The horizontal nature of the MEA issue meant that all delegations took an interest. Eight delegations tabled papers or non-papers, providing the CTE with a wide array of options, ranging from the open "environmental window" of the EU to the restrictive waiver approaches of ASEAN and Hong Kong. New Zealand presented the differentiated approach to accommodation, establishing criteria that would apply in a differentiated fashion depending on whether the dispute in question was between parties, between parties and non-parties, and whether the trade measure in question was specific or not. Korea simplified New Zealand's analytically thorough but complex proposal. Switzerland made a useful contribution by presenting a listing approach, somewhat analogous to NAFTA. Japan prepared a non-paper on a guidelines-type approach. India presented a non-paper based a status quo interpretation of Article XX and dispute settlement provisions that appeared, lack of Appellate Body reference aside, ironically similar to the USA position. Part of the interest of some delegations appeared tactical, to be used as a bargaining chip for other agenda items.

As noted earlier, the Canadian starting position on MEAs was largely defensive. While in NAFTA, we had agreed to an explicit Article XX-based accommodation, limited to the situation between parties in the case of 3 existing MEAs with trade measures[5], the waiver approach was favoured in the multilateral setting until relatively late in the game. However, the experience with the negotiating process of the Basel Amendment on the prohibition of hazardous waste shipments from industrialized countries to developing countries of September 1995 (which Canada opposed)[6], made it clear to the interdepartmental community that Canadian interests could be better served by considering possible options that might serve to reduce the risk of such future decisions.

Canada developed a two-track approach. First, we formally abandoned the waiver approach, recognizing that an approach based upon Article XX was more consistent with GATT philosophy.[7] This also provided for greater dispute settlement rights, given that such rights would be significantly reduced under the waiver approach.[8] Canadian interdepartmental discussion indicated that a guidelines approach could provide an accommodation for MEAs such as the Montreal Protocol or CITES while not providing an accommodation for flawed MEAs such as the Basel Amendment. In our development of guidelines, we were influenced by some earlier suggestions made by Australia. We made an analytical distinction between "qualifying principles" which pertained more to defining which MEAs would qualify for accommodation and a "checklist" of GATT/WTO principles that MEA negotiators should consider when reviewing the possible need for trade measures. We never, given that the dynamics of the CTE did not require it, fleshed out these ideas in a formal proposal or finally decide on whether these guidelines should be in the form of "soft" law or a more formal understanding.

Part of the reason for not elaborating formally the guidelines approach was our assessment that there were already enough proposals on the table and any additional proposal would only serve to confuse what was already a complex issue. Needless to say, this would also have been difficult to "crunch" interdepartmentally.