, both discussants would act in their personal capacities, and not as representatives of their countries. A summary of the main issues to be raised by the discussants had been circulated in advance in document WT/TPRD/D/16.

3. The Chairperson recalled the purpose of the Trade Policy Reviews and the main elements of the procedures for the meeting. The report by the Government of Malaysia was contained in document WT/TPR/G/31 and that of the WTO Secretariat in document WT/TPR/S/31. Copies of written questions submitted by eight delegations, (Australia, Canada, European Union, Japan, Republic of Korea, New Zealand, the United States and Hong Kong, China) had been transmitted to the delegation of Malaysia.

## II. OPENING STATEMENT BY THE REPRESENTATIVE OF MALAYSIA

4. The representative of Malaysia thanked the Secretariat for its report, which he believed, provided a balanced assessment of Malaysia' trade policy. There were, however, some observations reflected in the report which needed to be clarified. Malaysia had already notified the Secretariat regarding some factual aspects of the report and understood that the Secretariat would be making the necessary amendments.

5. With respect to the services sector, the Secretariat's report stated that foreign participation, particularly in the banking and insurance sector, was limited, and that this had curtailed competition and impaired the potential efficiency of that sector. He thought this observation did not accurately reflect the current situation in Malaysia, where the insurance and banking sectors had a very high level of foreign content. This reflected the openness of the market even before the Uruguay Round. Regulations and administrative requirements applied equally to both local and foreign institutions. In banking, 13 out of 35 commercial banks were entirely foreign controlled. Foreign interest in commercial banks and finance companies accounted for 30 per cent of the total combined assets of these two groups of institutions. Foreign commercial banks had a significant share of the commercial banking business, accounting for 27 per cent of total loans, 26 per cent of total deposits and 36 per cent of total trade credits. In insurance, foreign service providers had equity participation in 44 domestic companies out of 49. Among these 44 companies, 12 were foreign controlled with majority foreign shareholding. In addition, foreign insurers accounted for more than 30 per cent of aggregate gross premiums and controlled 70 per cent of the market share of the life insurance business. The conclusion that the lack of foreign participation curtailed competition and impaired efficiency was misleading as it failed to recognize that competition was possible among domestic firms.

6. The representative of Malaysia stated that consumer groups were well represented in the various fora of policy formulation. Consumer groups participated, at the Federal level, in the annual dialogue sessions of the Ministry of International Trade and Industry, the Treasury, the Ministry of Domestic Trade and Consumer Affairs, and the Central Bank.

7. As outlined in the Report by the Government of Malaysia WT/TPR/G/31, Malaysia had been enjoying a decade of high growth and had undergone rapid transformation since 1988. This had been brought about by a combination of several factors which included diversification and restructuring of the economy, accompanied by market-oriented and outward-looking policies, as well as integration into the world trading system. The Government's pro-business and pro-liberalization policies, as well as the private sector's active participation in development had helped Malaysia and its foreign trade and investment partners reap the benefits from the accelerated industrialization process and dynamism of the external sector. This dynamism had been a fundamental factor in Malaysia's economic advancement. The targeted growth rate of 7 per cent annum required to transform Malaysia into a developed country by the year 2020 would be driven by exports.

8. Malaysia's open economy, underpinned by a liberal trade policy regime, provided the means for economic growth and adaptability to an increasingly globalized economy. Consequently, Malaysia took a global orientation in its trade and investment relations. The open and liberal trade and investment regime had facilitated the expansion of trade and investment flows. Given its liberal import regime, Malaysia's position among the main importers in the world improved from the 24th place in 1990, to the 17th place in 1996. Malaysia's current level of imports per capita, at US\$3,900, was higher than that of many of its main trading partners in the OECD. Liberal foreign exchange policies had enabled free and easy repatriation of profits, which had partly contributed to the current account deficit problem.

9. Malaysia attached great importance to the multilateral trading system which contributed so much to the stability and growth of international trade. Malaysia had therefore always supported the role of the WTO in strengthening the multilateral trading system.

10. Malaysia had made a substantial contribution in the area of liberalization and deregulation. After the Uruguay Round, 65 per cent, or 7,197 tariff lines, were bound compared to only 1 per cent before. Malaysia's market access offer comprised 70 per cent of the country's total imports. Between 1994 and 1997, tariffs on some 4,100 items had been reduced or abolished. In the area of services, Malaysia had implemented a market access package which covered a number of financial, business, professional, telecommunication and hospitality services. Malaysia had deregulated operations and privatized companies providing services such as power generation, telecommunications and others. Efforts would continue towards further structural transformation of the Malaysian economy through the enhancement of productivity and competitiveness of the manufacturing and services sectors. Towards this end, Malaysia would continue to undertake further liberalization and deregulation within the context of its international relations multilaterally, regionally and bilaterally.

11. The recent turmoil in the currency and stock markets had brought a tremendous setback to the growth and development of many countries in Asia, including Malaysia. In the case of Malaysia, excessive speculation in the foreign exchange and stock markets not based on the underlying strong fundamentals of the Malaysian economy had led to the erosion of investor confidence on the sustainability of growth and the external payments position. Although financial markets had been beset with considerable uncertainty, the performance of the real sectors of the economy continued to be encouraging. During the first eight months of 1997, the output of the manufacturing sector had increased by an annual rate of 13.4 per cent, with output of semi-conductors increasing by 24.7 per cent, and plastics and chemical products by 26.7 per cent. In September, exports of goods had increased by 21.7 per cent enabling the trade account to record a surplus of RM 1.2 billion (US\$400 million), on top of a similar surplus achieved in August. The gross inflow of long term foreign corporate investment had risen by 14 per cent during the first part of 1997 to about RM 25.7 billion (US\$10.3 billion). During this period, foreign companies on the average had retained 75 per cent of their profits in the country for reinvestment, against 60 per cent the previous year. More recently, a number of foreign companies, including manufacturing and oil companies, had indicated that they were increasing significantly their investments in 1997 and 1998.

12. The Government had undertaken major efforts to address Malaysia's current economic problems through measures outlined in the recent annual Budget announced by the Minister of Finance. These measures were aimed at further strengthening the economic fundamentals, to restore stability, and enhance productivity and competitiveness in the export sector. The major challenge facing Malaysia was the ability to moderate growth without unduly causing an economic slowdown and to bolster investor confidence in the economy, particularly from foreign investors.

13. The persistent deficit in the services account more than offset the surplus in merchandise trade and required time and conscious effort for its resolution. More focus was to be given to enhancing the contribution of the service sector and the export sector in turning around the current account deficit. The relatively high import content of domestic economic activities had not only contributed to the deficit, which in the first half of 1997 alone had amounted to RM 2.7 billion (US\$1.07 billion), but also to the relatively weak inter-industrial linkages, and to the continued low value added of the manufacturing sector. Hence, certain short term measures were necessary with the view to strengthening economic fundamentals and stabilizing the financial market, as well as to consolidate current efforts towards realizing the long term objectives of the Second Industrial Master Plan.

14. The major challenge which the 1998 Budget attempted to address was how to maintain sustainable growth and improve the external payments current account. Towards this end, apart from enhancing productivity to remain competitive, efforts would be intensified to promote greater efficiency in the utilization of existing resources. Greater priority was to be given to more productive investments which would generate higher returns for exports. The construction sector, particularly property development, which was non-tradeable, had over the recent years enjoyed too much investment and had generated high imports. This was evident from the import statistics on merchandise trade for the years 1995 and 1996. The construction sector accounted for only 4.5 per cent of GDP in 1996, compared to the 79 per cent accounted for by the services and manufacturing sectors combined.

15. The recent set of measures following from the 1998 Budget were aimed at optimizing the use of locally available materials, including reconditioned and refurbished machinery, used in the construction sector. These temporary measures were necessary to avoid any fallout arising from the postponement of several mega projects. The measures had been perceived by some as trade restrictive and inconsistent with Malaysia's commitments in the WTO. This was not the case: in designing these temporary measures, Malaysia was mindful of its obligations in international and regional fora. In fact, consistent with its commitments to liberalize, import tariffs on some 60 items of interest to WTO Members had been reduced or abolished in the recent Budget. In addition, customs procedures related to exports and imports had been simplified to further facilitate trade.

16. Malaysia remained committed towards a continual liberalization of trade and investment and a progressive opening of the service sector. The Finance Minister in the 1998 Budget speech had reaffirmed the Government's commitment to liberalize the financial sector despite the current economic setback faced by Malaysia. Malaysia would continue to participate actively and contribute positively toward the successful conclusion of the negotiations.

17. In order for the WTO to remain credible, it had to demonstrate a high degree of sensitivity to the economic setback faced by some developing countries, including Malaysia, resulting from the current financial turmoil. It was important to give these countries sufficient flexibility in adopting policy options in order to overcome their difficulties even if they were perceived to be trade restrictive. The Malaysian economy remained on track and there would be no major policy shift which would jeopardize or retard the outward orientation that had contributed to Malaysia's economic success in the last decade. The Government had laid down the strategies to tackle any possible economic downturn. The recent 1998 Budget, especially, was aimed at further strengthening the country's economic fundamentals and had been recognized as workable by the IMF. Growth might be lower in the next year (6 - 7 per cent) and this would have some impact on Malaysia's trade with its main trading partners, but this impact was not expected to be significant. The medium and long term outlook remained positive as the economy was expected to remain strong and dynamic. Export-oriented industries were expected to show stronger output growth while output of domestically-oriented industries was expected to slow down consistent with a policy stance aimed at containing excessive demand. With the trade surplus recorded recently and prospective expansion of export capacity, the external payments current account deficit would continue to be on a downward path.

### III. STATEMENT BY THE FIRST DISCUSSANT

18. The first discussant (Dr. Chiedu Osakwe) welcomed the delegation of Malaysia at its Second Trade Policy Review. He expressed his appreciation to both the Secretariat and the Government of Malaysia for the quality of the documentation provided for this review exercise. He noted that the current financial market crisis had erupted after the Government Statement and the Secretariat's report had been prepared; however, the statement by the Malaysian delegation and the Summary Observations of the Secretariat's reports had referred to these issues. He explained that the second discussant would deal with trade policies and practices by measure and sector, while he would concentrate on two topics: (i) recent macroeconomic developments, in particular the effects of the recent crisis in the financial markets, but also savings and investment performance, current account and trade balances and monetary policy developments; and (ii) multilateral and regional trade commitments.

19. Malaysia's economic and trade policy circumstances could be summarized in a snapshot, which included: (i) sound macroeconomic fundamentals; (ii) major benefits from participation in the multilateral trading system; (iii) a degree of structural problems within the domestic economy; (iv) struggles with the crisis in the financial and currency markets in order to avoid potentially harmful "contagion effects" arising from market judgements. He considered Malaysia's trade policy review of vital importance for developing countries preoccupied with making correct economic and trade policy choices. Emerging markets were keeping an eye on Malaysia, which they considered a country worthy of emulation, having experienced a transformation, from a commodity-based economy to an economy increasingly geared towards the production of high-technology products. Malaysia had achieved this transformation operating within the framework of a liberal trading order and a globalizing world economy. Developing countries were watching Malaysia's policies for addressing the current crisis so as to relate this experience to theirs in three areas: (i) the relationship between trade liberalization and sustained national income, wealth and prosperity; (ii) the net effects of globalization on national economic and trade measures; (iii) the extent of coherence shown by trade, finance and development institutions in responding to the crisis in an emerging market.

20. He noted that Malaysia had undergone a crisis in which the stock market had lost value in the range of US\$100 million, approximately. The ringgit had depreciated by about 30 per cent. According to analysts, this could lead to reduced applications for investment in the manufacturing sector, a significant reduction in credit growth rates, and revised estimates of 6-7 per cent for economic growth. The current crisis was not only a test for Malaysia, as Malaysia's response would provide pointers as to how emerging markets at comparable levels would respond to a similar crisis. There was a significant interest in Malaysia's policy views on whether ailing or failing companies should be bailed out and if so under what circumstances. There was also interest on Malaysia's views regarding the creation of regional monetary funds, either as a complement to or independent of the International Monetary Fund, to provide support for countries whose reserves were under pressure.

21. The crisis in the currency and capital markets had taken place against the background of Malaysia's sound economic fundamentals. In the 1987-1996 period. Malaysia had sustained an average growth rate of 8.6 per cent. GNP had increased from US\$2,971 in 1993 to US\$4,493 in 1996. Inflation stood at 3 per cent in 1996. The external debt was low and national savings had averaged 33 per cent of GDP in the 1992-1996 period. Fiscal policy was very prudent and the government accounts currently registered a surplus. Public debt was in steady decline, from 82 per cent of GDP in 1990 to approximately 36 per cent in 1996. The Central Bank pursued a strict management of internal liquidity. The current account of the balance of payments was, however, in deficit. This deficit predated the currency and capital market crisis: it had reached RM 18.7 billion, or 9 per cent of GDP in 1995, and had declined to RM 13 billion, or 5 per cent of GDP in 1996. Although the current account deficit was expected to decline further, it should be noted that the deficit problem could yet reassume

significant proportions in the medium or long term, and therefore, should be of concern to the authorities. The crux of the problem lay in the combination of both demand pressures and structural factors. Payment on investment income mainly from foreign direct investment was high, so were payments on insurance and freight services. Additionally, there was a large remittance of profits to foreign equity holders which simply arose from Malaysia's success in the attraction of foreign direct investment.

22. Imports of investment goods had slightly declined, but were expected to increase again to maintain target growth rates. The current account deficit problem, therefore, appeared to lie in the structure of the economy, in which an array of incentives were used to induce investment in particular areas of the economy. This was confirmed by the decline in the growth rate of Total Factor Productivity (TFP), from an annual average of 2.9 per cent in 1987-1990 to 0.9 per cent in 1991-1996. The decline in TFP raised questions concerning the efficiency of resource allocation. In this context, it would be useful if Malaysia could provide information on how it judges and monitors the efficiency of resource allocation, expressed its views as regards the decline in TFP and, responded to the assertion that the current account deficit could result from structural difficulties. Associated with the current account deficit was the investment-savings gap, which had been filled by foreign direct investment inflows.

23. Malaysia had moved remarkably swiftly from a commodity-based economy to one producing high-technology goods. This had been achieved through the use of incentives and subsidies which had advantages and disadvantages. The disadvantages included forgone revenue in the case of incentives and likely efficiency losses from the use of subsidies. The risk of overcapacity was always present in cases of subsidy and incentive-driven enterprises. This risk was compounded in the absence of anti-trust legislation backed up by effective enforcement, which would facilitate efficiency and market gains, as well as the competition required for innovation, growth and development in a competitive global market place. In the absence of competition policy, Malaysia had opted for an approach of selecting "national champions", either through government policy or through market mechanisms.

24. Malaysia represented one of the best examples of the gains from trade. Currently, exports accounted for 75 per cent of GNP. Its long-term growth strategic goal of becoming a developed country by the year 2020 was dependent on export growth. It was, therefore, satisfying that Malaysia had reaffirmed its commitment to the rules and disciplines of the multilateral trading system and that it remained involved in negotiations for further liberalization in key sectors.

25. The declaration by Malaysia in its policy statement that it had initiated action to modify some of its existing legislation and policies, and introduce new ones in order to ensure conformity with WTO obligations was welcome.

26. Regarding Malaysia's investment regime, it was noted that 54 Investment Guarantee Agreements (IGAs) had been signed. These Agreements provided protection against expropriation and nationalization, allowed for the free transfer of capital and profits, and provided for the settlement of disputes under the International Convention of the Settlement of Investment Disputes. Against this background, it would be interesting to know Malaysia's position regarding a possible Multilateral Investment Agreement within the WTO.

27. The discussant expressed interest in receiving information regarding standards and technical regulations within Malaysia and within ASEAN. For example, more information was sought on SIRIM BERHAD, the Malaysian Standards and Accreditation Council; on whether there were any non-governmental bodies that developed standards in Malaysia; and on the priority products which would be aligned to international standards within ASEAN.

28. Regionalism was an important component of Malaysia's economic and trade policy. The country belonged to ASEAN; APEC; and the G-15. The process to establish an ASEAN Free Trade Area (AFTA) had been initiated. A Common Effective Preferential Tariff (CEPT) had been established in January 1993. It would be interesting to know whether Malaysia planned to extend tariff concessions and reductions on an MFN basis to other countries. Assurances in this regard would greatly encourage the international trading community in their trade and investment dealings with Malaysia. The discussant wondered what Malaysia's views were on the principle and practice of "open regionalism".

29. To conclude, the discussant stated that Malaysia had made outstanding progress through the use of an export-oriented strategy and a large degree of openness, through sound macroeconomic policies, as well as through the use of opportunities and the mobilization of synergies in various regional groupings. In addition to this, Malaysia had accelerated its privatization programmes and promoted training and development of high-skilled labour; hence future prospects were good. However, globalization had increased the competitive pressure on all countries, enhancing the need to operate efficiently, to innovate, to identify comparative advantages, and to allocate resources carefully. The integration of global markets and the use of high technology had made it easier to monitor macroeconomic and structural weaknesses, unsustainable policies, and consequently to move capital in and out of countries as opportunities arose and faded. The sustainability of Malaysia's economic performance would be facilitated by greater liberalization and by optimal resource allocation. To this end, the discussant encouraged Malaysia to adopt competition policy legislation, which is a complement to trade liberalization, and to immediately address underlying structural problems.



#### IV. STATEMENT BY THE SECOND DISCUSSANT

30. The second discussant (Mr. Knut Brünjes) expressed his welcome to the Malaysian delegation. He commended Malaysia for its impressive economic performance since the last Trade Policy Review under GATT in 1993, which translated in GNP growth rates of between 8 and 9 per cent, low inflation, a declining external debt and a low percentage of the population living under the poverty line. He added, however, that times had changed and success in open markets was at risk, with the impact of the recent turmoil in Asian stock markets not yet fully known. He thought that a strategy of closing markets would not be the right answer to deal with the currency crisis. On the contrary, it was open markets that would help bring in more investment, stabilize prices and increase productivity.

31. Analysing Malaysia's trade policy since 1993, he noted that the process of trade liberalization was one of the factors contributing to the outstanding results of the Malaysian economy in the past. With imports and exports of goods and services each representing around 85 per cent of GNP, Malaysia could be considered an open economy. Malaysia was to be commended for its active role in the WTO: it was committed to further trade liberalization. Malaysia no longer applied any quantitative restriction in its trade in goods. The average applied MFN tariff rate had declined from 15.2 per cent in 1993 to 8.1 per cent in 1997 and the coverage of tariff bindings had increased to almost two-thirds of all tariff lines. On the other hand, Malaysia still maintained significantly higher bound rates than applied rates. The discussant questioned Malaysia's need for this security cushion. He found disturbing that certain tariff rates were kept at levels exceeding 100 per cent on an ad valorem basis, specifically machinery, motor vehicle, electrical engines and some agricultural goods. One quarter of all tariff lines was still above 15 per cent and tariff escalation has increased since 1993. He encouraged Malaysia to reduce further its tariff peaks on processed industrial products, in line with what it had done when, by joining ITA, it had accepted to import duty free information technology products by the year 2005 at the latest.

32. The discussant expressed concern over the measures announced in Malaysia's 1998 budget. These measures included: an increase in import duties for construction machinery to 50 per cent; new impediments for the importation of heavy machinery, in addition to the existing licensing system; and an increase in the tax on motor vehicles to up to 300 per cent. The measures aimed at reducing imports and did not take into account the 30 per cent depreciation of the ringgit since the beginning of the year. The future performance of Malaysian exports did not require additional import obstacles or export promotion. It would be important to know whether the measures taken were limited in time or if they signalled a turn-around of Malaysia's trade policy. Referring to the sales tax, levied on some 5,000 tariff lines on the import value plus customs duties while it was levied at the lower factory price for domestic products, he pledged for more equality between imports and domestic goods as regards indirect taxation.

33. The discussant noted that 17 per cent of all tariff lines were still subject to import licensing requirements. While applications seemed to be processed quickly, there was, nevertheless, an element of uncertainty and lack of transparency, especially in the absence of any possibility for an administrative or judicial review.

34. He pointed out that while customs tariffs were the main instrument used to influence imports, the Malaysian Government applied a number of internal measures to support its economic and social programme. Malaysia used various tax and non-tax incentives to promote investment, including foreign direct investment. There were several tax allowances, especially for projects with pioneer status, investment and restructuring tax allowances, and tax reductions of up to 100 per cent for strategic products. Exemptions from sales and excise taxes and drawbacks were granted to several products used in R&D activities, in manufacturing and export productions. He found excise taxes

levied on "national cars" problematic under WTO national treatment considerations, as they were considerably lower than those applied on imported cars. Special credit schemes benefiting small and medium size enterprises were in place. The complexity of all these incentives, whether they were discriminatory or not, raised doubts regarding the efficient allocation of resources. It would be interesting to know whether independent evaluations of the effectiveness of these incentive schemes would be undertaken in the future.

35. It was noted that Malaysia had not yet acceded to the Government Procurement Agreement (GPA). However, it was encouraging that Malaysia was an active participant in the new Working Group on Transparency in Government Procurement. The discussant asked whether Malaysia intended to join the GPA, as it was evident that more competition would lower public procurement costs. Regarding competition policy, it was pointed out that Malaysia did not have a comprehensive competition law and that import or export cartels with effect on trade were not necessarily illegal. The discussant said that he understood that a draft competition law was under review; he expressed his interest regarding the contents of this draft law and the chances of its enactment.

36. Regarding intellectual property protection, Malaysia's progress towards the implementation of the TRIPS Agreement was recognized. To achieve this goal, Malaysia intended to amend the Patents Act, the Trade Marks Act, the Copyright Act and to enact a Performers Act and a law to protect the layout designs of integrated circuits. The discussant was interested in knowing at what stage the amendment process was, and whether domestic legislation was being modified to comply with the Agreement's enforcement requirements.

37. Malaysia maintained export restrictions on certain qualities of timber and levied export taxes on certain raw materials. It would be useful to know whether these measures were justified on environmental grounds. The discussant encouraged Malaysia, as a member of the International Tropical Timber Organization, to strengthen its efforts concerning the preservation of natural resources.

38. The discussant noted that, in general, Malaysia pursued a very liberal trade policy for agricultural goods: low import tariffs or duty-free access for certain products. This positive overall picture was only disturbed by the existence of some exceptionally high tariff rates for some products; i.e., unmanufactured tobacco, leguminous vegetables, melons, papayas and bananas. Although tariff quotas were not officially used, there was still the possibility to regulate imports by using special safeguard provisions or import licences. Regarding the manufacturing sector, where value-added had increased more rapidly than GNP in the past years, certain sectors were protected by high import tariffs. In the case of textiles, clothing and leather products, tariff rates were 17 per cent on average, but reached peaks of 25 per cent. High tariff rates were also applied to certain consumer goods. Domestic car production was protected by tariffs ranging from 140 per cent to 300 per cent, as well as by excise duties of 50 per cent. The discussant wondered whether Malaysia planned to reduce tariffs in the foreseeable future. Exemption from import duties on imports in the export processing zones had helped attract foreign investment, enabling Malaysia to build a fast-growing, 90 per cent-owned, electronics industry. This had translated into the formation of a special manufacturing circuit, independent from Malaysia's economy, but highly dependent on a few export markets.

39. For the services sector in general, the discussant noted that Malaysia was still overly cautious with regard to the withdrawal of restrictions to market access, employment of foreign experts and national treatment for foreign service providers. He cited the 30 per cent restriction on equity participation for foreigners in the area of telecommunications operators as an example. On the other hand, the liberalization measures envisaged in the context of the Multi-Media Super Corridor were a step in the right direction that should spread to other areas of the economy. He commended Malaysia

for its positive participation in the negotiations on Financial Services and its pledge that a new offer be tabled without further delay.

40. He concluded by noting that Malaysia stood as an example for other developing countries regarding its integration in the multilateral trading system. Within 20 years Malaysia had evolved from a small exporter of primary goods to a major trading country. Malaysia had liberalized its trade and achieved economic success, but, having become a more open economy, it was now more sensitive to market changes. In the past few years, the exchange rate was stable, favouring the investment climate. The current situation was, however, different; risks had increased and a high flow of foreign direct investment was no longer taken for granted. In this context, it was not enough to commend past policy achievements; it was necessary to encourage Malaysia to maintain a spirit of openness and to use macroeconomic measures rather than trade restrictions to face the current crisis. There was a need to open up more sectors, even those considered to be sensitive, such as services, machinery, automobiles and textiles. Structural reforms had to be initiated, competition intensified, and private business regulations strengthened and better controlled.

## V. STATEMENTS BY MEMBERS

41. Members welcomed the Malaysian delegation and commended Malaysia's rapid economic progress, and the liberalization and economic reforms already undertaken. They encouraged Malaysia to continue to work towards further liberalization and consistency with WTO obligations.

42. The representative of Australia noted that since the last Trade Policy Review in 1993, Malaysia had cut its tariffs by almost one half, reducing protection for most agriculture and manufactured goods. Australia, together with New Zealand, was developing cooperation through the AFTA- Closer Economic Relations (CER) dialogue, which focused on issues of trade facilitation. Australia was very interested in the implementation of a true free trade area in AFTA and would appreciate Malaysia's view in this direction. Malaysia would be chairing APEC in 1998 and Australia was pleased to see in Malaysia's revised Individual Action Plan (IAP) the undertaking to review 254 tariff lines where tariffs were high. Australia urged Malaysia to push ahead with this review and incorporate the results in its 1998 IAP. Malaysia was a valuable Cairns Group ally. Its efforts aimed at reducing tariffs on agricultural goods were in line with Malaysia's commitment to that Group. Recognizing the impact of the financial crisis in Asia, Australia urged Malaysia to continue its commitment to trade liberalization and economic reform, as the best means to achieve a quick recovery.

43. Turning to specific issues, Australia welcomed Malaysia's decision in the last Budget to bring forward the implementation of WTO customs valuation procedures to January 1998. On the other hand, the Budget sent some mixed signals in its treatment of tariffs. As a result of the Uruguay Round, Malaysia had emerged with a high level of tariff bindings. Australia welcomed the practice of the Malaysian Government in recent budgets and in the ITA to reduce tariffs. However, the most recent Budget included tariff increases together with some tariff reductions. Australia had put several questions to Malaysia on this and looked forward to Malaysia's responses. His delegation appreciated Malaysia's indication of a draft offer on financial services and would be discussing with Malaysia the scope for improvement to protect Australia's commercial interest. This would be done with a view to the successful conclusion of the financial services negotiations by 12 December. As Malaysia's twelfth largest trading partner, Australia looked forward to continuing to work with Malaysia to achieve their shared goal of a dynamic multilateral trading system and a balanced comprehensive agenda for future negotiations.

44. The representative of Japan stated that the Malaysian Government had made efforts for deregulation and development by carrying out a number of national projects, including the Multimedia Super Corridor. His delegation was, however, concerned about measures taken by Malaysia in the 1998 Budget aiming at diminishing the balance-of-payments deficit through the promotion of exports and through the reduction of imports of goods and services. These measures included increases in import duties on construction materials, certain consumer goods and heavy machinery; introduction of an import approval scheme for heavy machinery; and income tax exemptions for exporting companies in manufacturing and certain service sectors. Japan was interested to know whether these measures were consistent with Malaysia's obligations under the WTO, i.e, whether the increased import duties were within bound rates; whether the import approval scheme, contingent on local unavailability of the imported machinery, resulted in the application of quantitative restrictions inconsistent with WTO obligations; and whether the introduction of an income tax exemption scheme violated the standstill obligation of the Agreement on Subsidies and Countervailing Measures.

45. Referring to trade-related investment measures (TRIMs) he called attention to foreign direct investment limitations linked to export performance requirements; local content requirements for the automotive industry, notified under the TRIMs Agreement; investment incentives under the 1986 Investment Act that had local content requirements, and trade balancing requirements under the

ASEAN Industrial Cooperation (AICO). Japan requested Malaysia to review all these trade-related investment measures which might cause negative effects on free trade and investment.

46. He noted that, as a result of the Uruguay Round, Malaysia had bound almost two-thirds of its import tariffs and had reduced its simple average tariff from 15.2 per cent to 8.1 per cent. However, tariffs applied on some products, such as motor vehicles for the transport of persons or motorcycles, were not bound and reached high levels; Japan asked Malaysia to bind these tariff lines at a rate lower than the currently applied tariff. The sharp increases in import duties announced for some products in the 1998 Budget were contrary to the principle of trade liberalization; he expressed concern that these tariff increases were aimed at protecting national projects which already benefitted from tariff and domestic tax exemptions or reductions.

47. Japan also considered that the recently-announced import approval scheme for heavy machinery could be considered a quantitative restriction inconsistent with Malaysia's WTO obligations. Referring to the Approved Permit System for polyethylene and polypropylene, he appreciated that the "no objection letter" requirement had been dropped in March 1995, but expressed concern regarding the maintenance of the Approved Permit System as such and made a call to monitor whether or not it was applied in a WTO-consistent manner.

48. Recalling that anti-dumping duties can only be applied if they result from an investigation initiated and conducted under the Anti-dumping Agreement, he encouraged Malaysia to bring its anti-dumping and countervailing legislation into compliance with the WTO Agreements. Japan commended Malaysia for undertaking work to amend its intellectual property legislation. However, he noted that trade marks and designs similar to those of foreign enterprises were still being used, and urged Malaysia to implement proper enforcement of the Acts concerned. Other issues, such as import and export regulations, government procurement, competition policy, and the service sector, had been addressed in advance questions; Japan expected Malaysia, as an important trading partner and one of the influential countries in Asia, to make further efforts to liberalize its trade by reducing tariffs and other barriers to trade and by eliminating any discriminatory treatment, in order to contribute to preserving and strengthening the multilateral trading system.

49. The representative of New Zealand noted that Malaysia's impressive growth in recent years was largely attributable to the pursuit of open trade policies and continuing high rates of investment and commended the continuing programme of tariff reductions, which had cut applied tariffs by almost half since 1993, bringing them to relatively low levels. Through its active participation in the WTO, APEC and AFTA, Malaysia had demonstrated its commitment to ongoing liberalization. In New Zealand's experience, a free trade area could be a significant stepping stone towards greater trade liberalization and domestic economic efficiency, when it was implemented in a manner that was not trade diversionary; New Zealand welcomed Malaysia's assurance that any trade diversion as a result of the implementation of AFTA would be insignificant. This would involve continued reduction of MFN tariffs in concert with the lowering of AFTA tariffs. He noted that Malaysia had substantial flexibility to raise tariffs within ceiling bindings, and hoped that in due course Malaysia would lower its bindings closer to its applied rates. He welcomed Malaysia's assurance that remaining trade policies and practices that were not yet WTO consistent would be made so as soon as possible. This included Malaysia's approach to anti-dumping, which was a concern to New Zealand's private sector.

50. New Zealand had watched with concern the impact on Malaysia and other regional partners of the currency and stock market volatility affecting Asia. Such difficulties reinforced the need for transparent and rational macro- and micro-economic policies. The Malaysian authorities had taken prudent steps which should enhance the fiscal position and ease the pressure on the current account deficit; New Zealand was concerned, however, that Malaysia had introduced trade control measures, such as tariff increases on some imports and increases in export incentives. The representative hoped

that those would be short-term measures and consistent with the WTO. New Zealand had raised a number of specific questions on aspects of Malaysia's trade regime and looked forward to Malaysia's response to them.

51. The representative of Canada noted that Canada and Malaysia were committed to an ongoing partnership based upon a strong bilateral relationship and long-standing cooperation in international fora. Canada considered Malaysia's economic fundamentals to be sound and was confident that Malaysia would put in place prudent and transparent policies, including the sound macroeconomic and structural policies needed to solve these problems and prevent their recurrence. Canada trusted that Malaysia would continue its commitment to trade liberalization, encouraging foreign investment and transparency in its trade policy process. Canada recognized that the move towards further liberalizing trade and satisfying WTO requirements was a process undertaken in incremental steps. He noted that Malaysia had, in its 1998 Budget, raised applied tariffs on a number of automotive and construction equipment products. Canada sought an explanation for this.

52. Canada would relinquish in 1998 the chair of APEC to Malaysia. Malaysia had already indicated its desire to produce a 1998 APEC Results Report when it assumed the Chair. In this regard, Canada fully supported Malaysia and wished it well in this important role. Canada noted that Malaysia was in the process of reviewing its anti-dumping and subsidies and countervailing measures legislation and regulations to ensure conformity with WTO requirements. Any information as to the progress made with this review process and an indication as to when Malaysia intended to pass new WTO-consistent legislation in these areas would be welcome. Clarification was sought regarding the prevalence of domestic legislation over WTO obligations in case of inconsistency. If this were the case, the question of when Malaysia brought its legislation into conformity with its WTO obligations would take on greater urgency.

53. Malaysia had noted Canada's interest in certain aspects of their policies in the areas of standards, government procurement, and domestic incentives, among others. It was important to acknowledge the economic reforms undertaken by the Malaysian Government. Support of the private sector had been the key factor underpinning the inflow of investment and technology that had transformed Malaysia into a centre for the production of high-quality products. The Secretariat report noted, however, that foreign direct investment in services was substantially less than in manufacturing. As the Malaysian economy continued to develop, the service sector would become a significant source of employment and economic activity. There was, therefore, an opportunity for Malaysia to build on its successful strategy in the production of goods by adopting policies to encourage all forms of foreign participation in the service sector. Canada had put in writing some questions dealing with restrictions on local establishment and employment of foreign professionals. He reiterated the importance Canada attached to the current negotiations on financial services.

54. The representative of Hong Kong, China observed that trade with Malaysia had increased at an annual average rate of 25 per cent during 1992-1996. In view of this close relationship, Hong Kong, China had a substantial interest in Malaysia's trade policies and practices. His delegation had put forward questions to Malaysia on a number of areas of particular interest and was looking forward to hearing the answers to those questions. Hong Kong, China commended Malaysia's commitment to the WTO system and was glad to see that the Malaysian Government had recently reaffirmed its commitment to deregulation and liberalization, particularly in the financial sector. His delegation appreciated Malaysia's effort in reducing import tariffs by almost half since 1993 and maintaining zero applied tariff rates for half of its tariff lines. He noted, however, that the average bound and applied *ad valorem* tariffs for industrial products were 16.4 per cent and 10.5 per cent respectively; it seemed that there was still room for Malaysia to lower bound tariff rates further. Hong Kong, China expressed disappointment at the Malaysian proposal to introduce measures to reduce imports in the

1998 Budget; of special concern was the decision to raise import tariffs on a number of consumer durable goods, from 25 per cent to 30 per cent. These measures could undermine confidence in Malaysia's commitment to trade liberalization. He welcomed, however, the assurance given by the head of the Malaysian delegation, in his introductory remarks, that these measures would be removed soon. He placed on record his delegation's appreciation for the active and constructive role that Malaysia had played in the multilateral trading system. He believed that further liberalization, in line with its multilateral commitments, was of interest to Malaysia's long-term economic development. Hong Kong, China looked forward to continuing to work closely with the Malaysian delegation in the WTO.

55. The representative of the Republic of Korea stated his delegation's appreciation that Malaysia had followed a policy embracing tariff reductions on such items as raw materials used in industrial manufacturing. The Malaysian Government had shown interest in tackling the current account deficit by reducing imports and increasing exports, as stated in the 1998 Budget. It was his understanding that Malaysia still imposed high tariffs and that import duties on several products had been recently adopted, affecting sectors and products such as automobiles, consumer electronics, construction materials and heavy machinery. Korea encouraged the Malaysian Government to consider reducing these high tariffs.

56. Import licensing affected 17 per cent of all tariff lines and was particularly directed at automobiles and agriculture. With regard to the former, import licensing and tariffs overlapped in a manner that provided a high degree of protection. He requested information on whether the Malaysian Government had considered reducing the use of import licensing.

57. The representative of the European Union stated that he was impressed by the growth rates achieved by the Malaysian economy. The Malaysian population had also benefitted. These results were the aim of the whole growth process. Malaysia, now one of the 20 top traders, provided an example of how a country can gain from trade. He expressed his admiration for Malaysia's economic performance, liberalization efforts and participation in the WTO. The European Union noted that, since the last review, Malaysia had reduced import duties by half, and had accepted many of the results of the Uruguay Round negotiations. There were, however, some concerns regarding high tariff peaks, local content requirements applied on automobiles, standards, government procurement and export duties. The European Union did not want to detract from Malaysia's main trade policy orientation and saw no indication of systemic decline in Malaysia's economic dynamism. Economic fundamentals appeared sound, but recent reports pointed to a very fluid situation.

58. Referring to the measures undertaken in the 1998 Budget to promote exports and restrict imports, the European Union was of the view that macroeconomic policies were a more appropriate approach. He asked if there was a time schedule to remove the tariff increases recently decided, and if there was a timetable to amend Malaysia's anti-dumping law to bring it into conformity with the relevant WTO Agreement. The representative noted that certain incentives were contingent upon export performance. He also expressed interest in the timetable for the amendment of existing intellectual property legislation to bring it into conformity with the TRIPS Agreement. The European Union also sought more detailed information regarding Malaysia's participation in regional groupings. Particular interest was shown in details regarding the "downpayment" made by Malaysia in APEC.

59. The representative of the United States applauded Malaysia for its constructive role in participating in the Information Technology Agreement and the WTO negotiations on Basic Telecommunication Services, and recognized the efforts made by Malaysia to liberalize its own market while playing a leadership role within ASEAN. The United States was hopeful that Malaysia's commitment to the multilateral trading system and endorsement of open-market policies would result

in a productive year for the APEC forum, which Malaysia would be chairing until November 1998. There were, however, some areas of Malaysia's trade regime where the United States had ongoing concerns; among them was Malaysia's national auto programme. The United States encouraged Malaysia to phase this programme out in a manner consistent with the TRIMs Agreement. Malaysia could do more to attract foreign companies by accelerating the implementation of its TRIPS obligations and agreeing to undertake government procurement disciplines in the WTO. These steps would provide foreign investors and firms greater predictability and transparency in doing business in Malaysia. Elimination of domestic preferences and local-content requirements would provide a level playing field for foreign business to compete for contracts and spur efficiency.

60. The United States was deeply concerned over Malaysia's decision in October 1997 to raise tariffs on a range of products of interest to the United States and to implement a licensing system for the importation of construction equipment. These moves ran counter to the general trend in Malaysia to lower tariffs and liberalize trade and to the goal of promoting the development of Malaysia's forestry and mineral extraction sectors and domestic infrastructure objectives. The United States had identified a number of other areas of interest in the advanced written questions submitted to Malaysia. These included Malaysia's system of non-automatic licensing; and Malaysia's plans to phase out measures inconsistent with the TRIMs Agreement, particularly local content measures under the National Auto Programme. Questions had also been raised regarding the WTO consistency of anti-dumping and countervailing duty legislation and protection of intellectual property rights. Double income tax deductions for certain export-related expenses, appeared to be inconsistent with the Agreement on Subsidies and Countervailing Measures. The United States questioned Malaysia on its attitude to phasing these deductions out. Information had also been sought regarding the eligibility requirements for the Industrial Adjustment Allowance and regarding the content of the draft competition law.

61. He sought information on a number of measures benefiting the auto industry, particularly the consistency of preferential excise duty rates and the Proton Component Scheme, with the Agreement on Subsidies and Countervailing Measures. On services, the United States hoped that Malaysia would consider increasing the 30 per cent limit on foreign ownership in the near future. On labour standards, he noted that, consistent with ILO norms, most workers in the private sector had the right to join unions and bargain collectively. However, the United States was concerned about Malaysia's long-standing policy of prohibiting the formation of a national union in the electronics industry and permitting in-house or plant level unions as the only choice available to workers in that industry. The ILO Committee on Freedom of Association had repeatedly stated that this policy was inconsistent with ILO norms on freedom of association.

62. The representative of India noted that Malaysia had done very well in terms of economic performance and integration into the world economy, and this had been achieved with a liberal trade regime. Malaysia had utilized economic instruments to build social cohesion and was to be complimented for this achievement. He did not think that, by increasing applied tariff rates, Malaysia was sending a wrong signal, nor that predictability had been lost. Malaysia's trading partners had the right to look for predictability only within the framework of bound rates of duty. He noted that many developing countries applied rates of duty lower than bound rates because they felt that, in case of a problem, they would be able to raise them, remaining within the bound rates. This enabled them to reduce tariffs more than they could otherwise. He also noted that the incentive schemes applied by Malaysia were not reported to be inconsistent with the Agreement on Subsidies and Countervailing Measures. Incentives and subsidies had helped the strategy of social and overall development.

63. He recognized the sound fundamentals of the Malaysian economy and thought that the current crisis was a passing phase. Noting that measures had been introduced recently to tackle the crisis, which included tariff increases on some products, he stated that India left it to the Malaysian



Government to decide when (or if) to remove them. If in a situation of crisis, a country like Malaysia had to deviate from some of its WTO obligations, the WTO should enable it to do so. The WTO should be sensitive to economic problems and should help economic development, by providing a supportive environment.

64. The representative of Brazil, welcoming the Secretariat report, stated his belief that the international environment was not helping the efforts of developing countries towards economic development. He felt that other developing countries had much to learn from the recent Malaysian experience, and his questions would be in this context. He sought information on the conditions attached to Malaysia's infant-industry tariff protection through MIDA. He also requested information regarding the steps taken by Malaysia to align its anti-dumping legislation to WTO rules; regarding Malaysia's granting of tax incentives and their conformity with the Agreement on Subsidies and Countervailing Measures; and regarding Malaysia's encouragement of the use of local content in the manufacturing sector. Information had been gathered with respect to the increase of import tariffs on construction materials, machines and equipment, trucks, cranes, loading equipment and electronic equipment. He asked whether these measures were temporary and if so, how long would they be kept in place. Brazil wondered whether there were plans to further alter Malaysia's trade policy in order to respond to the current international financial volatility.

65. The representative of Norway commended Malaysia for the impressive economic growth achieved and the continued economic transformation since the last Trade Policy Review. A number of macroeconomic figures were impressive: low inflation, a low unemployment rate, low external debt and a high GDP growth rate. The Secretariat's report had, however, highlighted two major challenges to future growth: the lack of skilled labour and a marked slowdown of total factor productivity growth. She invited the Malaysian delegation to indicate what had been done to meet these challenges. Trade between Malaysia and Norway was modest; total trade had, however, increased by almost 150 per cent during the last five years. There were some 40 Norwegian companies represented in Malaysia, and they had experienced few problems in their bilateral trade.

66. Norway welcomed Malaysia's objective to become a fully developed country by 2020; recent economic performance seemed to indicate that this goal could be reached. Malaysia had pursued an active and liberal trade and investment policy, both at the national level and internationally. Foreign investors had been attracted and foreign direct investment in Malaysia alone was comparable to foreign direct investment in Eastern Europe and Russia combined. She commended the Malaysian Government for the importance it attached to the protection of intellectual property and the steps taken to bring national legislation into conformity with the TRIPS Agreement. She asked for confirmation that this legislation was expected to enter into force by 1998 at the latest. She concluded by expressing the hope that the current crisis would allow Malaysia to maintain the present import regime and that whatever measures Malaysia undertook would be in strict compliance with WTO rules and regulations.

67. The representative of Pakistan stated that his country continued to follow with admiration the extraordinary progress made by Malaysia in its economic growth and development. He noted that Malaysia was strongly committed to the multilateral trading system and its foreign trade regime was outward-looking. Malaysia's move from the 40th place in the ranking of exporters in 1980, to the 19th place in 1996 (and the 17th place as importer), provided evidence of its open and competitive trade regime. He believed that the present difficulties faced by Malaysia and other East Asian countries constituted a temporary departure from a long trend of uninterrupted growth. He was confident that, given the structural strength of the Malaysian economy and its prudent economic management, Malaysia would succeed in tiding over its temporary difficulties. Pakistan believed that the international community had a key role to play in helping Malaysia overcome its present crisis; countries like Malaysia should be given sufficient leeway to adopt appropriate policy options. Such

flexibility would not only put the Malaysian economy back on its historical growth path, but would help ensure that Malaysia stays on the path of trade liberalization.

68. The representative of Indonesia, speaking on behalf of the ASEAN member States, commended Malaysia for the high average annual growth rate registered since 1992 and for its low unemployment and inflation. This growth was mainly generated by Malaysia's international trade, which doubled in the past five years. Malaysia was a very open economy, with trade amounting to 90 per cent of GDP. Exports had been diversified and the export pattern had changed from a primary-product orientation to processed and manufactured goods. Malaysia had undertaken unilateral trade liberalization and deregulation beyond its commitments in the Uruguay Round, indicating its support of the multilateral trading system. The use of appropriate incentives, bilateral agreements and an open trade regime had contributed to Malaysia's successful record in attracting foreign direct investment. The current difficulties faced by countries in the Southeast Asian region were only temporary, and ASEAN was confident that, based on its strong economic fundamentals, Malaysia would be able to overcome this temporary setback. It was ASEAN's view that WTO Members, such as Malaysia, experiencing difficulties should be given sufficient flexibility to implement appropriate policy options within the framework of WTO provisions in order to resolve its problems. ASEAN considered this flexibility necessary for developing countries like Malaysia to restore stability and continue to contribute and benefit from participation in the multilateral trading system.

69. The representative of Indonesia stated that the destiny of an economy could not be left to market forces alone. A close examination of Malaysia's current account showed that the main cause of the deficit was the repatriation of foreign income, together with freight and insurance payments. Indonesia held Malaysia as an example and noted the reduction of tariff rates on 60 products contained in the 1998 Budget, which was a testimony to Malaysia's commitment to liberalization.

70. The representative of Hungary commended Malaysia for the openness of its trade and investment regimes, for the reduction in its tariff levels, its commitments in services, and for the fact that it had left its financial services sector open, despite recent turmoil.

71. The representative of Brunei Darussalam stated his belief that the Malaysian economy remained on track. He reiterated his confidence that the current market turmoil was temporary, and that Malaysia's economic fundamentals remained strong.

VI. REPLIES BY THE REPRESENTATIVE OF MALAYSIA AND ADDITIONAL COMMENTS

72. The replies by the representative of Malaysia were divided into four themes: (i) Malaysia's economic performance and reactions to the present financial "turbulence"; (ii) regional and multilateral issues; (iii) specific trade policy issues; and (iv) sectoral questions.

(i) Malaysia's economic performance and reactions to the present financial "turbulence"

73. The representative began by noting that the current economic difficulties faced by Malaysia were mainly due to the use of massive capital funds to attack its currency that was perceived to be out of alignment. In Malaysia's view the risks associated with such outflows could be minimized if the current account of the balance of payments was kept in equilibrium, or, better still, in surplus. He believed Malaysia could achieve high growth with lower rates of investment if there were productivity increases. In this regard, greater priority would be accorded to more productive investments, particularly those which could generate higher rates of return in terms of foreign exchange earnings, while discouraging less productive investments in the non-tradeable sector. For this reason, the 1998 Budget had provided incentives to encourage exports and reinvestment, with a view to raising productivity and competitiveness.

74. The private sector had been investing more than it could save since 1990. The financing of private investment by building up external and domestic debt had negatively affected the country's balance sheet. Hence, there was a need to increase savings by reducing unnecessary expenditure. Overinvestment in some segments of the construction sector had led to higher imports and a larger amount of domestic output being consumed locally when it could have been exported. Higher import duties in the construction sector were meant to encourage the optimum use of locally available materials including reconditioned and refurbished machinery. The savings from unnecessary expenditures as well as savings generated through the 2 percentage-point reduction in corporate tax provided in the 1998 Budget would enable the private sector to finance a large portion of its investment through internally generated funds. In this way, exposure to risks associated with exchange and interest rate movements would be reduced.

75. There was also the need to reduce the growth of domestic loans. This would be a critical component of Malaysia's macroeconomic adjustment strategy. Banks were currently working with the Central Bank to lower loan growth to an annual rate of 15 per cent by the end of 1998. Loans for productive investments, especially for expansion of export capacity and for increasing productivity, would not be affected.

76. Malaysia would continue to exercise fiscal restraint. In line with the results posted since 1993, the Government forecast a budgetary surplus of RM 3 billion in 1998. GDP was expected to grow by 8 per cent in 1997 and 7 per cent in 1998. There was confidence that, if the private sector exercised greater prudence and undertook structural adjustments to minimize expenditures and risk exposure, Malaysia would be able to overcome the short-term difficulties caused by financial market turbulence. While the fundamentals remained strong, the Government would continue to monitor closely the impact of the ongoing financial market volatility. If additional measures were needed to strengthen further the resilience of the economy, they would be taken.

77. Several delegations (Australia, Canada, the European Union, Japan, New Zealand and the United States) had raised questions regarding measures undertaken in the 1998 Budget, namely: tariff increases on certain products; consistency of the measures taken with WTO obligations; the time frame for reviewing or removing such measures; and clarification on licensing for heavy machinery. Malaysia considered that the tariff increases and other measures introduced in the Budget were

consistent with its rights and obligations under the WTO. Tariff increases were within bound rates. Furthermore, one third of the items affected by tariff increases were excluded from Malaysia's offer list in the Uruguay Round. The measures adopted in the 1998 Budget were temporary. Regarding licensing procedures for heavy machinery, prior approval from the Ministry of International Trade and Industry (MITI) was only required for a small number of items. Automatic licensing was used for monitoring purposes to ensure the utilization of existing machinery left idle. It was intended to optimize the use of such machinery to save foreign exchange. Since the licensing requirement had been put in place, 100 per cent of all applications had been processed and approved.

78. The first discussant stated that Malaysia had provided appropriate answers to the questions raised. He shared Malaysia's view regarding the use of import restrictions to allow the best use of existing resources. He considered that the recognition by Malaysia that it was investing more than it could save was an important step towards the resolution of the problem. Some of the problems faced by Malaysia were the unsustainable level of debt of Malaysian enterprises and the existence of overcapacity. It was encouraging to see that Malaysia was responding to these problems. He encouraged Malaysia to continue examining these issues with respect to Government responses. He noted the existence of a policy of identifying "economic champions" and found this problematic.

79. The second discussant expressed his concern regarding the measures contained in the 1998 Budget. Similar developments in Mexico and other countries taught us that speculation could not be regarded as strategically responsible for the crisis. International capital tried to avoid risks. Speculation was a reaction to open risks inside an economy. Malaysia should be encouraged to take actions against risk similar to those taken by Chile to control inflows of short-term capital. Recovering from the current crisis would take some time: it took Mexico between 1 and 2 years to recover. The trade measures undertaken to tackle the crisis should be assessed against their impact on other partners, as well as against their possible reaction to them. He noted that the 1998 Budget contained only trade policy measures without deadline and no structural measures.

80. The representative of Japan stated that it was encouraged to learn that the measures introduced by Malaysia in its 1998 Budget were temporary. His delegation was, however, concerned that some of the measures introduced did not meet the requirements of some WTO agreements. In particular, some of them ran counter to the standstill obligation contained in the Agreement on Subsidies and Countervailing Measures.

81. The representative of the European Union stated his belief that general measures were better than specific trade measures to deal with Malaysia's current problems. Any specific measure undertaken should be consistent with the provisions of WTO agreements. The WTO system was sufficiently flexible to allow for this. Tariff increases, however, even if they were within bound rates, provided an incentive to increase domestic production. He therefore encouraged Malaysia to set a timetable to remove the recent tariff increases. Regarding the difficulties which some Malaysian companies had been experiencing, he asked whether these companies would be allowed to fail, or if they would be propped up by the Government.

82. The representative of Brazil asked whether any specific sectors were targeted for tariff protection under the "deserving infant industry" initiative.

83. The representative of Canada stated that tariff increases could be considered under two separate aspects. The first was their consistency with the commitments undertaken under the WTO, which was met if the applied tariff was within the bound rate after the increase. The second aspect was how tariff increases were interpreted by investors. If they were read as signals of a reduction in a country's commitment towards liberalization, this could lead to undesirable results. In the case of

Malaysia, if problems in the construction sector had led to an increase in tariffs in goods used in that sector, this may be giving the market the wrong signals, without dealing with the sector's real problems. It would be useful, therefore, if Malaysia gave indications on a timetable for review of the measures adopted.

84. The representative of Malaysia responded to the first discussant by stating that it was not the Government's policy to identify "champions", but to identify sectors with comparative advantage and to seek to enhance their development. Determination of profitability was left to market forces. Responding to the second discussant, he stated that Malaysia was not against speculation, but that it was against excessive speculation. This was the case in the current crisis, where US\$600 million had been wiped out of the foreign exchange market. There was no transparency in currency trading, so it was not possible to know who was behind speculative attacks. There was a need to look at the impact of foreign exchange trading and the effects of speculation on developing countries. The WTO should not be ashamed of discussing these issues, because they affected trade. Countries should be able to adopt measures to prevent speculative attacks on their currency.

85. Responding to Japan's concern, Malaysia had made sure that the measures taken in the 1998 Budget were consistent with WTO provisions and were not trade distorting. Malaysia did not think that the measures went against the standstill obligation of the Agreement on Subsidies and Countervailing Measures. Malaysia needed to enhance export performance to bring its current account in balance. Regarding the establishment of a time frame to dismantle the measures, given the current fluid situation, Malaysia was unable to pinpoint what had to be done to correct it, i.e., what measures to take and their duration. In response to Canada's suggestion that the measures included in the 1998 Budget could have a negative impact on investment, it was stated that no negative reaction from investors had been noticed. Some investors were even committed to further expansion, and there were no signs of a reduction in foreign investment flows into Malaysia. With respect to infant industry protection, no sector was targeted; a case-by-case approach was adopted in which each company substantiated its need for protection. Protection was granted for a maximum of five years.

86. The representative of New Zealand stated his agreement with the comments made by Canada, regarding the criteria and timetable for the review of the measures recently adopted. If these measures were consistent with Malaysia's obligations under the WTO, Members could not object to them. But some Members were worried about the future course of trade policy in Malaysia. Regarding the currency crisis regarding Malaysia's comments on the currency crisis it was experiencing, supply and demand laws applied; currency markets responded quickly to signals. Response was determined by the policies adopted and by the perception of these policies by the market.

(ii) Regional and multilateral issues

87. Questions were raised by Australia, Japan, New Zealand and Hong Kong, China regarding ASEAN's Free Trade Area (AFTA), its notification to the WTO, its possible trade diversion effects, and tariff changes undertaken by ASEAN members. There was also interest in knowing whether commitments under AFTA were consistent with Malaysia's engagements under the WTO. Japan raised the issue of bilateral tariff preferences with Australia and New Zealand. Canada enquired about Malaysia's compliance with the notification requirements and implementation of the different WTO agreements.

88. Regarding AFTA's notification to the WTO, the representative of Malaysia stated that it had already been made in the Committee on Trade and Development. Malaysia did not envisage any trade diversion effect resulting from the implementation of AFTA. With respect to tariff changes, a conversion of specific duties into ad-valorem duties had been gradually undertaken by ASEAN members. Tariffs applied on an MFN basis would be gradually reduced. The existing bilateral

preferences with Australia and New Zealand were justified under Article II.1.(a) of the GATT 1994. Referring to Canada's question, the representative of Malaysia stated that his country had already submitted various notifications according to specific deadlines and initiated actions to modify existing legislation and policies as well as to introduce new legislation.

(iii) Trade-related policy objectives and instruments

89. To questions on Malaysia's import licensing mechanism, the representative of Malaysia answered that the system was meant to facilitate the development of infant and strategic industries. Non-automatic licensing was confined to a small number of products. About 60 per cent of the items subject to licensing were related to timber, for conservation purposes. On the subject of rules of origin, it was stated that Malaysia did not have any non-preferential rules of origin. Amendments to current anti-dumping legislation were being finalized and would be tabled in Parliament at its next sitting. Meanwhile, Malaysia was applying WTO anti-dumping provisions administratively and had indicated so to the Committee on Anti-Dumping Practices. Malaysia had resorted to anti-dumping action in only two cases during the 1995-1996 period, while no action had been taken during the 1990-1994 period.

90. Several specific questions had been raised with regard to standards. Malaysia was in the process of aligning its standards to international standards, or to relevant parts of them. There were no private sector standards development bodies in Malaysia. The responsible body was SIRIM Berhad, which was a certification body, while accreditation was the responsibility of the Department of Standards. There were four manuals for the regularization of production and the utilization of animal vaccines, two of which developed within ASEAN. Malaysia participated in ISO/TC 207 Sub-Committees 1, 2, 3, 4, 5 and 6. Malaysia was committed, in the context of ASEAN, to harmonize standards for 20 priority products, chiefly electrical and electronic products and components, and rubber products. On the question of Malaysia's view regarding environmental requirements, Malaysia could not accept any linkage between trade and non-trade issues such as certification and labelling. In the case of timber, certification and labelling required the usage of a set of criteria and indicators to evaluate compliance with sustainable forest management practices. There was a great divergence in perceptions and interpretations of the concept of sustainability. The formulation of the criteria and indicators to determine it were best understood by local experts. In Malaysia, the National Committee on Sustainable Forest Management was responsible for overseeing the implementation of criteria and indicators. Malaysia was in the process of establishing the National Timber Certification Council to exercise verifications regarding labelling and certification. With respect to sanitary and phytosanitary standards, Malaysia was in the process of reviewing a number of Acts in order to make them consistent with the WTO Agreement. The Acts to be amended included the Animal Ordinance 1953, the Fisheries (amendment) Act 1993, and the Fisheries Development Board of Malaysia Act.

91. Regarding concerns expressed by certain Members with respect to policies affecting export licensing for logs, Malaysia replied that export licensing was used for environmental conservation and the promotion of sustainable growth. Malaysia resorted also to the use of export levies for this purpose. Levies were collected by the Government at the export point.

92. Clarification had been sought regarding the use of tax incentives, such as direct, indirect, sales and excise tax and import duty exemptions and reductions. The representative of Malaysia replied that the various incentives granted were widely available and non-specific in the context of the Agreement on Subsidies and Countervailing Measures.

93. On the subject of trade-related investment measures, enquiries had been made regarding Malaysia's local content requirement policy. Malaysia used these measures to achieve certain goals such as the establishment of industrial linkages, the transfer of technology, and the development of

self-sufficiency in the manufacturing sector. With respect to local content requirements applicable to the automotive sector, Malaysia was committed to phase them out within the time frame of five years commencing 1 January 1995 specified in the TRIMs Agreement.

94. The amendment of existing intellectual property legislation was at an advanced stage. The changes in existing legislation included new laws on neighbouring rights, industrial designs, layout designs of integrated circuits and plant varieties. Regarding enforcement of intellectual property legislation, in the ten years since the implementation of the Copyright Act, there had been 5,100 cases resolved and goods confiscated for a value of RM 32.4 million.

95. Malaysia was of the view that it did not need to accede to the Agreement on Government Procurement. Malaysia's participation in the Working Group on Transparency in Government Procurement was without prejudice to the outcome of the discussions. Tender awards in Malaysia were open to foreign suppliers and could be legally challenged. Although there was a provision for the application of a preferential margin of 2.5 per cent to bids from ASEAN members, this provision had not been fully utilized. Procurement regulations were periodically reviewed by the Ministry of Finance.

96. On the lack of legislation in the area of competition policy, the representative of Malaysia stated that a draft Competition Act was currently being examined by the Ministry of Domestic Trade and Consumer Affairs. Referring to the use of price controls combined with import licensing for certain basic and strategic goods, it was pointed out that this was done to maintain an adequate supply of those goods. Prices of these goods were administratively controlled, while supplies were administered under the Control Supplies Act of 1961.

97. The representative of the United States referred to the active discussion held in the Working Group on Competition Policy. The debate in the last meeting had centred on the relationship between competition policy and macroeconomic behaviour. He recommended Malaysia to introduce competition policy legislation.

98. The first discussant noted the use of anti-dumping actions for competition policy purposes. He found relevant the comment by the representative of the United States linking competition policy and domestic economic behaviour. Regarding investment issues, he noted that Malaysia had signed 54 bilateral investment agreements. He would like to have some insights about some of these agreements. He would also like to know Malaysia's position with respect to a possible Multilateral Investment Agreement. Finally, he would be interested in knowing whether Malaysia had a requirement on marks of origin for imports.

99. The representative of Hong Kong, China expressed his concern about the rising number of anti-dumping investigations conducted by Malaysia. He hoped this would not represent the beginning of a new trend for Malaysia to employ anti-dumping measures on a frequent basis.

100. The representative of Malaysia replied that Malaysia had undertaken, since the 1980s, policies to deregulate the economy and eliminate monopolies in public services. The absence of a Competition Act did not hinder competition in Malaysia. There were several laws dealing with competition issues, namely the Companies Act, the Control of Supplies Act, the Foods Act, and the Direct Sales Act. Referring to investment issues, he noted that the adoption of a selective investment strategy had resulted in fast growth and development in Malaysia. The high number of investment agreements proved Malaysia's commitment to protect investment. With respect to marks of origin, he was not aware of the existence of any requirements.

(iv) Sectoral issues

101. In response to a comment regarding the differential treatment of investors in service activities compared with the manufacturing sector, the representative of Malaysia stated that the manufacturing sector was more mature, while the service sector remained relatively underdeveloped. There was already, however, a strong foreign participation in services. The liberal regime currently applied to the Multimedia Super Corridor would not be extended to other sectors in the near future.

102. With regard to some questions raised concerning to non-financial services, Malaysia replied that: (i) regarding tourism services, licences for tour operators, travel agency and tourist guides were required in order to ensure the quality of services; (ii) in telecommunications, Malaysia was working on the implementation of the Agreement concluded in February and was not prepared to discuss further commitments; (iii) regarding maritime and air transport services, Malaysia would be ready to discuss these issues at the appropriate time.

103. Responding to questions raised concerning the banking sector, the representative of Malaysia noted that all of the 13 foreign bank branches operating in Malaysia had complied with the legal requirement of local incorporation. The rationale for this requirement was to ensure that the capital of foreign banks was used in Malaysia for operations there. No new licenses to foreign banks were granted. Malaysia had made a commitment to allow entry through equity participation by foreign banks in Malaysian-owned and controlled banks, and the limit of foreign shareholders participation had been set at 30 per cent. Malaysia had no intention to raise this limit. Malaysia was of the view that the existing number of banking institutions (35 commercial banks, 39 finance companies and 12 merchant banks) was adequate to serve the banking needs of the country. The consolidation of domestic banks was a policy priority.

104. With respect to the negotiations on Financial Services, expected to be concluded by 12 December, Malaysia intended to improve its offer regarding foreign participation in insurance companies, to allow 51 per cent foreign shareholding. This new limit applied to companies already established in Malaysia, which would complete their restructuring by 30 June 1998. It was noted that no new licenses to conduct direct insurance business had been issued to foreign or local investors since 1981. This policy was aimed at consolidating this highly fragmented industry and would continue to be applied. No new direct insurance licenses would be issued in the near future. However, new licenses would be available for offshore insurance businesses in the Labuan International Offshore Financial Centre.

105. Malaysia had no current plans to allow branches of foreign stockbroking companies to become members of the Stock Exchange. Representative offices of foreign stockbroking companies licensed as investment advisers were required to be locally incorporated under the Companies Act of 1965. All corporations licensed under the Securities Industry Act of 1983 were required to be incorporated in Malaysia. The commitment, under the current negotiations on financial services, to raise foreign participation in stockbroking companies to 49 per cent, would not require amendments in existing legislation.

106. The representative of the United States noted that Malaysia had improved its offer in financial services, raising equity ownership by foreigners in insurance companies to 51 per cent. He wondered what the rationale for imposing ownership limitations was, since a 51 per cent stake actually implied total controlled of an enterprise.

107. The representative of Japan welcomed Malaysia's offer in financial services, and stated his believe that further liberalization in services should continue.



108. The representative of Australia enquired about the implementation of the guidelines contained in the 1998 Budget, which aimed at giving priority to domestic suppliers of certain services. He also requested confirmation that the tariff increases decided in the 1998 Budget would not apply to car components.

109. The representative of the European Union thanked Malaysia for the detailed answers provided, and requested written answers for those questions which could not be answered orally.

110. The representative of Malaysia noted that the 51 per cent limit was a significant political concession. Referring to the preference given to domestic suppliers of services vis-a-vis foreign suppliers, he stated that it was part of a strategy to reduce the out flow of foreign exchange. With respect to tariff increases, they applied only to CKDs, not to car components.

## VII. CONCLUDING REMARKS

111. The second Trade Policy Review of Malaysia was conducted by the TPRB on 4-5 December 1997. These remarks, prepared on my own responsibility, are intended to summarize the main points of the discussion and not to be a full report. Details of the discussion will be reflected in the minutes of the meeting.

112. The discussion developed under four main themes: Malaysia's economic performance and reaction to present financial "turbulence"; regional and multilateral issues; specific trade policy issues; and sectoral questions.

### Malaysia's economic performance and reactions to the present financial "turbulence"

113. Members commended Malaysia on its remarkable macroeconomic performance since 1993. High rates of growth were coupled with low unemployment and inflation, and an improvement in the well-being of the population. This had been assisted by the pursuit of open trade policies. Nevertheless, questions were raised on macroeconomic and structural problems such as the savings-investment gap, the current account deficit, the lack of skilled labour and the recent slowdown in productivity growth. The rapid transformation of the Malaysian economy from one largely dependent upon exports of primary products into one in which exports of manufactures predominate was noted. In this context, comments were made on the scope and impact of incentives in the transformation.

114. Members generally considered Malaysia's underlying economic fundamentals to be sound. Therefore, a number of members were concerned about the signals given by restrictive trade measures announced in Malaysia's 1998 Budget to address the current crisis. In this context various views were expressed on the factors underlying market volatility. Clarification was sought on a timetable to review and phase out these measures and the criteria on which these would be based. Noting that trade was central to the Malaysian economy, some expressed the view that currency adjustment could itself be sufficient to correct the external deficit and warned against short-term measures with trade restrictive effects. However, some Members felt that the WTO system should provide the necessary supportive environment to countries like Malaysia when they face difficulties. These Members pointed out that Malaysia has been pursuing a very liberal trade policy for many years. They suggested that Malaysia, and countries in a similar situation, should be given sufficient flexibility in adopting policy options in order to overcome the difficulties, even if these options are perceived to be trade restrictive.

115. In response, the Malaysian representative said that the current economic difficulties were caused by massive shifts of capital flows. The authorities believed that the risks associated with such flows could be minimized if the country's current account and reserve position was kept in equilibrium. Emphasis was placed on improving the level of national savings and encouraging investment that could generate higher foreign exchange earnings. The growing savings-investment gap had adversely affected the national balance sheet. The level of domestic credit growth should be reduced for prudential reasons. Loans geared towards expanding export capacity or increasing productivity would not be affected. He noted the need, because of over-capacity, to take measures such as increases in tariffs for materials and machinery used in the construction sector, and a reduction of two percentage points in corporate tax.

116. He emphasized that the fundamentals of the economy remained strong, but in light of the present crisis some measures had to be taken. He stressed that the tariff increases and other measures introduced in the 1998 Budget were consistent with Malaysia's obligations under the WTO, and noted that these measures were temporary. The need for the measures would be reviewed case by case.

### Regional and multilateral issues

117. It was noted that, as a member of APEC and AFTA, regionalism was a major component of Malaysia's trade policy. Members hoped that these arrangements would promote greater trade liberalization and domestic efficiency. In this regard, specific questions were raised about possible trade diversion as a result of the implementation of AFTA; harmonization of standards within APEC; the justification for granting tariff preferences to Australia and New Zealand; and concrete liberalization measures taken by Malaysia as part of its APEC down-payment.

118. Members commended Malaysia's commitment to the multilateral trading system through its active role in the WTO, including in the ongoing financial services negotiations. They welcomed the announcement of a revised offer by Malaysia. However, some Members enquired about Malaysia's timetable for compliance with Uruguay Round undertakings, including progress with new anti-dumping legislation, the timetable for amending existing intellectual property legislation, a phase-out programme for prohibited export subsidies, and the elimination of local-content requirements. Some Members encouraged Malaysia to accede to the Government Procurement Agreement, and were pleased to note Malaysia's active participation in the Working Group on Transparency in Government Procurement.

119. The representative of Malaysia replied that ASEAN members were gradually changing specific duties to *ad valorem* duties and that these duties would be reduced on an MFN basis. Malaysia did not envisage any trade diversion as a result of AFTA. The Arrangement had been notified to the Committee on Trade and Development. He added details on steps taken or promised by Malaysia in the recent meeting of APEC Ministers, including multilateral tariff reductions and deregulation in services.

### Specific trade-related measures and policies

120. In general, Members commended Malaysia's open trade regime, particularly the substantial reduction in tariffs since the last review. Several Members voiced concern, however, regarding the tariff increases for some consumer goods, capital goods and building materials announced in the 1998 Budget. Some Members sought reassurance that these increases would be temporary and asked when tariffs would be lowered again. There were also questions regarding the relationship between the new applied rates and bound rates, and the tariff lines which would be affected by the increase.

121. Some Members sought clarification regarding Malaysia's import licensing procedures, especially regarding automobiles. Concern was expressed about new import restrictions announced in the budget and their consistency with the Agreement on Import Licensing Procedures. In regard to government procurement, questions were raised regarding tendering procedures, criteria used to review procurement regulations, statistics on procurement by country of origin and sector and application of preferences to suppliers from ASEAN countries. Members sought information about Malaysia's intentions to align national standards to international standards and about institutional practices and coordination in this area; questions were posed regarding environmental requirements, accreditation of foreign laboratories and conformity assessment used. Regarding sanitary and phytosanitary (SPS) measures, enquiries were made regarding new legislation to accommodate all the provisions in the SPS Agreement.

122. Questions were raised about anti-dumping investigations and the timetable for bringing current anti-dumping legislation into full conformity with the relevant Agreement. The practice of not providing foreign exporters with an individual calculation of their dumping margin before final determination of definitive measures was also questioned.

123. Information was sought regarding the phase-out programme for export subsidies. Concerns were expressed as to whether recently announced tax exemptions were WTO consistent. Noting the existence of investment and export incentives, Members sought clarification as to whether Malaysia had plans to evaluate their economic efficiency. Members sought information on plans to phase out local content and export balancing requirements attached to incentives and other measures inconsistent with the TRIMS Agreement. The environmental justification for different export taxes was also questioned.

124. Some Members sought information regarding progress in amending Malaysia's intellectual property legislation to bring it into compliance with the TRIPS Agreement. Questions were posed on Malaysia's schedule for implementing the provisions of the Agreement and the relevant laws to be applied within the Multimedia Super Corridor (MSC).

125. Regarding competition policy, Members asked about the current status and content of a draft competition law prepared by the Ministry of Domestic Trade and Consumer Affairs. Questions were raised regarding how price controls on basic and strategic goods were applied to imports.

126. In reply, the representative of Malaysia emphasized that the tariff increases and other measures introduced in the 1997 Budget were consistent with its rights and obligations under the WTO. All the increases in tariffs, for example, were within the bound rates. The temporary nature of these measures was also stressed.

127. Non-automatic licensing was confined to 17 per cent of national tariff lines, 60 per cent of which related to wood products. This mechanism was designed to facilitate development of infant and strategic industries, and, in the case of wood products, for conservation purposes. The licensing requirement introduced in the 1997 budget for heavy machinery was largely to ensure that existing idle machinery was utilized, thereby optimizing the use of foreign exchange. Since the requirement was put in place, all applications had been approved by MITI.

128. While participation in the Working Group on Transparency in Government Procurement was viewed as an educational process, Malaysia did not see the need to accede to the GPA. Although government procurement policy was designed to enhance socio-economic development, it was relatively open and provided adequate opportunities to foreign suppliers. There were plans, however, to undertake periodic reviews as regards the economic efficiency of existing policy.

129. The representative stated that Malaysia's standards would be aligned to international standards. There were no private sector standards bodies. In order to accommodate the provisions of the SPS Agreement, acts to be amended included the Animal Ordinance 1953, the Fisheries Act (Amendment) 1993 and the Fisheries Development Board of Malaysia Act.

130. He indicated that new anti-dumping and countervailing legislation was being finalized and would be tabled in Parliament at its next sitting. In the meantime, as notified to the WTO, Malaysian anti-dumping authorities were applying measures administratively. Only two actions were taken during the period under review, both in 1995-1996.

131. Export levies and licensing on timber were designed to ensure sustainable forestry management, encourage downstream activities and finance R & D. These measures were constantly reviewed to ensure that the intended objectives are met. The local content requirement for the automotive sector would be phased out by 2000.

132. Drafting of new legislation on intellectual property was at an advanced stage. Among the key changes were new laws on "neighbouring rights", "industrial designs", "layout designs of integrated circuits" and "plant varieties". As regards enforcement of existing legislation, in the case of copyrights more than 5,000 cases had been resolved and 32 million ringgit worth of goods confiscated during the past ten years. In addition, judges and enforcement officers were undergoing training. The Ministry of Domestic Trade and Consumer Affairs was still examining the feasibility of a Competition Act and was discussing the matter with relevant groups. Import licensing applicable to goods subject to price control was intended to ensure their adequate supply.

#### Sectoral elements

133. Some Members questioned the differential treatment applied to services, as compared with manufacturing, regarding limitations on foreign ownership and voting rights in Malaysian companies, and asked whether these limitations would be relaxed. Members also asked whether liberalization measures planned for the MSC would be extended to other sectors. Some Members enquired about restrictions on foreign participation in Malaysian-owned banks, insurance companies and securities trading companies; on the establishment of new bank branches; and on the issuance of new licenses for banks and insurance companies. Questions were raised regarding the timetable to adopt the regulatory reference paper of the Agreement on Telecommunications, future liberalization plans, and limitations on foreign participation in the sector. Details were requested on future liberalization of air transport services, requirements for the establishment of new airlines, limits on commercial presence in maritime transport and limitation on foreign participation in airlines and shipping agencies.

134. The representative of Malaysia noted that at present there were 13 foreign bank branches locally incorporated. No new licences would be issued under present policy, since the existing banks were sufficient to serve the needs of the country. Malaysia had no intention to raise the 30 per cent limit on foreign equity. In the current round of financial services negotiations, Malaysia had relaxed the limitation on employment of specialists. On insurance companies he noted that Malaysia had relaxed the limit of foreign shareholding from 30 to 49 per cent. This limitation would be further relaxed to 51 per cent. This was, however, subject to the successful outcome of the current ongoing financial negotiations. As in the banking sector no new direct insurance licences would be issued in the near future, to consolidate the fragmented insurance industry. He added that there were no plans to allow branches of foreign stockbroking companies to become member companies of the Exchange and that the existing regulations were to remain in place.

135. Regarding Malaysia's intention to further improve their basic telecommunications commitment and the regulatory reference paper, he responded that it was premature to talk of further commitments in this area, given that negotiations had just been completed and that some Members had not even signed the Protocol, while Malaysia had already done so. Malaysia would be guided by the elements contained in the regulatory reference paper.

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136. I should like to thank Members for the participation in the TPR of Malaysia. I am sure all Members present appreciate the answers provided by Malaysia today. We also welcome Malaysia's announcement that its financial services offer has now been submitted. I am also sure all Members will be sympathetic to Malaysia's efforts to withstand the present financial sector turbulence.

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