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Council for Trade in Goods

MINUTES OF THE MEETING OF THE COUNCIL FOR TRADE IN GOODS 10 NOVEMBER 2017

CHAIRPERSON: HE MR KYONGLIM CHOI

The meeting of the Council for Trade in Goods (CTG, or the Council) was convened by Airgram WTO/AIR/CTG/9; the proposed agenda for the meeting was circulated in document G/C/W/747. The meeting proceeded on the basis of the following agenda:

At the start of the meeting, the Chairperson informed delegations that, as indicated in the proposed Agenda for this meeting, circulated in document G/C/W/747, the item relating to a communication from Kenya, Uganda, and the United States (JOB/CTG/11) had been withdrawn at the request of the sponsors. He also indicated that, under agenda item "Other Business", he would raise the following issues: (i) the election of Officers to the CTG's subsidiary bodies; and (ii) the date of the Council's next meeting.

The agenda was so agreed.

1 NOTIFICATION OF REGIONAL TRADE AGREEMENTS

1.1. The Chairperson recalled that, under the working procedures agreed by the Committee on Regional Trade Agreements (CRTA), and following adoption by the General Council of the Transparency Mechanism, the CTG was to be kept informed of Members' notifications of new regional trade agreements.[1] He informed the CTG that there had been four regional trade agreements notified to the Committee on Regional Trade Agreements:

1.1 Free Trade Agreement between the EFTA States and Georgia (WT/REG386/N/1);

1.2 Free Trade Agreement between Chile and Thailand (WT/REG387/N/1);

1.3 Free Trade Agreement between Canada and Ukraine (WT/REG388/N/1 and WT/REG388/N/1/Rev.1); and

1.4 Comprehensive Economic and Trade Agreement between the European Union and Canada (WT/REG389/N/1)

1.2. The delegate of Ukraine informed the Council that, with regard to the Free Trade Agreement signed between his country and Canada, Ukraine had sent to the RTA Committee all relevant tariff and trade data.

1.3. The Chairperson proposed that the Council take note of the statement made and also of the information presented.

1.4. The Council so agreed.

2 ACCESSION OF THE REPUBLIC OF ARMENIA TO THE EURASIAN ECONOMIC UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 – REQUEST FROM THE REPUBLIC OF ARMENIA (G/L/1110/ADD.3)

2.1. The Chairperson informed the Council that, in a communication dated 26 September 2017, the delegation of Armenia had requested the Secretariat to circulate document G/L/1110/Add.3 relating to the extension of the time period for the withdrawal of concessions, in connection with Armenia's accession to the Eurasian Economic Union (EAEU), until 1 January 2019. In that document, Armenia had indicated that Members that had submitted a claim pursuant to Article XXIV:6 of GATT 1994 were not precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994, provided that the claiming WTO Member withdrew concessions not later than 48 months after Armenia's modification of concessions (or 1 January 2019). He also recalled that this Council had extended the deadline on three occasions, namely at its meetings of 26 March and 10 November 2015, and of 17 November 2016.

2.2. The delegate of Armenia reminded delegations that, after becoming a full member of the Eurasian Economic Union (EAEU), Armenia had started to apply the EAEU common external tariff (CET) and, consequently, it had entered into GATT Articles XXIV and XXVIII procedures, including tariff negotiations and consultations, to address the compensatory adjustment provided therein. Following the previous extension, Armenia had engaged in a number of consultations and communications with interested Members and wished to thank delegations for these positive and productive meetings. However, as a full member of the EAEU, Armenia coordinated its trade and economic policy with its EAEU partners, and this implied a mutually agreed negotiation position. Armenia had endeavoured to accelerate and to intensify the consultation process with its EAEU partners. Indeed, Armenia had raised the issue of the current status of the compensatory adjustment negotiation at a number of the EAEU's meetings. Substantive discussions had taken place on this issue and relevant instructions had been issued to facilitate the ongoing negotiations. In this vein, Armenia was ready to discuss with all interested Members the possibility of organizing the next round of negotiations in Geneva in the coming months.

2.3. Considering the number of Members interested and involved in the process, as well as the scope of the technical work to be carried out, Armenia believed that additional time would be

[1] See documents WT/REG16, WT/L/671, and G/C/M/88.

required for further consultations and negotiations. As indicated in document G/L/1110/Add.3, Armenia wished to preserve Members' rights to withdraw substantially equivalent concessions under GATT Article XXVIII pending the communication to the WTO Secretariat of the agreements it would reach in the context of GATT Article XXIV. Therefore, Armenia had requested an extension for an additional 12 months, until 2 January 2019.

2.4. The delegate of the European Union expressed the ongoing concern of her delegation over a lack of progress in these procedures. The EU had tabled its compensation requests to the Kyrgyz Republic and Armenia 18 months ago but had still not received any answer to allow substantial negotiations to begin. Despite Armenia's latest statement, the EU considered that nothing had changed since the previous meeting of the CTG, and urged both the Kyrgyz Republic and Armenia not to delay the negotiations any further. In reply to the EU's requests, a joint offer from Armenia, the Kyrgyz Republic, Kazakhstan, and the Russian Federation should be tabled without delay. The EU had been informed that the EAEU had met one month before to agree on a mandate to conduct these negotiations but had heard nothing more since then. The EU looked forward to resuming the negotiations on that basis, and in earnest, and stood available for bilateral negotiating rounds at any time and, if possible, starting immediately. The EU also indicated that if there were no movement soon it would consider all available options so as to ensure that the EU be appropriately compensated for the increase in tariffs in Armenia and the Kyrgyz Republic.

2.5. The delegate of Japan recalled that Japan had also submitted a claim of interest and that it continued to have a systemic interest in this matter. Japan stood ready to engage in negotiations and consultations with Armenia and other interested Members with a view to receiving an appropriate level of compensation under GATT Articles XXIV and XXVIII.

2.6. The delegate of Canada thanked Armenia for its update and reiterated Canada's interest in discussing with Armenia the claim of interest it had submitted following Armenia's modification of its WTO commitments under Article XXVIII. He encouraged Armenia to conclude its Article XXVIII negotiations for compensatory adjustments without further delay.

2.7. The delegate of the Russian Federation, in response to the EU, indicated that Russia acknowledged its significant role in these negotiations and that it would endeavour to formulate a proposal as soon as possible.

2.8. The delegate of Brazil echoed the calls made by the EU and others and urged Armenia to engage more intensively in negotiations with a view to submitting an adequate revised offer.

2.9. The delegate of Chinese Taipei thanked Armenia for the update on this issue and encouraged Armenia to conclude its Article XXVIII negotiations without further delay.

2.10. The delegate of Armenia informed the Council that Armenia was currently working with the EAEU commission and member States on this issue and hoped shortly to provide a coherent reply to WTO Members' requests. He would convey Members' concerns to Capital in due course. Armenia also hoped that the ongoing process would be accelerated and was ready to continue discussing the issue with interested WTO Members in a pragmatic and constructive way. Armenia would also continue, on a regular basis, to inform the CTG and interested Members of developments in its ongoing compensatory adjustment negotiations.

2.11. The Chairperson proposed that the Council take note of the statements made and of Armenia's communication, and that it agree on the extension of the deadline set out in Armenia's communication, document G/L/1110/Add.3, until 2 January 2019.

2.12. The Council so agreed.

3 ACCESSION OF THE KYRGYZ REPUBLIC TO THE EURASIAN ECONOMIC UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 – REQUEST FROM THE KYRGYZ REPUBLIC (G/L/1137/ADD.2)

3.1. The Chairperson informed delegations that, in a communication dated 20 September 2017, the delegation of the Kyrgyz Republic had requested the Secretariat to circulate document G/L/1137/Add.2 on the extension of the time period for the withdrawal of concessions in

connection with the Kyrgyz Republic's accession to the EAEU, until 12 February 2019. In that document, the Kyrgyz Republic had indicated that Members that had submitted a claim pursuant to Article XXIV:6 of GATT 1994 were not precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994, provided that the claiming WTO Member withdrew concessions not later than 42 months after the Kyrgyz Republic's modification of concessions, or 12 February 2019. He also recalled that this Council had extended the deadline on three previous occasions, namely at its meetings of 26 March and 10 November 2015, and 14 July 2016.

3.2. The delegate of the Kyrgyz Republic informed delegations that his authorities had continued to conduct informal consultations both internally and with interested Members with a view to clarifying certain technical details and other relevant data analysis, based on the initial claims received from interested Members. He assured Members that, as soon as the internal matters and consultations with its EAEU partners were agreed, the Kyrgyz Republic would be in a position to respond to interested Members regarding their claims. He also noted that the extended period in which Members' rights to withdraw substantially equivalent concessions were preserved would expire on 12 February 2018.

3.3. Considering that additional time would be required to conduct these negotiations, and with a view to ensuring Members' rights to withdraw concessions pending the conclusion of Article XXVIII:3 negotiations, and pending the communication to the WTO Secretariat of the agreements reached in the context of Article XXIV:6 of the GATT 1994, the Kyrgyz Republic requested a further extension of Members' rights, for an additional twelve months, until 12 February 2019. Therefore, the Kyrgyz Republic would not assert that WTO Members that had submitted a claim were precluded from withdrawing substantially equivalent concessions because this withdrawal occurred later than six months after the Kyrgyz Republic's withdrawal of concessions, provided that the claiming WTO Member withdrew concessions no later than 42 months after the Kyrgyz Republic's modification of its concessions.

3.4. The delegate of the European Union recalled its statement delivered under the previous agenda item and reiterated that it expected, without delay, to receive a joint offer from Armenia, the Kyrgyz Republic, Kazakhstan, and the Russian Federation, in reply to its requests. The EU had been informed that the EAEU had met one month before to agree on a mandate to conduct these negotiations but had heard nothing more since then. In the absence of any positive development the EU would consider all available options to ensure that it be duly compensated for the increase of tariffs in Armenia and the Kyrgyz Republic.

3.5. The delegate of Japan thanked the Kyrgyz Republic for its update and recalled Japan's systemic interest in this issue. Japan looked forward to receiving a response to its claim of interest and would continue to be engaged in further negotiations and consultations with the Kyrgyz Republic and other interested Members with the aim of achieving appropriate compensation under GATT Articles XXIV and XXVIII.

3.6. The delegate of the Russian Federation acknowledged its significant role in these negotiations and would endeavour to submit a proposal shortly.

3.7. The delegate of Switzerland thanked the Kyrgyz Republic for its update and for the recent bilateral exchanges and, having itself submitted a claim of interest, Switzerland urged the Kyrgyz Republic to begin substantive negotiations promptly.

3.8. The delegate of the Kyrgyz Republic said that his delegation had taken note of the statements made and would convey these to Capital in due course.

3.9. The Chairperson proposed that the Council take note of the statements made and of the communication from the Kyrgyz Republic, and agreed on the extension of the deadline set out in document G/L/1137/Add.2, until 12 February 2019.

3.10. The Council so agreed.

4 ENLARGEMENT OF THE EUROPEAN UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 – REQUEST FROM THE EUROPEAN UNION (G/L/1051/ADD.8)

4.1. The Chairperson drew Members' attention to document G/L/1051/Add.8 concerning the accession of the Republic of Croatia to the European Union on 1 July 2013. In this communication, the EU had indicated that it would not assert that Members that had submitted a claim pursuant to Article XXIV:6 of GATT 1994 were precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994 because this withdrawal occurred later than six months after the EU's withdrawal of concessions, provided that the claiming WTO Member withdrew concessions no later than 60 months after the EU's modification of concessions. He recalled that the CTG had extended the deadline on eight occasions, namely at its meetings of 27 November 2013; 9 April and 17 November 2014; 26 March and 10 November 2015; 15 March and 17 November 2016; and 6 April 2017.

4.2. The delegate of the European Union recalled that, at the June 2017 meeting of this Council, her delegation had already informed delegations that the EU considered that the negotiations following the EU 2013 enlargement had been finalized given that the agreements with China, Uruguay, and Brazil, were already in force. The EU had notified these agreements and the corresponding report to the WTO Secretariat on 29 September 2017. Regarding the agreement with New Zealand, the EU had completed its internal procedures on 17 July 2017 and would shortly submit an addendum and a report to its notification of 29 September 2017.

4.3. As a result of the four agreements already mentioned, compensatory adjustments would be provided on an *erga omnes* basis to address the interests of other countries that had participated in the compensation exercise. Due to the time necessary to finalize all the procedures and to ensure the entry into force and implementation of the agreement with New Zealand, the EU had requested a further extension of the period in which Members were allowed to withdraw substantially equivalent concessions.

4.4. The delegate of the Russian Federation said that he regretted to note that, since the last extension, no progress had been achieved with regard to its participation in the renegotiation process. The Russian Federation had officially submitted a claim of interest but had not received any substantial answer from the EU as the latter had systematically refused to recognize it as a participant in the compensatory adjustment negotiations for procedural reasons. The Russian Federation believed that WTO Members could not be deprived of their rights under Articles XXIV and XXVIII of the GATT on the grounds of procedural requirements. He urged the EU to engage in substantive negotiations and consultations with the Russian Federation with a view to providing it with appropriate compensation under GATT Articles XXIV and XXVIII.

4.5. The delegate of the European Union recalled that the Russian Federation had asked to enter into negotiations in a communication dated 16 October 2013. However, this communication had been sent long after the deadline set out in the applicable Procedures for Negotiations under GATT Article XXVIII, adopted in 1980. In addition, the letter did not indicate any specific claim, and nor did it provide any supporting evidence. In 2016, the Russian Federation had submitted a specific request for compensation on poultry. In this regard, she indicated that, even if Russia's request had been submitted three years earlier, in conformity with the procedures and within the deadlines applicable under WTO rules, the Russian Federation would still not have been entitled to compensation for the tariff lines included in that request as it did not export poultry to Croatia during the reference period set up for establishing compensation. Therefore, the Russian Federation held neither negotiation nor consultation rights with regard to the tariff lines in question.

4.6. The Chairperson proposed that the Council take note of the statements made and also of the EU communication contained in document G/L/1051/Add.8. He also proposed that the Council agree on the extension of the deadline, as set out in document G/L/1051/Add.8, until 1 July 2018.

4.7. The Council so agreed.

5 MARKET ACCESS ISSUES

5.1. The Chairperson noted that, as indicated in the Airgram, the Committee on Market Access had forwarded the following five items for the consideration of this Council.

5.1 Draft Decision on the Derestriction of Additional Negotiating Materials (G/MA/W/131)

5.2. The Chairperson drew Members' attention to document G/MA/W/131 containing a Draft Decision on the "Derestriction of Additional Negotiating Materials". This draft Decision had been considered by the Committee on Market Access (CMA) at its meeting of 22 September 2017, at which the CMA agreed to forward the final draft text to the General Council for its adoption, via the Goods Council. In the absence of any comments he proposed that the Council forward the draft decision contained in document G/MA/W/131 to the General Council for adoption.

5.3. The Council so agreed.

5.2 Introduction of Harmonized System Changes into the WTO Schedules of Concessions – Collective Requests for Waiver Extensions

5.3 Introduction of Harmonized System 2002 Changes into the WTO Schedules of Tariff Concessions – Draft Waiver Decision (G/C/W/741)

5.4. The Chairperson drew Members' attention to the collective draft waiver decision, circulated in document G/C/W/741, in connection with the introduction of HS2002 changes into WTO schedules of tariff concessions. The current waiver decision was contained in document WT/L/996 and would expire on 31 December 2017. The one-year extension, as provided for in the draft waiver decision contained in document G/C/W/741, had been the subject of consultations in the CMA meeting that had taken place on 22 September 2017. In the absence of comments, he proposed that the Council forward the draft waiver decision contained in document G/C/W/741 to the General Council for adoption.

5.5. The Council so agreed.

5.3.1 Introduction of Harmonized System 2007 Changes into the WTO Schedules of Tariff Concessions – Draft Waiver Decision (G/C/W/742)

5.6. The Chairperson drew Members' attention to the collective draft waiver decision circulated in document G/C/W/742, in connection with the introduction of HS2007 changes into WTO schedules of tariff concessions. The current waiver decision was contained in document WT/L/997 and would expire on 31 December 2017. The one-year extension, as provided for in the draft waiver decision contained in document G/C/W/742, had been the subject of consultations in the CMA meeting that had taken place on 22 September 2017. In the absence of comments he proposed that the Council forward the draft waiver decision contained in document G/C/W/742 to the General Council for adoption.

5.7. The Council so agreed.

5.3.2 Introduction of Harmonized System 2012 Changes into the WTO Schedules of Tariff Concessions – Draft Waiver Decision (G/C/W/743)

5.8. The Chairperson drew Members' attention to the collective draft waiver decision, circulated in document G/C/W/743, in connection with the introduction of HS2012 changes into WTO schedules of tariff concessions. The current waiver decision was contained in document WT/L/998 and Addendum 1 and would expire on 31 December 2017. The one-year extension, as provided for in the draft waiver decision contained in document G/C/W/743, had been the subject of consultations in the CMA meeting that had taken place on 22 September 2017. In the absence of comments, he proposed that the Council forward the draft waiver decision contained in document G/C/W/743 to the General Council for adoption.

5.9. The Council so agreed.

5.3.3 Introduction of Harmonized System 2017 Changes into the WTO Schedules of Tariff Concessions – Draft Waiver Decision (G/C/W/744; G/C/W/744/Corr.1; and G/C/W/744/Corr.2)

5.10. The Chairperson drew Members' attention to the collective draft waiver decision, circulated in documents G/C/W/744, G/C/W/744/Corr.1, and G/C/W/744/Corr.2, in connection with the introduction of HS2017 changes into WTO schedules of tariff concessions. The current waiver decision was contained in document WT/L/999 and Addenda 1 to 8, and would expire on 31 December 2017. The one-year extension, provided for in the decision annexed to documents G/C/W/744, G/C/W/744/Corr.1, and G/C/W/744/Corr.2, had been the subject of consultations in the CMA meeting that had taken place on 22 September 2017. In the absence of comments he proposed that the Council forward the draft waiver decision contained in documents G/C/W/744, G/C/W/744/Corr.1, and G/C/W/744/Corr.2 to the General Council for adoption.

5.11. The Council so agreed.

6 JORDAN – REQUEST FOR A WAIVER RELATING TO THE TRANSITIONAL PERIOD FOR THE ELIMINATION OF THE EXPORT SUBSIDY PROGRAM FOR JORDAN (G/C/W/705, G/C/W/705/CORR.1, G/C/W/705/REV.1 AND G/C/W/705/REV.2)

6.1. The Chairperson drew Members' attention to document G/C/W/705/Rev.2, containing both a waiver request and a draft waiver decision submitted by Jordan in respect of the transitional period for the elimination of the export subsidy programme for Jordan. He recalled that, at the June meeting of this Council, it was agreed that the CTG would revert to this matter at its November 2017 meeting, when Jordan would update Members on any developments concerning this issue.

6.2. The delegate of Jordan recalled that, at the last CTG meeting, his delegation had indicated that the high-level committee established to propose a new WTO-consistent programme had submitted in April 2017 a recommendation to the Council of Ministers according to which a percentage of the net income from industrial activity would be subject to income tax without any linkage to export activity; this proposal was compliant with the Agreement on Subsidies and Countervailing Measures (SCM). The Council of Ministers had approved this recommendation in July 2017 and the legislative process to incorporate the new WTO-compliant programme into the Income Tax Law was ongoing but respected the timetable contained in document G/C/W/705/Rev.2.

6.3. Regarding its current subsidy programme, Jordan assured Members that it would be terminated by end-2018, and recalled that Regulation No. 106/2016 stated that income resulting from the export of goods of local origin outside Jordan was totally exempted from tax only until 31 December 2018.

6.4. He thanked Members for their cooperation and understanding of the challenges faced by the Jordanian economy and requested that this item be included in the agenda of the Council's next meeting, when Jordan would again update delegations on progress made.

6.5. The delegate of the United States thanked Jordan for its reform efforts and congratulated Jordan on the approval of the Alternate Support Program. The US had been actively involved in providing technical assistance to resolve the underlying issue and considered this experience to have been an example of Members working together, cooperatively and creatively, with a view to implementing the decisions of the General Council. The US looked forward to the termination of the support programme at issue and the implementation of the new programme in accordance with the schedule submitted by Jordan.

6.6. The delegate of Australia thanked Jordan for its update and expressed its appreciation for Jordan's transparent, open, and constructive approach.

6.7. The delegate of Japan also thanked Jordan for the update; Japan expected Jordan to eliminate the current export subsidy programme by end-2018 and would continue to monitor this issue closely.

6.8. The delegate of Chinese Taipei likewise thanked Jordan for its update on this issue.

6.9. The delegate of Jordan thanked Members for their statements and support.

6.10. The Chairperson proposed that the Council take note of the statements made and, as requested by Jordan, agree to revert to this matter at its meeting in March 2018, when Jordan would again report on developments concerning its current programme and implementation of its replacement programme.

6.11. The Council so agreed.

7 PROCEDURES TO ENHANCE TRANSPARENCY AND STRENGTHEN NOTIFICATION REQUIREMENTS UNDER WTO AGREEMENTS - COMMUNICATION FROM THE UNITED STATES (JOB/GC/148 – JOB/CTG/10)

7.1. The Chairperson drew Members' attention to document JOB/GC/148–JOB/CTG/10, dated 30 October 2017 and circulated at the request of the delegation of the United States, which referred to a Draft Decision for MC11 on "Procedures to Enhance Transparency and Strengthen Notification Requirements under WTO Agreements".

7.2. The delegate of the United States recalled that, at the July 2017 General Council meeting, and in subsequent comments, the United States had recommended that Members use the time left before MC11 to identify and address some of the systemic and institutional issues faced by the WTO in its 20 years of existence so as to reinvigorate and drive it towards a more successful and sustainable future.

7.3. One area of work was to address the deficiencies and gaps in notifications and transparency. As evidenced by the Secretariat's annual report on notifications provided to this Council in document G/L/223 and its revisions, there was an inadequate level of compliance with the notification requirements of the WTO Agreements. Indeed, Revision 24 of the aforementioned Annual Report indicated that fewer than half of the WTO's Members had provided their 2015 subsidy notifications. A similar situation existed for Agriculture, where a third of regular notifications remained outstanding for the period 1995-2015. And one third of those Members that had not notified their domestic support for 2013 accounted for approximately 30% of the total value of agricultural production by WTO Members. This lack of transparency was problematic for traders and undermined the proper functioning and operation of the WTO Agreements.

7.4. From a systemic perspective, it became difficult to develop, evaluate, and assess negotiating proposals to improve the overall operation of the WTO Agreements without the information that should already have been provided under existing notification obligations. Lack of compliance with basic notification obligations also undermined confidence in the system. If Members could not comply with their most basic obligations there was also no certainty that they would comply with their more substantive obligations.

7.5. With the aim of improving Members' compliance with notification obligations, the US had carefully reviewed the Secretariat's report to the CTG. Given that the report included all the goods agreements under the purview of the CTG, the US had limited the scope of its proposal, in two separate elements, to only those agreements: first, mechanisms to encourage Members to submit their outstanding notifications; and second, a small handful of agreements where improvements could be made to the notification requirements themselves.

7.6. Regarding the mechanisms to encourage the submission of notifications, the proposal recommended was to raise the issue to the ministerial level so as to reaffirm Members' transparency commitments (paragraph 1), and to include more information on notifications in Members' Trade Policy Reviews (TPRs) (paragraph 3). As was the case in certain WTO Agreements, the proposal also encouraged the use of counter-notifications as an option that could be employed more broadly (paragraph 4). Beyond these suggestions, the proposal treated the Agreement on Agriculture (AoA) differently, as the US understood that, since 1995, when the notification timeline was established in document G/AG/2, Members had discovered significant challenges in adhering to it in the case of subsidy notifications. Thus, the AoA was treated differently under the section on improvements to specific notification requirements.

7.7. The US proposal was not changing the notification obligations of any Member under the WTO Agreements. Nevertheless, in the case of the Committee on Agriculture (CoA), the US was proposing to modify document G/AG/2, which set out time-frames for all notifications under the AoA. These referred to flexibilities extended to all Members to afford them additional time for agriculture notifications. For all other notification requirements across the agreements listed in paragraph 1(b) of the US proposal the existing notification requirements continued to apply, whether these notification requirements occurred on an annual basis or on an ad hoc basis as and when new measures were issued.

7.8. Even though some notification requirements fell on an annual or biannual basis, with a set date by when such notifications were due, and other notifications were required only when a new measure was proposed, as in the case of newly proposed regulations notified under the TBT or SPS Agreements, the US's proposed Ministerial Decision would apply to all notifications of the Agreements listed in its paragraph 1, where the US had seen delinquency in each type of notification.

7.9. In the case of the Agreements listed in paragraph 1(b), the proposal encouraged greater transparency even when a notification had not been submitted; it did so by asking Members to provide information by 1 November of each year on the reason for any delay in their notification, to indicate when the outstanding notification was likely to be submitted, and also to indicate any partial notification information that may already be available.

7.10. The US also considered that various notifications were missing as a result of a lack of understanding of what needed to be notified; for this reason, the proposal also included an option whereby the Secretariat could assist Members in the preparation of their notifications (paragraph 5). This was the case, for example, with State Trading Enterprises (STEs), where a number of Members simply needed to notify that they did not maintain STEs.

7.11. The proposal also indicated that, if after two years a due notification had still not been provided, administrative measures could then be applied to the Member concerned (paragraph 6). Unfortunately the Secretariat's annual reporting on outstanding notifications and the specific efforts of the standing Committees to discuss the challenges of missing notifications were not sufficient to resolve the problem.

7.12. The administrative measures set out in the proposal referred to those currently used by the WTO and were derived from the Budget Committee's document WT/BFA/W/410, "Outstanding Contributions from Members and Observers", addressed to Members in arrears, and including such measures as a Member not being considered eligible for chairmanship of WTO bodies, and loss of access to WTO documentation. All of the proposed measures had been agreed to by Members and, in the context of the US proposal, were not intended to punish Members but rather to encourage them to achieve a better rate of compliance with existing notification requirements, and to do so by utilizing existing WTO mechanisms. In addition, paragraph 7 of the proposal, under which the Director-General would notify the Ministers of Members on an annual basis of their outstanding notifications, was also derived from the Budget Committee approach.

7.13. With respect to improvements that could be made to the notification requirements themselves, the proposal contained recommendations on agriculture, fisheries subsidies, and TBT notifications. Regarding agriculture notifications, the US had been concerned by a lack of transparency for a number of years already. Recognizing that the deadlines currently set out in document G/AG/2 were difficult to meet because of the length of time required to compile all the relevant data, the proposal recommended that the CoA review and update the notification requirements as necessary and with a view to establishing more realistic time-frames. A new flexibility proposed for Members' consideration allowed them additional time to bring themselves into compliance with their notification obligations, but nevertheless to do so no later than 720 days or 2 years beyond the time-frames set out in document G/AG/2. If a Member did not provide its notifications within the new time-frames, 60 days after the notification deadline (after two years), the Member was to provide its explanations for the delay to the CoA, at the same time indicating an anticipated time-frame for the submission of its outstanding notifications, and already to provide any partial information available to it in respect of the notifications concerned. However, if Members persisted in failing to comply with their notification obligations, even after introduction of the proposed new flexibilities, then the administrative measures set out in the proposal would be applied to them to in order to highlight the importance of transparency in the WTO.

7.14. With regard to notifications of fisheries subsidies programmes, WTO Members in general had shown a low level of compliance, as was also the case in other areas. Moreover, the information currently required under Article 25.3 of the SCM Agreement did not allow for a sufficiently clear understanding of the nature, scope, and impact of fisheries subsidies programmes. In addition to a renewed but general commitment to providing such notifications, the proposal also required Members to provide additional categories of information in their fisheries notifications.

7.15. Negotiations on fisheries subsidies in the Rules Negotiating Group were ongoing but finding agreement on substantive disciplines had proven elusive. The US believed that it was unlikely that the membership would reach consensus on these issues in the few days remaining before MC11. Moreover, negotiations on these disciplines were to a certain extent taking place in a vacuum given that Members did not have a complete understanding of the scope, nature, and impact of existing fisheries subsidies programmes because of the poor compliance record with existing notification requirements and the inadequacy of the information collected through existing notifications.

7.16. The US proposal would result in the notification of information on existing fisheries programmes that would be highly relevant to the ongoing work on meaningful substantive disciplines. Indeed, with a more comprehensive picture of existing programmes, and specifically their trade and conservation impact, Members would be better placed to develop appropriate disciplines on subsidies that contribute to overfishing, overcapacity, and illegal fishing. The US believed that its proposal could provide a solid foundation on which to base future substantive work on fisheries subsidies.

7.17. On the TBT Agreement, the TBT Committee had recommended that Members notify proposed, updated, and final technical regulations (TR), and conformity assessment procedures (CAPs), along with a copy of, or website link to, the full text of each measure. To provide consistency among Members, the recommendation also proposed that Members maintain the same notification number when notifying updated information, revision of final TRs, or CAPs, as addenda, corrigenda, or revisions. As the US was itself now doing, it also encouraged Members to follow the recommendations contained in document G/TBT/35 on the Coherent Use of Notification Formats; this would facilitate an understanding of the notification content by Members, traders, and particularly micro, small, and medium enterprises (MSMEs).

7.18. The US believed that improving transparency through existing WTO notification requirements was the kind of institutional reform necessary to facilitate future negotiations across a range of negotiating topics, and that it would be a worthy and desirable outcome for MC11. If the timing did not permit agreement to be reached at MC11, the US proposed that Members continue to work on this proposal as part of broader post-MC11 institutional reform, and remained available to respond to any questions Members may have with regard to the proposal.

7.19. The delegate of Canada thanked the US for the explanations provided and reserved Canada's right for further reflection, analysis, and discussion of the overall proposal. Nevertheless, by way of preliminary comment, Canada agreed with several elements contained in the proposal and supported a further discussion on institutional reform, including in the context of the Organization's regular work of monitoring implementation of the WTO Agreements. Canada strongly supported the proposal's objective of enhancing transparency and improving notification performance and agreed with the US that a poor record on notifications hindered the work of committees and Members' ability to monitor activities and to make progress in negotiations.

7.20. As to the substance of the proposal, it included constructive and positive options for addressing certain issues such as the appropriateness for Ministers to instruct regular bodies to take the necessary steps to reinforce compliance with transparency obligations, including through notification workshops. The proposal for Ministers to instruct the Trade Policy Review (TPR) Body to ensure that all trade policy reviews include a focus on Members' compliance with their transparency obligations was another constructive approach to improving overall performance.

7.21. However, Canada questioned whether certain aspects of the proposal would truly complement or possibly rather detract from ongoing work outside of the CTG. This was the case, for example, with the proposed disciplines on fisheries contained in the US proposal. In light of

ongoing and active negotiations on fisheries subsidies, Canada was not convinced that discussing these types of issues in the CTG was the best or most productive use of Members' time. Indeed, Canada shared US concerns over Members' lack of compliance with their subsidies notifications – but this lack of compliance was not specific to fisheries subsidies. Given that there were already active discussions in the Negotiation Group on Rules (NGR) on fisheries subsidies, including notification requirements similar to those proposed by the US, Canada believed that the NGR would be a better forum for fruitful discussion on enhanced transparency requirements for fisheries subsidies. Canada looked forward to further discussion of the proposal.

7.22. The delegate of the European Union welcomed the US proposal given that the EU also attached great importance to enhancing transparency. The EU shared the US diagnosis, namely that the low level of compliance with notification requirements and the resulting lack of transparency were hampering the proper functioning of several WTO Agreements; the EU also agreed with the objective of designing remedies to the notification problem and was ready to work with Members in this regard both in the short and medium-term.

7.23. A number of suggestions in the US proposal had merit, such as instructing a body like the Working Group on Notification Obligations and Procedures, which did some useful work in the mid-nineties, to carry out a detailed analysis of notification compliance and challenges and put forward proposals. Such work could draw on the annual Secretariat report on notification compliance prepared for the CTG, which was a good reference document but underutilized. The EU also considered that Trade Policy Reviews, counter-notifications, and a greater involvement on the part of the Secretariat in preparing notifications were ideas worth exploring. To complement these ideas, she drew Members' attention to the different suggestions that the EU had itself put forward for improving notifications and transparency overall.

7.24. First, in the area of horizontal subsidies, the EU had submitted a paper to the NGR in May 2017 containing three options that would improve the state of subsidy notifications. The first option was streamlined monitoring of compliance with notification obligations consisting of a greater involvement by the WTO Secretariat. The second option was the creation of a general rebuttable presumption according to which all non-notified subsidies would be presumed to be actionable. The third option was a presumption of actionability based on the mechanism of Article 25.10 of the SCM Agreement, relating to counter-notified subsidies. The EU was convinced that the rebuttable presumptions, in particular, would build concrete and tangible incentives for Members to comply with their notification obligations in the area of horizontal subsidies.

7.25. Second, the EU proposal on "Transparency of Regulatory Measures for Trade in Goods", co-sponsored by a number of Members in the Negotiating Group on Market Access (NAMA), proposed that TBT and SPS notifications include final measures, not only draft regulations, and that notifications also include internet links so that traders could retrieve relevant information more easily.

7.26. The EU shared the US concerns regarding the specific notification requirements on agriculture, fisheries subsidies, and TBT, and agreed with the need to improve such notifications. With regard to fisheries subsidies, the EU sought clarification from the US as to how to interpret "to the extent possible" set out in the chapeau of paragraph 12 of the US proposal. This language looked like a best-endeavour provision that would not necessarily increase transparency. The EU remained ready to engage constructively on these and other suggestions aimed at enhancing transparency, and specifically the notification problem that many Members had been deploring for a long time.

7.27. The delegate of Switzerland thanked the US for its proposal and explanation. For Switzerland, transparency was a key pillar of a well-functioning multilateral trading system and a prerequisite for an effective monitoring of compliance. Accordingly, Switzerland had been a long-term advocate for enhanced transparency at the WTO and was in principle supportive of proposals seeking to improve notifications. In view of MC11, his delegation was engaged in the effort to increase transparency in the area of export restrictions in agriculture, shared the general objective of the US proposal, and remained open to discussing it further.

7.28. The delegate of New Zealand thanked the US for its communication and explanation. Members had clear and binding obligations that were important to the functioning of the WTO.

However, New Zealand did not believe that, in cases of persistent non-compliance, developing appropriate incentives was a good idea. Nevertheless, it believed in providing adequate support to assist Members to complete their notifications when such support was necessary. New Zealand was interested in exploring this element in more detail, as well as in further exploring what was covered, what was not covered, and where certain issues may have been missed out. This would help Members to better understand the current situation and, as in the case of notification requirements under the TRQ Decision agreed in Bali, should also be included in the discussion.

7.29. New Zealand agreed that a lack of transparency in respect of fisheries subsidies was a particular problem that should be addressed at MC11 as part of a wider deliverable that responded to all elements of the STD target 14.6. This issue should be included in the vertical text of the NGR. New Zealand also believed that significant commonality existed between elements in the US proposal and certain elements contained in the proposals from New Zealand, Iceland, and Pakistan, as well as in the text submitted by six Latin American countries.

7.30. On domestic support, New Zealand was eagerly awaiting notifications from a range of Members, including some large subsidizers who were delinquent not just by the deadline standard of the 90 days currently reflected in document G/AG/2 but also by the 720 days proposed by the US. There were certainly challenges in assembling certain notifications in the CoA but New Zealand did not wish that particular deadline to be extended any further. However, it might be practical to look again at the time-frame set out in document G/AG/2.

7.31. New Zealand was also interested in developing a clearer understanding of the US position concerning a commitment to further strengthening the CoA as a forum in which Members could discuss implementation of their policies. It was certainly an issue that would be better addressed once Members had a clearer understanding of the situation regarding subsidies. His delegation remained ready to explore the US proposal further.

7.32. The delegate of Singapore welcomed all efforts to improve transparency and Members' adherence to their WTO notification obligations. Members' timely and complete notifications were crucial to the WTO's monitoring function and contributed to the predictability and transparency of the multilateral trading system. Singapore had been and continued to be supportive of all efforts to enhance Members' compliance with their notification obligations across all WTO bodies. This was an ongoing journey and one where long-term perspectives and long-term efforts deserved serious consideration. The US proposal was currently being assessed in Capital prior to further discussion.

7.33. The delegate of the Plurinational State of Bolivia took note of the US proposal, which was currently being considered in Capital. Nevertheless, Bolivia wished to make some preliminary comments on the proposal. First, Bolivia considered the proposal to be extremely ambitious not only in terms of its adoption at MC11 but in particular with regard to WTO standards. In addition, Bolivia did not consider that the proposal would solve the problems that Members needed to address.

7.34. Like others, Bolivia also considered transparency to be extremely important. It was important not only in respect of the notification obligations in the WTO Agreements but also in relation to all aspects of the WTO's work and, in particular, with regard to how decisions were adopted at ministerial conferences. Bolivia believed that if the US proposal were to be adopted now, some 70-80% of the WTO Membership would be judged to be delinquent because of their lack of notifications in the area of Agriculture, for example, which was a sector of capital importance to Bolivia. In addition, Bolivia did not believe that an incentive and punishment method would be appropriate in the context of the multilateral trading system. What Bolivia considered important was rather for Members to reach meaningful compromise. Therefore, rather than resorting to a punishment method, Members should build a positive agenda with the aim of improving the notification system and transparency, and one that included an understanding and identification of the real problems faced by the majority of Members that were not submitting their notifications. This positive agenda should also be developed on the basis of capacity building, including the use of new technologies and solutions to address a lack of resources, and with assistance from the Secretariat for those Members whose notifications were delayed or outstanding.

7.35. If Members were to apply the measures proposed by the US, the WTO would find that only 30-40% of its Members remained active. Bolivia asked Members if it would be possible and valid for the Organization to continue its work under such circumstances?

7.36. The majority of agreements covered by the US proposal concerned goods, but not all of them – such as Agriculture. The US should explain the reasoning behind this exception and why, as pointed out by New Zealand, the Bali Decision on the Administration of Quota Restrictions was not included in the proposal. Explanations should also be provided with regard to the exclusion of notification requirements contained in GATS Article 3, under which the US had made only one notification since 1998. Another concern related to agriculture notifications that, according to the proposal, would become biannual, rather than annual, as was currently the case, so as to accommodate the notification time-frame applied by the US.

7.37. In sum, Bolivia believed that a punishment and incentive-based system would not necessarily result in an increased compliance with notification obligations. The US had called for pragmatism and realism and not to pursue MC11 proposals that were unlikely to result in consensus. Such pragmatism should also apply to this proposal, which was complex and which, in order to reach consensus, would require a tremendous amount of work from the Organization, the proponents, and other Members. Bolivia reserved its right to submit more detailed and specific comments at a later stage.

7.38. The delegate of Argentina thanked the United States for its proposal, which demonstrated US engagement in the multilateral trading system and aimed to achieve specific results at MC11. Argentina also agreed that transparency was a fundamental pillar of the WTO system. Despite certain terms used in the draft Ministerial Decision, Argentina considered that some of the solutions and incentives it contained were interesting and deserved further analysis. On the issue of transparency, Members should also consider the special situation and limitations faced by certain developing and least-developed countries (LDCs). Therefore, appropriate consideration should be given to TA activities carried out by the WTO Secretariat to assist the Members concerned to comply with their notification obligations.

7.39. The delegate of Japan thanked the United States for its proposal and supported the US objective of enhancing the effectiveness of transparency requirements so as to strengthen the WTO's institutional framework. Japan believed that compliance with notification requirements was essential to the work of the various WTO bodies in implementing the WTO Agreements. Japan was carefully examining the details of the proposal and would provide comments where necessary. Japan also wished to discuss this issue further, and with all Members.

7.40. The delegate of Brazil thanked the United States for its proposal and indicated that it was being reviewed in Capital. Brazil also attached great importance to transparency provisions and notification obligations in the WTO Agreements. Brazil was also open to discussing initiatives that could contribute to improvements in implementation and monitoring of these commitments on the part of the Membership. In this regard, he recalled the discussions that had taken place in this Council based on the factual report by the Secretariat contained in document G/L/223 and its most recent revision, Revision 24, already mentioned by the US and other Members.

7.41. However, Brazil believed that, as also highlighted by a number of other Members, the approach proposed in the draft ministerial decision was not the most appropriate. The work of the regular WTO bodies was designed to be collaborative in nature. This had also been the spirit of the Decision on Notification Procedures adopted in the Uruguay Round and the subsequent decisions taken by different WTO bodies over the last 20 years. The combination of notification obligations with the work of the TPRM of the Trade Policy Review Body meant that, since the establishment of the WTO, real progress had been made in terms of transparency. Today, Members knew much more about each other's trade policies than ever before, even if there were still problems that needed to be tackled and addressed. However, Brazil was not averse to change and improvement and recognized certain aspects in the proposal that deserved consideration, such as enhanced cooperation between Members faced with difficulties in submitting notifications, through the Secretariat, as indicated in paragraphs 2 and 5 of the proposal.

7.42. Brazil considered that the approach set out in paragraph 6 of the proposal could have unintended harmful consequences for the proper functioning of WTO bodies, with no guaranteed

benefits in terms of improving the frequency and, especially, the quality of Members' notifications. Furthermore, Brazil was not convinced that the analogy with administrative measures applied to Members in arrears in the budgetary field was appropriate. The design and application of those measures was mandated by Article VII.2(b) of the Marrakesh Agreement but no such framework existed for non-compliance in relation to notification obligations. His delegation was also concerned by the provisions in paragraph 5 referring to the possibility of the Secretariat making notifications on behalf of Members. As noted by other delegations, concerns also existed with regard to the duplication of work currently undertaken in the context of the fisheries subsidies negotiations which, in Brazil's view, was the proper place for such discussions.

7.43. Brazil's concerns were substantive with regard to this proposal; nevertheless, Brazil was ready to discuss with the US and other interested Members different approaches to the issue of enhancing compliance with notification obligations in the WTO.

7.44. The delegate of Hong Kong, China thanked the United States for its submissions, which provided an opportunity to give focus to the discussion on transparency. Transparency was crucial to the effective functioning of the WTO, and Hong Kong, China, agreed that enhanced efforts to improve the overall notification performance should be undertaken. The paper contained elements that were interesting and worthy of further exploration. There were certainly differences in the complexity of the various notification formats and requirements in different WTO bodies, or under different agreements, and there were also reasons or genuine difficulties explaining non-compliance with notifications in different areas. The WTO Secretariat had done a very good job in reaching out and addressing the obstacles that resulted in non-compliance.

7.45. At this point her delegation was not clear as to whether or not alternative actions or rather assistance would be more effective in improving notification compliance; perhaps more information was required so as more clearly to understand the difficulties causing non-compliance, which in turn would help Members more effectively to consider this proposal and possible next steps. She echoed Canada's comments concerning the parallel discussions on fisheries subsidies in light of the fact that there existed an NGR with experts in the area. Thus, there existed a doubt as to whether or not it was appropriate to devote time in the CTG to discussing issues that were already being handled by another group.

7.46. Regarding the proposal that the Secretariat prepare notifications on behalf of a Member she noted that, under the WTO Agreements, transparency was a Member's' obligation. In this vein, what would be the legal basis for the Secretariat to make notifications on behalf of Members?

7.47. The delegate of the Russian Federation welcomed US efforts to enhance transparency requirements and supported the US approach to strengthening transparency in the areas where there existed established WTO rules. He echoed the comments made by Canada, Brazil, and Hong Kong, China, on fisheries subsidies, and drew Members' attention to the fact that this issue was somewhat different because it related to rules that were still to be established. Russia believed that further discussion on notification requirements for fisheries subsidies should be held in the NGR and within the scope of the fisheries subsidies negotiations. Russia had certain issues that it wished to raise in relation to particular elements of the US proposal on fisheries and his delegation was open to further discuss all of the issues raised in the US proposal.

7.48. The delegate of Australia thanked the United States for its proposal and supported the objective of increasing compliance with WTO notification and transparency obligations; indeed, Australia was interested in exploring the various options through which to do so and looked forward to working with the US and other Members to support these objectives in the lead-up to MC11 and beyond.

7.49. The delegate of South Africa took note of the US proposal and recalled that the objective of the WTO, as stated in the Preamble to the Marrakesh Agreement establishing the WTO, was that relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of trade in goods and services, while at the same time allowing for an optimal use of the world's resources in accordance with sustainable development objectives, seeking both to protect and preserve the environment, and to

enhance the means for doing so in a manner consistent with Members' respective needs and concerns, and at their different levels of economic development.

7.50. Although transparency, made effective through notifications, was a vital element in the WTO's work, the WTO's primary objective was of still greater importance and, as such, the focus of Ministerial Conferences should be on the development of a trade environment that supported and contributed to further development and growth globally, and in particular for developing and least developed countries.

7.51. South Africa did not believe that the institutional effectiveness of the WTO would be enhanced by expanding the transparency mandate to the point that it required punitive administrative measures, the results of which would render Members inactive and lose them access to WTO resources. This decision could also subject WTO Members to dispute settlement. South Africa was concerned that such an approach would have a disproportionately large and negative impact upon the very Members that most required assistance, and that would now find themselves additionally penalized as a consequence of their capacity constraints. It was also not clear from the proposal how one-off notifications, ad hoc notifications, and notifications without a clear deadline could be subjected to punitive administrative measures based only on these timelines.

7.52. The proposal did not consider how the various reasons for inadequate compliance with notification requirements could be addressed in order to assist Members in the process of preparing their notifications. Delayed or absent notifications could be explained by a number of factors, including but not limited to the following: most notifications were technical in nature and often required coordination across different government departments; there was often a lack of awareness and capacity to notify among Members; and, in some cases, the domestic technical infrastructure, especially of developing country Members, added to the difficulties faced by Members when attempting to notify adequately, appropriately, and comprehensively.

7.53. The WTO Secretariat already monitored Members' compliance relating to regular notification obligations by providing updates on the status of notifications in the different Committees, and often TPRs also gave an update on Members' notification status. However, these were not intended to serve as the basis for the enforcement of specific obligations under the Agreements, for dispute settlement procedures, or to impose new commitments, but rather were meant to provide a better understanding of Members' trade policies and practices. Moreover, with regard to the agreements covered by the proposal, the WTO Secretariat could not submit notifications on behalf of Members when there was no mandate and certainly no agreement among Members for it to do so. Most of the WTO Agreements contained GATT Article X-type provisions, such as publication and administration of trade regulations; these related to transparency and due procedural process. Clarifications were also required as to why the proposal focused only on the WTO Agreements in Annex 1A and introduced a specific standard focused on such Agreements in Members' TPRs, while at the same time excluding Annex 1B and the GATS.

7.54. South Africa did not see the need for a Ministerial Decision simply to encourage Members to fulfil their transparency obligations and when all monitoring of notification requirements could be taken up in the relevant committees; therefore, South Africa was not in a position to agree on this proposed Ministerial Decision at MC11. If Members agreed, the issue could be taken up for further consideration after MC11.

7.55. The delegate of Senegal also thanked the US for its proposal, which was under consideration in Capital; therefore, Senegal's comments, concerning fisheries subsidies in particular, were only preliminary. Like others, Senegal attached great importance to compliance with the notification requirements contained in the WTO Agreements. Nevertheless, at least as far as fisheries subsidies were concerned, Senegal did not believe that the CTG was the appropriate forum for their consideration. Senegal was rather of the view that questions concerning transparency should not be linked to prohibitions; the focus should rather be on the provision of all necessary information so as to enable Members to evaluate compliance with disciplines, but not as a goal in itself and nor as an instrument to make it possible simply to amass additional subsidies information.

7.56. Senegal was of the view that transparency in general should not lead to burdensome requirements for developing countries, and LDCs in particular, given their limited capacity and the fact that their levels of subsidies were generally marginal. Senegal would possibly provide further comments on this proposal and also request further clarification from the United States.

7.57. The delegate of the Republic of Korea thanked the United States for its proposal, which continued to be reviewed in Capital. Nevertheless, Korea could provide a number of preliminary comments. Korea agreed with the US that enhancing transparency and rebuilding confidence in the multilateral trading system was an important issue, and that notification requirements constituted a fundamental element in WTO obligations. Nevertheless, given the technical aspects of this proposal and the limited time before MC11, it would seem to be difficult to reach a consensus on this issue either before or during Buenos Aires. For this reason, Korea looked forward to a further discussion of this issue after MC11, especially in light of the implications of the proposal for the relevant WTO rules.

7.58. The delegate of Cameroon echoed the statements made by South Africa and Senegal, and also thanked the United States for its communication, which provided a clear initial diagnosis but also contained a number of radical solutions that required further consideration.

7.59. The US and Canada's statements contained food for thought but also showed that it was still necessary to deepen these issues. The ideas put forward by the US, as well as other ideas that Members might present in the future, could be further explored and improved upon. Indeed, Bolivia and Argentina had referred to important aspects of transparency that Members should take into account, such as Members' capacity to implement the suggestions made. Regarding the timetable and Ministers' commitments on this issue, Brazil had provided an analysis which deserved to be taken into account. In sum, it was not just a matter of notification commitments to be respected; there could be other aspects, too.

7.60. However, there were also other types of commitments that had not been mentioned in the proposal, and where Members failing to comply with those commitments had not been described as delinquent. Perhaps the time had come for the WTO to identify the full range of its systemic problems and to deal with them as a whole; in other words, was the problem of transparency the only problem in the WTO, or were there others? Similarly, would addressing the issue of transparency in the way proposed not risk to create more problems than it resolved?

7.61. In Cameroon's view, Members should pause to evaluate the situation, consider all the aspects mentioned above and, as others had indicated, study the issue in depth with a view to developing a clearer understanding of the current situation; this would enable Members and the Secretariat to propose solutions but to do so without running behind deadlines that were too short and that did not allow Members sufficient perspective to work out the optimal solutions.

7.62. The delegate of Egypt thanked the United States for its proposal, which was currently being assessed in Capital; nevertheless, Egypt wished to share some preliminary comments. Egypt believed that it was more appropriate to address the issue of enhancing notification compliance within the respective committees, especially given that the WTO Secretariat already monitored Members' notification compliance. The suggestion that the WTO Secretariat provide a notification on behalf of a Member would be difficult to implement for both technical and legal reasons; and proposing administrative measures was stringent and would likewise be difficult to implement in the area of notification compliance.

7.63. Egypt believed that, in order to enhance notification compliance, the priority should be to address the needs of developing countries and LDCs in the areas of capacity-building and technical assistance with a view to helping these countries to fulfill their current commitments under the WTO Agreements. In sum, Egypt was of the view that the proposed draft ministerial decision was too ambitious for MC11 and that it would also be difficult to take the text as a basis for negotiations. Nevertheless, Egypt firmly believed that a discussion on transparency was vital for the effectiveness of the WTO and that this discussion should take place in the different committees.

7.64. The delegate of Ecuador recognized that transparency was an important pillar of the multilateral trading system and that the issue was cross-cutting in nature. Indeed, the US proposal

concerned Ecuador directly, as notifications represented a considerable administrative burden, and to developing and LDC Members in particular. For example, many LDCs did not have the necessary administrative capacity to compile and hence provide timely information. Punitive sanctions could therefore affect a Member's ability not only to deal with the additional burden but also to comply with existing WTO obligations. On fisheries subsidies, she indicated that it was an issue being addressed in the NGR.

7.65. In sum, Ecuador considered that, in order to promote transparency, Members should think to establish a positive agenda that could be developed together with technical assistance addressed to Members needing to strengthen their capacity so as to provide timely notifications, rather than developing a punitive system that would only lead to still greater inequalities.

7.66. The delegate of Norway appreciated the US initiative to improve notification compliance, which Norway considered to be necessary. The US submission contained several interesting proposals and Norway was ready to engage in future discussion of the issue. However, as already expressed by many other delegations, Norway believed that, to improve notification compliance, positive incentives could prove to be more effective than punitive action.

7.67. The delegate of Chinese Taipei thanked the US for its proposal and explanation. Her delegation attached great importance to transparency and recognized the relevant objectives set out in the proposal. Chinese Taipei was also concerned by the low compliance with notification requirements and welcomed any effort to enhance transparency.

7.68. Her authorities, like others, were still studying the proposal carefully, and her delegation reserved the right to revert to the issue as necessary. Nevertheless, Chinese Taipei wished to share some preliminary comments regarding fisheries subsidies, particularly with regard to paragraph 12 of the proposal that, as indicated by the EU, could be understood as a best endeavour approach. The US should provide further clarification of this issue, as well as on the issues raised by Canada; Hong Kong, China; Brazil; and the Russian Federation, regarding the best forum in which to discuss fisheries subsidies.

7.69. The delegate of the Bolivarian Republic of Venezuela took note of the US proposal and expressed Venezuela's interest in strengthening the procedures guaranteeing transparency at the WTO. The document was being discussed in Capital but he was nevertheless in a position to share some preliminary comments on the substance of the proposal. He noted, first of all, that the proposal covered the goods agreements but not services and other areas. He also noted that Venezuela preferred that fisheries notifications be discussed in the NGR.

7.70. Venezuela was concerned that paragraph 5 of the proposal gave competence to the Secretariat to submit a notification on a Member's behalf; however, Venezuela did not understand the intention behind this aspect of the proposal.

7.71. The proposal was also based on administrative procedures applied to Members in arrears that, in Venezuela's view, was an approach that was neither pragmatic nor realistic. His delegation wondered if the intention of the proposal was to give positive incentives to Members to improve their notifications or rather to focus just on punitive measures. In conclusion, Venezuela considered that the proposal should not be submitted to MC11.

7.72. The delegate of Cuba thanked the United States for its proposal, which was currently being considered in Capital; nevertheless, Cuba wished to share some preliminary comments. Cuba believed that transparency was the most fundamental pillar of the WTO system and that its importance could not be overestimated; even so, Cuba considered that the US proposal seemed only to add obligations to those already there, particularly when it made reference to providing explanations as to why a Member had not been able to comply with its notification obligations in respect of the Agreements covered. This would only add to the existing list of notification obligations with which Members had to comply and, consequently, would also serve only to increase the workload of Members. Moreover, the proposal did not recognize Special and Differential (S&D) Treatment for developing and Least Developed Members, while nonetheless containing administrative measures to be imposed on those Members unable to comply. Cuba wondered if the US would apply the same approach to those Members that for many years, and in

relation to many disputes, had not respected the rulings and recommendations of the Dispute Settlement Body.

7.73. The low level of compliance with notification obligations highlighted in the US proposal indicated that a majority of WTO Members, most of whom were developing countries, experienced real problems in this area. Therefore, Cuba could not accept punitive measures being imposed on Members that, as a result of resource constraints, were already finding it difficult to fulfil their notification obligations.

7.74. Like other Members, Cuba also believed that negotiations on specific agreements should be dealt with in the context of the relevant competent body; nor did Cuba consider it appropriate to take a decision on this issue at MC11, particularly when the implications for developing and least developed Members were significant.

7.75. The delegate of Chile thanked the US for its proposal on transparency given that this issue was crucial not only for Chile but for all WTO Members. Chile wished to share some preliminary comments but also indicated that it would wish to pose some more specific questions to the US at a later date. Chile asked for clarification from the US with regard to paragraph 3 of its proposal and also drew Members' attention to the work that was being done on fisheries subsidies in the NGR. Like others, Chile was more inclined to adopt incentives rather than punitive measures when it came to notification obligations.

7.76. The delegate of China in general favoured holding discussions on enhancing transparency in the WTO. In the long term, such discussions would be beneficial in helping Members to understand each other's trade policies, as well as maintaining and strengthening the multilateral trading system with a view to further promoting global trade, trade investment liberalization, and trade facilitation. China believed that all Members, including the proponent, should continue in their efforts to improve the implementation of their transparency obligations.

7.77. In the meantime, Members should always give full consideration to the lack of capacity faced by developing and LDC Members. In this vein, China also believed that punitive measures might not help Members to enhance and implement their transparency obligations. Many of the punitive measures mentioned in the proposal were difficult to realize.

7.78. Instead, China proposed to enhance transparency through encouragement, such as rewarding those Members that had performed well in the area of notifications and transparency, and suggested that Members begin by expanding capacity-building with a view to improving the current status quo. In this vein, the Secretariat could establish training courses on notification and transparency and could also invite those WTO Members that performed well in this area to share their experiences, practices, and ideas.

7.79. China called upon Members to further enhance transparency in the area of notifications, and encouraged discussion and an exchange of views among Members with a view to exploring collectively possible ways to enhance implementation with regard to transparency obligations, and specifically the notifications themselves and, in doing so, to make a further contribution to the strengthening the multilateral trading system.

7.80. The delegate of Ghana took note of the US proposal, which was currently being considered in Capital. Ghana did not support the idea of taking the proposal to the upcoming Ministerial Conference, especially given that most of the issues were already being considered under various Committees, and that the remaining time prior to MC11 would be taken up with other issues, such as rules in fisheries subsidies.

7.81. Additionally, imposing punitive measures against developing and LDC Members would prove onerous to them, particularly at a time when the WTO Membership was discussing the challenges faced by those Members with a view to addressing their difficulties so as to allow them to participate more fully in the multilateral trading system. As suggested by others, Ghana was supportive of the recommendation that incentives be granted for compliance rather than punitive measures that would make it still more difficult for developing countries and LDCs fully to participate in the multilateral trading system.

7.82. The delegate of Nigeria thanked the United States for its statement on the proposal. Nigeria had taken note of the proposal, currently being considered in Capital, and would provide substantive comments at a later date.

7.83. The delegate of India thanked the United States for having submitted a detailed proposal on enhancing transparency. Like other delegations, India believed transparency to be a main pillar of the rules-based multilateral trading system. It provided the membership with information and clarity as to Members' laws and regulations, the relevant facts and figures, and measures taken by other Members that had an impact upon their international trade. Despite the difficulties in collecting and collating this information, facts, and notification requirements, India had significantly improved its compliance with its notification obligations.

7.84. However, there was a difference between wilful default and default due to inherent systemic constraints, such as the availability of information and the resources available to developing and least developed countries. Indeed, developing countries, in spite of their willingness to notify on time and to fulfil their WTO obligations, might not be able to do so for the above-mentioned reasons, and also because of their limited expertise in notifying under the WTO Agreements. The proposal was currently being considered in Capital and India would revert to it at a later date.

7.85. The delegate of Turkey thanked the United States for its proposal, which was currently being evaluated in Capital. Like many delegations, Turkey was also of the view that the notification requirements regarding fisheries subsidies should be dealt with in the context of the NGR, and that any additional transparency requirements beyond Article 25.3 of the SCM Agreement should be determined according to the agreed prohibitions in the ongoing negotiations.

7.86. Another issue of concern for Turkey was the approach taken in Article 6 of the US proposal. Members should be extremely careful not to damage the overall structure and functioning of the WTO when trying to fix the low compliance problem in transparency. Turkey also considered that the WTO Membership was not in a position to achieve consensus on this proposal before or during MC11. Therefore, discussions on this issue should take place after the Buenos Aires Ministerial Conference, when Turkey and other Members would be ready to work on it.

7.87. The delegate of Brazil asked for clarification from the United States as to how it intended the discussion of this issue to continue after MC11, in the post-Ministerial agenda, and in particular as the proposal had been tabled at CTG level or, in other words, under the WTO's regular work programme.

7.88. The delegate of the United States thanked all Members that had taken the floor for their constructive preliminary comments and for their willingness to engage in a discussion of the proposal. He also apologized for not being in a position to respond in a short statement to all of the comments made.

7.89. With respect to the procedural question posed by Brazil, time was an important factor, and the current discussion had given to both his own delegation, and the wider WTO Membership, useful material for a continued reflection upon the best next steps for this discussion, including consideration by Ministers of work priorities at and after MC11.

7.90. With regard to the questions from the EU and Chinese Taipei on transparency in the fisheries subsidies sector, where the proposal used the wording "to the extent possible", the US considered that the use of such terminology did not indicate that this was optional or a best endeavour commitment. Members might provide the information if the information was available to them. The US believed that no Member could credibly say that it was not possible to submit the name of a programme, as required under Article 25.3 of the SCM. Therefore, "to the extent possible" was intended to qualify other elements, such as catch data by species, which might not be available to fisheries authorities.

7.91. Regarding comments concerning delegation of additional functions to the Secretariat, he noted that, as indicated in paragraph 5 of the proposal, the intention was not to give the Secretariat interpretative power under this draft decision. The text referred clearly to a role for the Secretariat but only in consultation with the relevant Member, and the suggestion that the Secretariat should perform this action in consultation with Members was a formulation that already

existed in the RTA Transparency Mechanism. Consequently, a precedent existed for asking the Secretariat to undertake certain tasks but without giving it the ability to act in the absence of agreement from the Member that was then the focus of the Secretariat's work.

7.92. The Chairperson said that the discussion indicated that transparency was indeed very important to the WTO's work, and he reminded delegations that, at the April 2017 meeting of this Council, when Members considered the "Status of Notifications under the Provisions of the Agreements in Annex IA of the WTO Agreement", as contained in the compilation prepared by the Secretariat, which included all notifications of a regular or periodic nature, a thorough discussion, promoted by the delegation of New Zealand, had taken place on Members' performance with regard to their notification obligations. During that discussion, Members had recognized the value of complete and timely notifications, which undoubtedly contributed to predictability and transparency. He therefore proposed that the Council take note of the statements made under this agenda item.

7.93. The Council so agreed.

8 INDIA – QUANTITATIVE RESTRICTION ON IMPORTS OF BEANS OF THE SPECIES VIGNA MUNGO HEPPER OR VIGNA RADIATA WILCZEK – REQUEST FROM AUSTRALIA

8.1. The Chairperson informed Members that, in a communication dated 27 October 2017, the delegation of Australia had requested the Secretariat to include this issue on the meeting's agenda.

8.2. The delegate of Australia noted that, on 21 August 2017, India's Ministry of Commerce and Industry had announced a quantitative restriction of 300,000 tonnes annually for imports of beans of the species Vigna Mungo Hepper or Vigna Radiata Wilczek, or mung beans. Australia had raised its concerns about this restriction bilaterally with India and also at the WTO's CoA meeting of 17 October 2017. Australia had sought India's justification for the restriction in light of India's WTO obligations. At the aforesaid meeting, India had responded only that it would notify the restriction and provide the relevant information to the appropriate Committee in due course. Australia had also made representations to India regarding a shipment of Australian mung beans that had been detained as a result of the restriction.

8.3. Australia considered that that the general prohibition on the use of quantitative restrictions was one of the core disciplines of the GATT and the WTO Agreement on Agriculture. Nevertheless, there were certain exceptions to this general prohibition. Australia therefore wished to understand on what basis India had imposed such a quantitative restriction on mung beans.

8.4. The delegate of Canada shared the concerns raised by Australia regarding India's quantitative restrictions on mung and black beans. Canada noted that India had also placed quantitative restrictions on pigeon peas. Canada asked India to explain the rationale for imposing these quantitative restrictions, and on what grounds India considered them to be consistent with its WTO obligations. In addition, Canada asked India if these restrictions had been notified to the WTO.

8.5. The delegate of the European Union expressed the EU's systemic interest in this issue, and emphasized the importance it placed on Members respecting their transparency obligations and notifying to the WTO any introduction of quantitative import or export restrictions, or export bans.

8.6. The delegate of the Russian Federation joined previous speakers in expressing their concern over the restrictions applied by India on imports of beans.

8.7. The delegate of New Zealand sought explanations from India with regard to the quantitative restriction it had imposed on beans and, in particular, with regard to the rationale and characteristics of the measure.

8.8. The delegate of Brazil signalled his delegation's interest in this issue, and in particular India's clarification of the measure.

8.9. The delegate of India thanked Members for their interest in India's import measures on beans. This was the first time that the issue had been raised in the CTG; thus, Members' concerns would be transmitted to Capital. With regard to transparency and notifications, he assured Members that India would notify the import quota and the relevant information to the Council at the appropriate time.

8.10. The Chairperson proposed that the Council take note of the statements made.

8.11. The Council so agreed.

9 KAZAKHSTAN – BORDER RESTRICTIONS - REQUEST FROM THE KYRGYZ REPUBLIC (G/C/W/745)

9.1. The Chairperson drew Members' attention to document G/C/W/745, dated 17 October 2017 and circulated at the request of the Kyrgyz Republic, on certain measures recently applied by Kazakhstan at its border with the Kyrgyz Republic. He welcomed Mr Almaz Sazbakov, Vice-Minister of Economy of the Kyrgyz Republic.

9.2. The representative of the Kyrgyz Republic stated that this was the first time in almost 19 years of the Kyrgyz Republic's WTO Membership that his country had felt compelled to raise a concern at CTG level. The nature of the facts at the Kyrgyz-Kazakh border, and the negative impact of the measures imposed by Kazakhstan against his country, were having a severe impact on the economic and social situation in his country. He added that the International Monetary Fund (IMF) growth forecast for Kyrgyzstan had been revised to a 0.3% decrease due to the ongoing restrictions imposed by Kazakhstan, which amounted to around US$200 million of economic loss to date. He also recalled that, in October 2017, his delegation had submitted document G/C/W/745, which informed Members of the border restrictions imposed by Kazakhstan; his delegation now intended to present the full case and the full information concerning the major trade difficulties faced at its border since 10 October 2017. To do so, a high-level delegation from Capital, presided over by the Vice-Minister of Economy, was present at this meeting. He therefore gave the floor to Mr Almaz Sazbakov, Deputy-Minister of Economy, to present the case in detail.

9.3. The Vice-Minister of Economy expressed the grave concerns of his country with regard to Kazakhstan's border measures, which were discriminatory against the Kyrgyz Republic and nullified and impaired its benefits under the WTO's fundamental principles and rules. Indeed, as from 10 October 2017, and without providing any notification or explanation, Kazakhstan had unilaterally put in place barriers that impeded the movement of goods across the border.

9.4. One month after the application of such restrictions the average daily cargo flow of Kyrgyz goods had decreased by more than a third. Inspections carried out by the Ministry of Economy during the period 10 October to 7 November 2017 indicated that around a thousand lorries carrying goods from Kyrgyzstan were stuck at the border; this resulted in a queue of more than 10 kilometres. More than 20% of the affected goods were perishable and, on average, it took each cargo lorry five days to cross the border. The border restrictions had also affected more than 50 train wagons, which had been stuck in Kazakhstan. In short, these unexpected restrictions resulted in a daily loss counted in millions of dollars. As previously mentioned, the IMF had indicated that in 2017 there would be a 0.3% decrease in the growth forecast of the Kyrgyz economy, which represented around US$200 million.

9.5. Kazakhstan had violated various WTO principles with its border restrictions, including transparency; it had not informed the Kyrgyz Republic either bilaterally, through mass media, or via the WTO notification system, of the measures that it had applied since 10 October 2017. The one announcement that it did make was incomplete and did not provide sufficient time for producers and carriers to adapt to the new trade barriers imposed at the border.

9.6. Along with its neglect of the non-discrimination principle, Kazakhstan, as the most geographically convenient country for trade between the Kyrgyz Republic and other WTO Members, had also denied freedom of transit to the Kyrgyz Republic. Indeed, as of the first day of application of these trade barriers, lorries and railway wagons coming from and going to the Kyrgyz Republic had been subject to burdensome cargo and control inspections, even though the carriers concerned were operating in full conformity with the TIR Carnet system.

9.7. Kazakhstan's border restrictions also undermined the objectives and efficiency of the Trade Facilitation Agreement (TFA). Although Kazakhstan had notified various TFA provisions under Category A, such as promptly informing carriers when goods were detained, releasing perishable goods in the shortest possible time, and cooperating with the border agencies of other Members, it clearly fell short in terms of compliance with its TFA obligations.

9.8. Consequently, the Kyrgyz Republic considered that Kazakhstan had violated Articles I, V, X, and XI of the GATT 1994, and Articles 5.2, 7.9, 8, and 11 of the TFA.

9.9. The delegate of Japan thanked the delegation of the Kyrgyz Republic for its explanation and invited Kazakhstan and the Kyrgyz Republic to solve the issue bilaterally. Japan was also interested in receiving further clarification of the measures taken by Kazakhstan.

9.10. The delegate of the Republic of Korea also believed that this issue could be solved in a mutually satisfactory manner bilaterally, and encouraged both Members to continue their discussion with a view to agreeing a prompt solution consistent with international law and the relevant WTO rules.

9.11. The delegate of the Republic of Moldova thanked Kyrgyzstan for its explanation of the trade concerns raised in document G/C/W/745 and encouraged both countries to solve their economic and trade concerns bilaterally, within the context of the relevant WTO bodies, and in line with the multilateral trading system and the commitments undertaken by both Members in the WTO.

9.12. The representative of Kazakhstan stated that Kyrgyzstan was not only a neighbouring state but also a strategic political and economic partner within the Central Asian Region and the Eurasian Economic Union (EAEU). The border measures applied by her country were aimed solely at ensuring the fulfilment of Kazakhstan's national legislation that, in turn, was based on the WTO rules and EAEU agreements; their principal objective was to ensure that products imported to the Common Eurasian Economic Union market were safe.

9.13. The objective of Kazakhstan's measures and transport controls was to verify the weight parameters for cargo trucks and freight transport, as well as the requirement to possess a certificate to transport perishable goods. These measures were applied equally to both domestic and foreign carriers subject to transport control.

9.14. The Kyrgyz delegation had noted that the SPS measures adopted by Kazakhstan had not been notified prior to their application. She indicated that the restrictions in question were in fact of a temporary nature, applied only to certain types of fruits, and had been notified to the relevant WTO Committee in November 2016. The veterinary measures were based on the EAEU Agreements.

9.15. The objective of the technical regulations applied by Kazakhstan was to impede the importation of counterfeit products and to ensure that all conformity assessment certificates were based on the appropriate rules of origin for goods manufactured within Kyrgyzstan.

9.16. The objective of the border control measures on physical persons was to ensure the fulfilment of Kazakhstan's migration laws at the common border and properly to administer any import duties and taxes due on imported goods.

9.17. Her authorities were of the view that all of the above-mentioned border measures were in conformity with GATT Articles I, III, and V, on MFN, National Treatment, and Freedom of Transit, respectively. Similarly, the SPS and TBT measures were in conformity with their respective WTO Agreements.

9.18. As other delegations had mentioned, Kazakhstan also believed that the existing bilateral mechanisms for resolving the outstanding issues between Kyrgyzstan and Kazakhstan had not been fully utilized. Moreover, a road map that had been established by high-level authorities from both countries, and representing their respective Prime Ministers, had still to be implemented in order to solve all the outstanding issues bilaterally. Similarly, other mechanisms existed within the EAEU that could also be used for addressing these issues bilaterally. Indeed, her authorities

believed that these issues could be resolved bilaterally in the near future, adding that Kazakhstan also expected the Kyrgyz Republic to implement its own EAEU commitments.

9.19. The representative from the Kyrgyz Republic thanked Members for their comments and recommendations to solve the issue bilaterally, and informed delegations that, during the past four months, the Kyrgyz Republic had indeed been trying to solve this issue bilaterally. However, this possibility had been exhausted. In any case, the Kyrgyz Republic had not expected any other reaction from Kazakhstan since, from the beginning, the Kazakh authorities had been offering the same explanation concerning the numerous restrictions that they had put in place.

9.20. When the restrictive measures were first introduced, Kazakhstan had accused the Kyrgyz Republic of resorting to threats. Kazakhstan had now circumscribed the issues by reference to sanitary and phytosanitary threats, supplies of counterfeit and smuggled goods, and by accusing Kyrgyzstan of being a hothouse for weapons and illegal drugs. And this was not true. Indeed, the excessive and distortive manner in which Kazakhstan applied its SPS controls fell short of meeting the requirements of the WTO guidelines and the recommendations set out in the SPS Agreement. For example, Kazakhstan had not notified the changes to its SPS measures, nor provided information on these, as required under Article 7 of the SPS Agreement. Additionally, Annex B of the SPS Agreement required Members not only to publish, at an early stage, the SPS measures introduced, so as to enable interested Members to become acquainted with them, but also to notify other Members, through the Secretariat, of the products that would be covered by the new measures, together with a brief indication of their objective and rationale. Additionally, Article 2 of the SPS Agreement provided that Members had to ensure that any SPS Measure be based on scientific principles. Kazakhstan had not notified these measures, had not allowed time for comment upon them, and had not provided any scientific evidence to justify them; nor had it conducted a preliminary risk assessment taking into account the risk assessment techniques developed by the relevant international organizations, as provided for in Article 5 of the SPS Agreement. In addition, the restrictions had been imposed on all agricultural products, without recourse to any risk management principle.

9.21. On the issue of smuggled goods, Kyrgyzstan doubted the reliability of the information provided by Kazakhstan, arguing that its assumptions required deeper analysis and further study with regard to the methodology of the calculations, countries of origin, types of products involved, and so on. He argued that Kazakhstan's actions also contradicted the TRIPS Agreement given that, in that Agreement's Article 41, it was established that procedures to enforce intellectual property rights should be applied without creating barriers to legitimate trade and providing safeguards against their abuse. In addition, TRIPS Article 51 established that the competent administrative or judicial authority should take action on the basis of a written statement by the right holder on the suspension by the customs authorities of release of such goods for free circulation. Kazakhstan had introduced measures on goods crossing the border without providing any explanation or justification of the measures and also without notifying them, as required under TRIPS Article 63. The Kyrgyz Republic considered that these restrictions were trade distorting and therefore unacceptable.

9.22. The situation at the border remained critical; more than 300 trucks remained blocked on the Kyrgyz side of the border; and those that had successfully reached the border crossing itself had been subjected to extensive border controls in Kazakhstan, detained for several days, and unjustifiably penalized. In addition, lorries from Kazakhstan destined for Kyrgyzstan tail backed four kilometres.

9.23. The Kyrgyz Republic had brought these concerns to the CTG so as to call upon Kazakhstan to abide by WTO rules and to eliminate the trade restrictive measures that it was currently applying at its border.

9.24. The Chairperson proposed that the Council take note of the statements made.

9.25. The Council so agreed.

10 UNITED STATES OF AMERICA – SECTION 232 INVESTIGATIONS ON THE EFFECT OF IMPORTS OF STEEL AND ALUMINIUM PRODUCTS ON US NATIONAL SECURITY – REQUEST FROM THE RUSSIAN FEDERATION

10.1. The Chairperson informed Members that, in a communication dated 30 October 2017, the delegation of the Russian Federation had requested the Secretariat to include this issue on the meeting's agenda.

10.2. The delegate of the Russian Federation reiterated the systemic and commercial concerns of his delegation regarding two US investigations initiated in April 2017 on the effect of imports of steel and aluminium products on US national security. Currently, the US Department of Commerce (US DOC) was considering whether steel and aluminium were being imported into the United States in such quantities and under such circumstances as to threaten to impair national security. According to the statutory deadlines, the proceedings could be concluded in January 2018; in case of affirmative findings, the US DOC would recommend remedy measures to adjust imports of these products.

10.3. In Russia's view, both of the current procedures lacked transparency and predictability since the key parameters of the investigations remained obscure. He again asked the US to clarify the following issues: (i) the intended date of the introduction of any measures; (ii) the product scope of the investigations; (iii) the form the measures would take; (iv) the treatment that the United States would grant to countries with which it had free trade agreements, or so-called "allied relationships"; (v) its reasons for imposing additional trade limitations on top of the almost 200 anti-dumping measures currently applicable to steel and aluminium; (vi) clarification as to how any measures, whether tariff increases or in any other form, would remain within US bound levels and not constitute quantitative import restrictions; and (vii) confirmation that such measures would be consistent with US obligations under GATT Articles I, II, VI, X, XI, XVI, and XIX, under the ADA, under the SCM Agreement, and under the Safeguards Agreement.

10.4. Overall, and as indicated at the CTG's last meeting, the Russian Federation believed that, to stabilize world markets of steel and aluminium, it would be better if the US refrained from introducing any trade restrictive measures following the investigations at issue, given that such restrictions would not eliminate the root causes of the market imbalances and therefore not provide any lasting solutions. What was needed was more energetic and concerted international action from the G20 in the context of best efforts made at the Global Forum on Steel Excess Capacity. The Russian Federation looked forward to receiving the replies and confirmations from the US concerning these issues.

10.5. The delegate of Australia stated that Australia's steel and aluminium industries had also been affected by the global excess and a range of government interventions in the sectors at issue. Australia had imposed trade remedy measures to address injurious dumping and subsidization of imports in Australia's market. Undoubtedly, this was a global challenge. Australia shared the concerns of others in maintaining that, in addressing this global challenge, international trade rules should nevertheless still be upheld.

10.6. Australia believed that any recommendations and subsequent actions resulting from these investigations might still remain consistent with international trade rules and be objectively justifiable. However, any unjustifiable measures could further exacerbate global market distortions and result in retaliation and tit-for-tat measures, which would then harm Members' economies.

10.7. The delegate of the European Union reiterated her delegation's concerns about the two US investigations at issue and asked for clarification from the US as to the current status of these investigations. The EU believed that Section 232 investigations could lead to the imposition of US trade restrictions against the EU and other trading partners; if so, the EU would be among those most affected, particularly if Members like Canada or Mexico were exempt.

10.8. The EU wondered whether such investigations were compliant with the US's international obligations, and recalled that no GATT exception could justify an import restriction taken outside the framework of trade remedies for the purpose of protecting a domestic industry against foreign competition. While the GATT did provide for security exceptions, the scope of those exceptions was circumscribed to specific situations and conditions that appeared to be absent in the context of

these investigations. The EU also believed that a proliferation of Section 232 investigations would create unacceptable systemic risks.

10.9. The EU was also concerned that due process had not been followed in these investigations: there had been no in-depth study of the sector by the International Trade Commission; no questionnaires had been sent to producers and downstream users of steel or aluminium; and only hasty public hearings had been held, in which only a limited number of stakeholders had had an opportunity to provide their views. Moreover, the investigations had not been requested by the industry itself but had instead been self-initiated by the administration.

10.10. The EU also noted that US steel production, based on prices, stock market valuation of companies, and production volumes, was actually picking up and in a much healthier situation than was the case a few years before, while primary aluminium prices had risen substantially in 2017.

10.11. The delegate of China expressed China's concern over the Section 232 investigations at issue, and called upon the US carefully and fairly to assess the impact of such investigations so as to avoid a surge in trade barriers in the name of national security.

10.12. The delegate of the Republic of Korea said that any Member wishing to apply trade remedy measures should do so in compliance with the relevant WTO rules provided in the Anti-Dumping, the Countervailing Duties, and the Safeguard Agreements. If measures were to be taken under the security exception, the emergency nature of this concept and its implications for normal trade should be considered, and it should only be applied when absolutely necessary and when strictly in conformity with GATT Article XXI.

10.13. Korea was concerned that a new form of import restriction might be imposed based on Section 232 investigations on the effects of steel imports on US national security. Korea hoped that, when taking a final decision, the US Government would fully consider this principle, based on the relevant WTO rules and in a transparent manner.

10.14. The delegate of Brazil thanked the Russian Federation for again bringing this item to the CTG. Like previous delegations, Brazil remained seriously concerned by the possibility that the US would adopt restrictive measures on imports of steel and aluminium products based on national security concerns.

10.15. As highlighted by previous speakers, WTO Members were familiar with the provisions and very strict boundaries of GATT Article XXI. Brazil did not exclude the possibility that, within those boundaries, circumstances could arise where essential security interests were indeed at stake. However, Brazil was concerned by the systemic implications for trade if Members did not continue to follow the time-tested approach of not resorting to trade restrictive measures based on security concerns unless those concerns fell clearly within the bounds of Article XXI. On the contrary, an elastic interpretation of what constituted security interests for the purposes of international trade could lead to results that would not be in the interests of any Member.

10.16. The delegate of Japan expressed his delegation's interest in this matter. Japan would continue to closely monitor any further developments.

10.17. The delegate of Chinese Taipei indicated that her delegation also had a systematic concern with regard to this issue, and that Chinese Taipei's stakeholders had also expressed their concern about these investigations, and about their comprehensive scope in particular.

10.18. The delegate of the United States thanked delegations for their interventions and informed them that Section 232 investigations on steel and aluminium were being conducted by the Bureau of Industry and Security (BIS), a Department of the US Commerce Agency, and that the Commerce Secretary's report to the President was under preparation. The statutory deadline was 270 days to complete each investigation and report, which equated to January 2018, although this was a maximum rather than a minimum deadline.

10.19. The purpose of these investigations was to determine the effect of steel and aluminium imports on US national security, and whether the global excess capacity problem in those

industries was threatening the ability of the United States to meet its national security needs. The Commerce Department was carefully considering the views of all stakeholders as it prepared its report to the President.

10.20. The Chairperson thanked delegations for their interventions and proposed that the Council take note of the statements made.

10.21. The Council so agreed.

11 INDONESIA'S IMPORT AND EXPORT RESTRICTING POLICIES AND PRACTICES - REQUEST FROM THE EUROPEAN UNION, JAPAN, AND THE UNITED STATES

11.1. The Chairperson informed the Council that, in a communication dated 30 October 2017, the delegations of the European Union, Japan, and the United States had requested the Secretariat to include this item on the meeting's agenda.

11.2. The delegate of the European Union noted that her delegation had been raising this issue for a very long time, but unfortunately to no avail. Despite the reforms announced by Indonesia in 2015, the high number of restrictive trade measures applied by Indonesia had not yet decreased. Rather, additional barriers had recently been issued or reinstated, such as the content requirement for solar panels, established in February 2017, whose implementation had been postponed. The persistently high number of restrictive and protectionist trade and investment measures as well as the lack of predictability and transparency negatively affected the business environment. For example:

- Indonesia's use of local content requirements persisted in various sectors, such as telecoms, retail, energy, construction, and public procurement;
- there were high and discriminatory minimum capital requirements of USD800,000 to establish a new company in Indonesia; in the case of foreign freight forwarders, the minimum capital requirement was USD4 million versus only USD150,000 for local companies;
- Indonesia's import requirements applied in a wide range of sectors were complex and time-consuming as, for instance, in the meat and dairy industry; for fresh plants, horticulture, wood, and forestry products; and for cosmetics. The measures were often amplified by the implementation of quantitative restrictions as, for example, on meat, alcohol products, and steel;
- export restrictions were applied in Indonesia to certain raw materials;
- Indonesia's conformity assessment procedures were burdensome and discriminatory, and there was a growing proliferation of mandatory technical standards;
- Indonesia's very far-reaching halal law, once implemented, would affect food and beverages, pharmaceuticals, cosmetics, and leather goods exports. Its implementing measures, once finalized, could bring trade in these goods to a complete halt.

11.3. In addition, European businesses from a wide range of sectors had raised concerns about the adverse effects of the law on investment decisions, and on broader market access issues. As such, the law on investment affected not only existing and potential investors, but many other European companies exporting – or seeking to export – goods to Indonesia, and would increase costs not only to businesses, but also for Indonesian consumers, and create supply issues for raw materials.

11.4. The EU requested Indonesia to clarify whether, as of 2019, products not certified and labelled in accordance with the Law might be placed on the Indonesian market, and whether non-Halal products exported to Indonesia would be subject to mandatory labelling or any other type of restriction.

11.5. The EU noted with concern that, instead of reversing the current trend, Indonesia was in fact issuing new trade-restrictive measures, such as the Ministry of Agriculture Regulation 26/2017, whose Articles 23 and 34 required, respectively, business partners producing processed milk to enter into a partnership with local farmers and cooperatives and that, when issuing an importation recommendation, such partnership were to be considered. In line with Indonesia's G20 commitments, she urged Indonesia to eliminate existing trade barriers and to refrain from issuing new ones.

11.6. The delegate of Japan echoed the EU in its concerns regarding a series of laws and regulations introduced by Indonesia; namely, the Mining Law; Laws on Trade and on Industry; restrictions in the retail sector; local content requirements on 4G mobile phones; and local content requirements for investment in the telecommunications sector. No improvements had been made by Indonesia to address these issues. Japan once again urged Indonesia to keep WTO Members informed of any developments, and to make further efforts to review the measures and to ensure their compliance with the WTO Agreements, thereby contributing to a transparent and stable environment for trade and investment.

11.7. At the last meeting of the TRIMS Committee, Japan had reiterated its concerns in relation to the Mining Law. Some reforms had been adopted with the aim of lifting the total export ban on nickel ore; however, these reforms were only valid for five years and required the fulfilment of certain conditions to obtain export permission. Japan believed that this measure was inconsistent with GATT Article XI and would continue to monitor any developments.

11.8. The delegate of the United States noted that the Council was well aware of his delegation's breadth of concerns with regard to an ever growing number of trade and investment restrictions in Indonesia, including localization, import licensing and standards requirements, as well as pre-shipment inspection requirements and export restrictions, including taxes and prohibitions, among others. These types of restrictions affected a broad range of sectors. Concerns had also been raised about the general lack of transparency in Indonesia.

11.9. Indonesia had recently introduced new measures on dairy products that required local purchase and established import licensing restrictions; these were similar to other concerns already expressed with regard to other sectors. Indonesia was apparently considering new requirements on soybeans, which could also restrict imports.

11.10. The US hoped that President Jokowi's focus on improving the business and investment climate would improve the current situation; however, recent developments indicated that for the time being little had changed in Indonesia. The US noted that other Members had also expressed their concerns about these policies in this Council and in other WTO Committees.

11.11. The US had shown patience and had made efforts to work with the Indonesian Government, both bilaterally and at the WTO, to address these concerns; however, the results, with limited exceptions, had been disappointing. Nevertheless, the US hoped that its efforts would soon produce results that would ensure free and fair trade between their countries.

11.12. The delegate of Brazil reiterated, as he had done on previous occasions in the CTG, his delegation's support for the expressions of concern voiced by other delegations regarding restrictive Indonesian trade policies and, in particular, in the case of Brazil, regarding exports of meat and meat products. Brazil encouraged Indonesia to eliminate these barriers and reinstate trade flows, and to implement the recommendations and findings of the panel in DS484, which was scheduled for adoption at the next DSB meeting. Brazil would continue to work with Indonesia to this end.

11.13. The delegate of Canada welcomed the recent progress made on improving Indonesia's business climate but considered that more still needed to be done. Canada continued to share the concerns of other Members regarding Indonesia's ongoing import restricting policies and practices. Canada was particularly concerned by restrictions in the mining and oil and gas sectors, increasing local content requirements across many sectors, including renewable energy, and uncertainties surrounding halal certification requirements. Canada also remained concerned by import licensing requirements on horticultural products. Canada continued to encourage Indonesia to respect its WTO obligations.

11.14. The delegate of Switzerland echoed the concerns raised by other Members regarding Indonesia's newest regulation, Regulation No. 26/2017 on the supply and distribution of dairy products. Currently, companies had no clarity about the functioning of the new trade regime in dairy products, and current trade had either already been interrupted or else was under threat of being interrupted. Local content requirements should not be applied in such a way that resulted in foreign exporters being discriminated against and excluded from the Indonesian market. He therefore asked Indonesia to clarify the new regime, to ensure transparency with regard to the implementation measures adopted, and also to ensure their compliance with WTO rules.

11.15. The delegate of New Zealand acknowledged the efforts made by Indonesia to improve its business environment and echoed many of the concerns raised by the EU, Japan, and the US.

11.16. As mentioned at previous meetings, New Zealand believed that Indonesia's restrictions undermined core WTO principles and were inconsistent with key obligations in the WTO Agreements. New Zealand continued to have significant concerns over a number of import restrictions in Indonesia's laws and regulations that affected trade across a range of agricultural products, including horticultural and animal products. As also stated on past occasions, Indonesia's restrictions did not only hurt exporters, but also Indonesian consumers, processors, and producers, all of whom had also been negatively affected by these measures; indeed, Indonesia's measures had contributed to rising food prices in Indonesia, including for basic foodstuffs and on ingredients for the domestic manufacturing sector. New Zealand hoped that Indonesia would in future implement its reform plans using policies that were consistent with its WTO obligations.

11.17. The delegate of the Republic of Korea shared the concerns voiced by other Members but, given that this item had been on the CTG's agenda for a number of years, he chose on this occasion to address just two main issues of concern. First, he requested Indonesia to reform the pre-paid corporate income tax on importers under Article 22 of the Income Tax Law of Indonesia in order to make it consistent with WTO rules. The tax in question was an unfair and discriminatory measure against imported goods and violated Article 3.4 of the GATT. Second, Korea continued to have concerns over the Industry Law and Trade Law of Indonesia as these were vague and broad and consequently created a policy space for future adoption of trade restrictive measures. Korea strongly encouraged Indonesia to formulate their implementation regulations in conformity with WTO rules and to share any progress made in a fully transparent manner. His delegation would continue to monitor these issues closely and hoped for a positive response from Indonesia in the near future.

11.18. The delegate of Chinese Taipei stated that her delegation continued to be concerned about Indonesia's trade and investment import and export restricting policies. Despite the efforts made by Indonesia to improve its business environment, concerns remained about its restrictive policy on 4G mobile devices. Chinese Taipei believed that this measure would adversely affect trade and urged Indonesia to ensure its compliance with regard to its WTO obligations.

11.19. The delegate of Australia stated that his Government continued to share the concerns of other WTO Members about Indonesia's import restricting policies in recent years, particularly as they affected agricultural trade. Australia noted that Indonesia frequently amended its regulations on the importation of agricultural products, often without notification and, when notified, with only limited opportunity for consultation with trading partners. He stated that notification and consultation were critical to the continuing effectiveness of the rules-based global trading system under the WTO. Consultation with trading partners also provided an opportunity for trade measures to be implemented in the most efficient way for all parties.

11.20. The delegate of Indonesia thanked the previous speakers for their interest in Indonesia's market and policy measures, and acknowledged the concerns that had been raised and their possible impact on international trade. These policies were intended to improve national capacity so as to enable Indonesia to participate in international trade in a more balanced manner while ensuring that its measures were at the same time WTO-compliant.

11.21. Indonesia was currently confronting some significant challenges: first, an increased number of imported goods had been flooding the market whose quality and characteristics were below Indonesian standards; second, the loss of livelihood of most Indonesians working in productive sectors; and third, irresponsible and destructive exploitation of natural resources. This

imbalance needed to be resolved. Nevertheless, Indonesia was a WTO Member supportive of the smooth flow of international trade in support of development and recognized that it would never be able to resolve its trade imbalance if it undermined its WTO commitments.

11.22. Indonesia assured Members that its trade policies were being implemented on an equal basis for all Members, and including in relation to its own nationals. Furthermore, the current administration was making ongoing efforts to promote transparency and predictability in order to improve the efficiency and effectiveness of doing business in Indonesia.

11.23. She indicated that Indonesia stood ready to discuss its trade policy bilaterally with interested Members so as to find an agreed solution that would be to the satisfaction of all.

11.24. The Chairperson thanked delegations for their interventions and proposed that the Council take note of the statements made.

11.25. The Council so agreed.

12 INDIA – CUSTOMS DUTIES ON ICT PRODUCTS – REQUEST FROM CANADA, THE EUROPEAN UNION, NORWAY, JAPAN, CHINESE TAIPEI, AND THE UNITED STATES

12.1. The Chairperson informed the Council that, in a communication dated 30 October 2017, the delegations of Canada, the European Union, Norway, Japan, Chinese Taipei, and the United States, had requested the Secretariat to include this issue on the meeting's agenda. He also informed delegations that the United States had circulated a Room Document (RD/CTG/4), which was also available in the room.

12.2. The delegate of the United States regretted to be compelled to raise again, for the fourth time in this Council, concerns regarding India's tariff increases on telecommunications and ICT products. In July 2017, shortly after the June 2017 CTG meeting, India had increased its tariffs on additional ICT products, as indicated in India's Customs Notification 56/2017. These new customs duties affected several essential IT products, such as smartphones, base stations, and printer ink cartridges, in addition to the duties that India had already imposed on other telecommunications equipment pursuant to Customs Notification 11/2014. These were product categories for which India had a WTO binding obligation to provide duty-free treatment. Document RD/CTG/4, mentioned by the Chair, contained an example of the inconsistencies between India's duty-free bound commitments and duties actually being charged at the border on certain products.

12.3. The snapshot of India's bound schedule in HS2007 nomenclature (WT/Let/1072), contained in page 2 of the room document, indicated that, with regard to tariff line 8517.62, India had a binding commitment of zero duty. This commitment also applied at the HS subheading level; consequently, any national tariff line falling under the subheading was also subject to a bound rate of zero. However, when looking at the snapshot of India's MFN tariff schedule, as contained in page 3 of the room document, the applied rate for tariff line HS 8517.62.90 was 10%. This was contrary to India's WTO bound commitment indicated in document WT/Let/1072, and an example of India's apparent inconsistencies in relation to its WTO tariff commitments.

12.4. In addition, India's tariff increases imposed on 1 July 2017 had not been updated in the information available from India's Central Board of Excise and Customs since 30 June 2016. This lack of transparency made it almost impossible for traders to verify the actual applied rate and created uncertainty for US and global companies; for example, any business and trader seeking information on India's tariff on mobile phones or base stations would assume that India's tariff for those tariff lines was zero, and would have no way of knowing that India had in fact raised its duty on these items to 10% pursuant to Customs Notification 56/2017.

12.5. Several US companies had indicated that, in order to determine the effective tariff rate applied to their products, they were obliged to refer to multiple customs notifications that had been issued over a decade ago. If this had been a challenge for large multinational companies, one could easily imagine how difficult it would be for a micro, small, or medium-sized business to determine the duty rate that would actually be applied to their products.

12.6. She drew the Council's attention to a recent stakeholder consultation paper on "Promoting Local Telecom Equipment Manufacturing", issued by India's Telecom Regulatory Authority on 18 September 2017, whose purpose was "to arrive at recommendations that would enable Indian telecom industry to transition from an import dependent industry to a global hub for manufacturing." One of the questions asked in this paper was whether there were "any issues under ITA which need to be addressed for making the local Telecom Manufacturing more competitive and robust". In this vein, the US asked India whether it was actively considering to raise customs duties on additional products for which it had a bound duty rate of zero in its certified WTO schedule, and if the comments received in response to this paper, the deadline for which was 30 October 2017, would be made publicly available on the internet and, if so, where Members could access those comments.

12.7. The US again urged India to revoke Customs Notifications 11/2014 and 56/2017, to reinstate duty-free access where India had committed to provide duty-free access, and to ensure that it would refrain from raising customs duties on products where India had a WTO commitment to provide duty-free access to its market. She also called upon India to update its official tariff schedule as published on its Customs website and also to notify its current MFN applied schedule to the WTO, and to do so without delay.

12.8. The delegate of Japan echoed previous concerns raised over India's applied customs duties on ICT products, an issue that had long been discussed in the ITA and Market Access Committees, as well as in the CTG. Japan was still not convinced by India's explanation concerning the ICT products in question, and in particular with regard to the introduction, as from July 2017, of a 10% duty on eight tariff lines. This increased the costs for Japanese companies as India's binding tariff commitments for the eight items at issue was clearly zero. Japan believed that this duty rate was inconsistent with India's Schedule of Concessions and adversely affected India's investment promotion and business environment. Japan urged India immediately to reinstate zero duties on the ICT products at issue.

12.9. Japan was also closely monitoring the notice for public comment circulated on 18 September 2017 by the Telecom Regulatory Authority of India, which suggested that the Government could be considering imposing new duties on ITA products. Japan believed that any future action taken by the Government of India should be fully consistent with the WTO Agreements.

12.10. The delegate of the European Union reiterated the concerns of her delegation regarding the imposition of a 10% customs duty on an increasing number of ICT products in India, including base stations, mobile phones and their parts, ink cartridges, and other products. The EU and other Members had addressed questions to India seeking clarification on the classification of certain ICT products falling under the scope of ITA-1, including two other products that did not respect India's binding commitments under the ITA-1 coverage, namely "digital still video cameras", classified under tariff line 8525.80.20, and "other electronic integrated circuits (EICs)" classified under tariff line 8542.39.00. The EU remained unconvinced by India's limited responses to these questions, and in particular with regard to the maintenance of the 10% import duty on IT products covered by ITA-1 and bound at zero in India's schedule of commitments. The EU regretted to be compelled to raise these issues again but, after several attempts to solve them in various committees, as well as bilaterally, India had still not addressed these issues. India was the only ITA Member that levied duties on these products. The EU would also closely monitor the public comment procedure on "Promoting Local Telecom Equipment Manufacturing'', recently launched by India. The European Union called upon India to refrain from re-introducing duties on any other ITA products.

12.11. The delegate of Canada shared the concerns previously raised by other delegations in the CTG, as well as in the ITA and Market Access Committees, regarding the increase in India's applied tariffs on a broad range of ICT products that, in Canada's view, was inconsistent with India's bound commitments and ran contrary to the objectives of multilateral tariff liberalization. Canada had both systemic and commercial concerns with regard to these applied rates as well as with India's unwillingness to respond meaningfully to Member's questions and concerns in this area.

12.12. India's justification, contained in India's Customs Notification No. 56/2017, dated 30 June 2017, for raising tariffs to 10% on eight additional ICT products, was not acceptable. Canada repeated its call to India immediately to rescind tariff increases above its bound

commitments and to refrain from pursuing any further tariff increases. The room document circulated by the United States clearly illustrated why this issue had been raised by Members at a number of meetings of this Council and at other committees. The examples therein were extremely clear. Canada looked forward to an update from India as to when it would bring its applied tariffs into line with its bound tariff commitments.

12.13. The delegate of Chinese Taipei recalled that her delegation had raised this issue on several occasions in this Council and in the ITA and Market Access Committees. Chinese Taipei also remained unconvinced by India's explanation and still had significant concerns with regard to this issue. Like others, Chinese Taipei considered that the increased tariffs on ICT products ran against the objective of trade tariff liberalization. Chinese Taipei encouraged India to eliminate the tariff applied on certain ICT products and to ensure that its measures were fully consistent with its obligations under the ITA.

12.14. The delegate of Norway said that, for Norway, this was a WTO trade concern at the most basic level because, in Norway's view, a Member's applied tariffs must not exceed those listed in their schedules and technological advancement within the product segment did not in any way alter that simple fact. The US room document clearly showed that this was not the case with India's applied tariffs. An interpretation implying that a product segment could somehow be automatically released from binding commitments upon technological advancement would seriously undermine the system. Norway had both an economic and a systemic interest in this issue and considered it fundamental that Members abide by their WTO obligations. He called upon India to provide further clarification on this issue.

12.15. The delegate of Viet Nam reiterated Viet Nam's concerns expressed at the 6 November 2017 meeting of the ITA Committee regarding India's recent tariff increase on certain ICT products. Viet Nam considered that the tariff increases were not consistent with India's WTO binding commitment and called upon India promptly to clarify the issue.

12.16. The delegate of Thailand echoed the previous concerns raised regarding India's increase in duties on certain ICT products through Customs Notifications No. 11/2014 and No. 56/2017. The increased duties for ICT products above bound levels were inconsistent with India's WTO binding commitments. She called upon India to justify the introduction of import duties in light of India's commitments pursuant to the ITA and its Schedule of concessions.

12.17. The delegate of Singapore reiterated Singapore's continued interest in this issue, which had already appeared on the agendas of this Council and the Market Access and ITA Committees. Singapore had engaged bilaterally with officials in New Delhi and would continue to monitor any new developments on this issue.

12.18. The delegate of the Republic of Korea thanked the United States for the room document showing a snapshot of India's tariff schedule on ICT products. As an IT-exporting country, Korea had already raised this issue in previous CTG meetings but was disappointed that India had so far not changed its position regarding customs duties applied to ICT products in order to bring these into line with its ITA commitments. Like other delegations, Korea was not convinced by India's arguments and again called upon India to reinstate zero duty rates on IT products covered by the ITA in fulfilment of its WTO obligations. India should further clarify this issue.

12.19. The delegate of Switzerland also shared the concerns expressed by other Members regarding the duty treatment of certain telecommunications equipment in India. This issue related directly to India's binding commitments given India's imposition of import duties on information technology products that were above the rates bound by India in its Schedule of Concessions, namely a bound rate of 0%. This represented a breach of India's WTO commitments and deserved clarification. Switzerland also urged the Indian Government to reconsider its intention to impose import duties on additional IT products, such as mobile phones, for which India's bound rate was also at 0%, as reflected in India's HS2007 certified Schedule for its tariff line 8517.12.00. Any decision to impose an import duty on these goods would be fully inconsistent with that commitment.

12.20. India's latest certified schedules showed that, in the case of HS tariff line 8517.62, the bound duty rate was zero while, in the published MFN tariff rates, the duty levied at the border by

India for this tariff line was 10%. Therefore, the only conclusion one could reach was that the MFN published tariff rates were inconsistent with India's 2015 certified Schedule of concessions. But there were other IT products for which the same situation prevailed, such as mobile phones, as indicated in India's HS tariff line 8517.12.00. Switzerland believed that any decision taken by India to impose an import duty higher than that set out in its Schedule of concessions would be fully inconsistent with its binding commitments.

12.21. The delegate of Australia shared the concerns expressed by previous speakers.

12.22. The delegate of India thanked delegations for their continued interest in India's customs duty regime for certain ITC products. Interventions had referred to the following four concerns: (i) the imposition of customs duties on certain IT and telecom items as indicated in Customs Notification No. 11/2014; (ii) the imposition of a customs duty on certain telecom products, including mobile phones, effective as from 1 July 2017; (iii) the issue of transparency; and (iv) the public comment procedure on "Promoting Local Telecom Equipment Manufacturing''.

12.23. With regard to India's Notification No. 11/2014, he recalled the written responses filed by India in document G/IT/W/45, containing the questions posed by certain Members in document G/IT/W/42. India had also provided replies to these questions in various meetings of the Committee on Market Access and the CTG. Therefore, interested Members should refer to India's written replies and oral statements made in the aforementioned WTO bodies. India was ready to consider any specific issue delegations might have in relation to the technical aspects of these products and their tariff classification while keeping in mind the technological progression in telecom and IT products.

12.24. On the customs duty imposed on certain telecom products in July 2017, India had provided Customs Notifications No. 56 and 57 of 30 June 2017, and had also provided written responses to the questions addressed to it. India was fully aware of its commitments under the ITA-1 and abided by these. India had signed the ITA-1 in 1997 and had submitted its Schedule of Concessions, which had been subsequently certified in document WT/Let/181. India did not intend to act beyond the scope of its ITA-1 commitment, contained in document WT/Let/181. Intensive discussions had taken place among India's relevant agencies on the coverage of these products and India's ITA commitments. Consequently, India considered that these products were not part of ITA-1 signed by India. India would welcome inputs from the concerned delegations on their perception of the coverage of these products under ITA-1.

12.25. On the transparency issue, raised by the United States, he indicated that, in July 2017, when the GST had been launched for the first time, there had been some disruption but that India's website cbse.gov.in contained all the relevant information in English, including information relating to customs duties and MFN tariffs applied to ITC products. India was ready to discuss with the US any issue relating to transparency on its website, such as the duty component.

12.26. India would like to receive further information from Members regarding their concerns on the public comment procedure, particularly as this was the first time that the issue had been raised. In this vein, he requested interested delegations to provide their statements in written form for their consideration in Delhi.

12.27. The delegate of the United States thanked India for its responses. However, she reiterated the call made to India at the previous meeting of the ITA Committee, to respond directly to the room document, in which there was an apparent inconsistency between India's binding commitments for the telecom equipment products classified under tariff line 8517.62 versus the 10% duty actually applied on the same product. Regarding the public comment procedure, she clarified that this was a reference to document 12/2017, issued by India's Telecom Regulatory Authority. With regard to the issue on transparency, she indicated that, while speaking, she was at the same time consulting India's website of the Central Board of Excise and Customs, and could see that the tariff schedule published therein was from 2016, effective for 2016-2017. Thus, Members' concerns on this issue remained valid.

12.28. The Chairperson thanked delegations for their interventions and proposed that the Council take note of the statements made.

12.29. The Council so agreed.

13 UNITED STATES OF AMERICA – SEAFOOD IMPORT MONITORING PROGRAMME – REQUEST FROM THE PEOPLE'S REPUBLIC OF CHINA

13.1. The Chairperson informed the Council that, in a communication dated 30 October 2017, the delegation of China had requested the Secretariat to include this issue on the meeting's agenda.

13.2. The delegate of China said that, being both the largest developing Member and a major fishing Member, China attached great importance to combating illegal fishing, as well as to protecting marine mammals. China wished to further strengthen cooperation with the US both in this regard and in the promotion of the sustainable development of global fisheries. However, China believed that there was an unreasonable aspect in the two US acts issued in 2016 relating to trade in aquatic products, namely the Seafood Import Monitoring Programme (SIMP) and the fish and fish products import regulations under the Marine Mammal Product Act, MMPA.

13.3. With regard to aquatic species exported by China to the US, around 50% were aquaculture products and 46% were processed products with imported material. Only around 4% were marine fishing products. Aquaculture products had no relation to the fishing of marine mammals, and the traceability of aquaculture products outside the US did not help in preventing IOU fishing and aquatic products fraud. Therefore, it was obviously unreasonable for the two acts to include cultivated species in the scope of their application. China hoped that the US would revise the two acts in order to remove aquaculture and aquatic products from their application and so as to promote a healthy bilateral trade in aquatic products. In the meantime, China requested the US to formulate the relevant laws and regulations on the basis of non-violation of WTO rules, not creating new trade barriers, and ensuring a normal bilateral aquatic trade. China hoped that the fisheries industry, fishermen's livelihood, and the food needs of both countries would not be adversely affected. China and the US were both major fishing and fish-consuming countries, as well as being major trading partners in aquatic products. China requested the US for a further exchange of views on the acts in question.

13.4. The delegate of the Russian Federation shared China's views relating to the US SIMP and recalled the issues raised by his delegation at previous CTG meetings in 2016 and 2017. The Russian Federation looked forward to seeing the SIMP's practical implementation, especially with regard to data verification aimed at ensuring that fish and seafood had not been caught by IOU fishermen. In its view, the verification of whether fish had been caught legally or not could not be performed without close cooperation with the competent authorities of third countries. In the absence of such verification, new requirements could be considered as excessively burdensome for business and especially for small and medium-sized enterprises (SMEs).

13.5. The Russian Federation was of the view that measures aimed at combatting IOU fishing should be an essential part of a government's fisheries management policy. Nevertheless, such measures should be WTO-compliant, based on close cooperation with other countries, and not more trade restrictive than necessary.

13.6. The delegate of the United States noted that this agenda item referred only to the US SIMP although China had referred to two acts. Therefore, she would refer only to the SIMP in her responses.

13.7. The NOAA had welcomed the opportunity to visit China in early November 2017 to discuss the SIMP's implementation. On 9 December 2016, NOAA Fisheries had published the final rule establishing the SIMP in the Federal Register, establishing a mandatory compliance date as from 1 January 2018 for the species included in the Rule. Notable aspects of the final Rule included streamlined requirements for small-scale fishers and an indefinite suspension of the reporting and record keeping requirements for shrimp and abalone. The US looked forward to continuing its engagement with China on the SIMP's implementation.

13.8. With regard to the second act mentioned by China, she indicated that China's comments would be conveyed to Capital and requested China to provide a written copy of its statement.

13.9. The Chairperson thanked delegations for their interventions and proposed that the Council take note of the statements made.

13.10. The Council so agreed.

14 THE RUSSIAN FEDERATION – TRADE RESTRICTING PRACTICES – REQUEST FROM THE EUROPEAN UNION

14.1. The Chairperson informed the Council that, in a communication dated 30 October 2017, the delegation of the European Union had requested the Secretariat to include this issue on the meeting's agenda.

14.2. The delegate of the European Union regretted to have to refer again to issues that had already been raised at the last CTG meeting but was obliged to do so as no progress had been made on these issues since then. The six issues in question were as follows: (i) the GOST cement standard, which was a concern raised not only in this Council but also at the TBT Committee; (ii) good manufacturing practices for pharmaceuticals; (iii) the ban on exports of skins and hides; (iv) import duties applied by Russia; (v) the ban on fishery products from Estonia and Latvia; and (vi) the taxation regime concerning wine.

14.3. The GOST cement standard was an issue that had already been raised three times in this Council, and in the TBT Committee, but to date without result. The EU deplored the fact that the Russian Federation had resorted to certification requirements and enforced them without prior consultation or even notification (for example, the 2017 amendments to the GOST standard on cement certification, the standard GOST R 56836 2016, had not been notified). The current system was such that all cement imports had become impossible except for a few white cement shipments, for which it seemed that Russia was not self-sufficient; this could perhaps have explained why the authorization of EU exports had been made on a piecemeal basis. There seemed to be no rationale for such disproportionate certification requirements and controls, which included, among others, strength tests to be carried out exclusively at the border, and quality controls to be issued by bodies that were in fact not nominated. These technical questions had also been raised by the EU in the TBT Committee. And these concerns had only been further increased by the fact that a draft legislation, at the level of the Eurasian Economic Union (EAEU), had added cement to the list of goods subject to certification requirements.

14.4. With regard to the "good manufacturing practice" (GMP) certificates for pharmaceuticals, this was a requirement that had not yet been notified to the WTO, although it had been adopted in December 2015 and had entered into force on 1 January 2016 for new products, requiring them to have marketing authorization, and on 1 January 2017 for renewals of such authorization. The EU had indicated at the last TBT Committee meeting that the requirement in question implied a high number of controls abroad, which was hardly compatible with the existing Russian resources in terms of trained and available inspectors. Russia's written response had confirmed the slow pace for the inspection of plants and the allocation of the necessary certificates. Consequently, the EU had called for several measures to be taken by the Russian Federation in this regard, including an appropriate transition period; and the EU had also requested that the specific issue of double inspection of veterinary products of sites manufacturing "Active Pharmaceutical Ingredients" and final products be reconsidered by the Russian Federation.

14.5. On the ban on exports of skins and hides introduced by Government Decree No. 826 of 19 August 2014, she recalled that it had been established initially for a period of six months but had subsequently been extended several times . As a result, the export ban would have been in place for approximately three and a half years given that it had been introduced in August 2014 and had been recently renewed until 6 April 2018; this was clearly not a temporary ban. The EU had raised this issue several times in the Committee on Market Access but the replies from Russia had not been convincing, especially since the latest renewal of the ban, already in place, invalidates GATT Article XI(2)(a). The EU would appreciate further details and explanations regarding the latest renewal of the ban.

14.6. On the issue of import duties, she again indicated that Russia continued to apply excessive duties on several tariff lines in spite of the case that the EU had successfully brought against

Russia five years after its accession. She called upon Russia to align its applied tariffs to its bound schedule.

14.7. She recalled that the EU had several times raised the Russian ban of June 2015 on fishery products from Estonia and Latvia as a concern in the SPS Committee but had still not received a satisfactory response.

14.8. On the taxation regime concerning wine she noted that, in summer 2017, Russia had established a taxation regime that was heavier on imported than on domestic wines. According to this regime, only wines with geographical indications (GIs) could benefit from lower taxation rates, but only domestic Russian wines could qualify as GI wines.

14.9. The EU would appreciate any updates from the Russian Federation on these issues.

14.10. The delegate of the United States echoed the concerns raised by the EU regarding Russia's temporary ban on exports of raw hides and skins. The US had often been opposed to export bans as these were contrary to WTO rules, except under very limited circumstances, and asked if Russia were using export bans as another tool in its toolbox of import substitution measures. By prohibiting exports, Russia depressed domestic prices and encouraged consumption of the domestic product to the detriment of imports. Like the EU, the US looked forward to receiving answers to the questions addressed to Russia, particularly with regard to the current status of the ban and Russia's plans for removing it.

14.11. Like the EU, the US had also raised concerns over Russia's requirements for good manufacturing practice certificates, although it supported Russia's objective of ensuring that pharmaceutical products were safe and effective. The US echoed the concerns raised by the EU about Russia's limited resources to implement its GMP requirements, and the slow pace of inspections. Industry and local stakeholders in Russia had reported that the GMP requirement had caused significant delays in the registration of new medicines, and that the lives of Russian patients could be at stake. This requirement, from the agricultural perspective, could lead to a shortage of veterinary medicines for livestock, which could then negatively impact upon Russia's goal of increasing its food production. Also like the EU, the US had suggested steps to ensure that Russia's system would not be trade restrictive or discriminatory.

14.12. Her delegation also shared the EU's concerns about what appeared to be discriminatory taxes on imported versus domestically produced wine. National treatment was a fundamental principle of the WTO, and Russia should clarify this issue.

14.13. The delegate of Ukraine echoed the concerns raised by previous speakers about the Russian Federation's measures and called upon Russia to comply with its WTO commitments, to ensure predictable and transparent conditions for trade, and to remove unjustifiable bans and discriminatory barriers to trade.

14.14. The delegate of the Russian Federation took note of the previous concerns and reminded Members that, as had already been explained in the TBT Committee, the rationale for the mandatory certification of cement was to protect human health and safety as well as the environment. The requirements established by the technical regulation were applied equally to both domestic and foreign producers. The issue of GMP certificates had also been discussed at the TBT Committee, and bilaterally, where Russia had fully explained its measure to the interested Members. The export ban on raw hides and skins aimed at assuring the implementation of State defence procurement. The problems concerning wine taxation had been partially addressed with interested Members, and the remaining issues may already have been resolved with the amendments introduced to the tax code of the Russian Federation, which had clarified that high excise duties on imported wines were not to be claimed for the period from 1 January 2016 to 30 April 2017. The issue of tariffs was currently being discussed with the competent authorities. The concern about temporary restrictions on imports of fishery products from Latvia and Estonia had been explained at the last SPS Committee meeting, and the Russian competent authorities had been closely cooperating with their Latvian and Estonian colleagues in search of a positive outcome and an early resumption in safe trade. The solution would depend on the effectiveness of such cooperation.

14.15. The Chairperson proposed that the Council take note of the statements made.

14.16. The Council so agreed.

15 MEXICO – ANTI-DUMPING DUTIES CALCULATED ON THE BASIS OF "NON-MARKET ECONOMY" METHODOLOGIES – REQUEST FROM THE RUSSIAN FEDERATION

15.1. The Chairperson informed the Council that, in a communication dated 30 October 2017, the delegation of the Russian Federation had requested the Secretariat to include this issue on the meeting's agenda.

15.2. The delegate of the Russian Federation informed the Council that, since 1990, Mexico had imposed four anti-dumping measures on imports of steel from the Russian Federation. The duties were calculated on the basis of "non-market economy" methodologies. At the time of their imposition, the Russian Federation was not a WTO Member; however, after more than five years since Russia's accession to the WTO the said measures were still in force. The latest expiry reviews of all of these four measures had been conducted within these five years, and in all of them, the Mexican investigating authorities had used "surrogate country" data for the calculation of normal values.

15.3. WTO law required the use of costs from the country of origin of the exported goods and there were only two possible justifications for derogation from this rule: (i) when the exporting country had a complete or substantially complete monopoly of its trade and all its domestic prices were fixed by the State; and (ii) when there were specific accession commitments regarding price comparability. Neither case was applicable to the Russian Federation.

15.4. During various bilateral and multilateral meetings with the Mexican authorities, Mexico had suggested that the measures might be reconsidered only if Russian exporters would fully participate in the reviews and demonstrate that the Russian Federation's economy was indeed a "market economy". This approach was unacceptable for at least two reasons: (i) there was no legal justification for exporters to bear an additional burden to substantiate market conditions in the Russian Federation; and (ii) the non-participation of Russian exporters in the review was not an excuse for the continuation of the application of duties based on non-market economy methodology. Russia called upon Mexico to draw the attention of the investigating authorities to this problem and urged it to bring the measures at issue, as well as the anti-dumping practices, into compliance with the WTO rules.

15.5. The delegate of Mexico said that her authorities had been surprised by this agenda item because, over the last two years, bilateral consultations had taken place between experts from both regulatory authorities, such that at the last four Anti-Dumping (AD) Committee meetings, Russia had not raised this question. Given that the issue had not been raised at the Committee level it could not be implied that such instance had been exhausted, particularly as there had been no discussion at that level. Mexico considered that the Committee meetings were the appropriate place for Members to express and address specific trade concerns before bringing them to the attention of the Goods Council.

15.6. Regarding Mexico's AD procedures and the five-year reviews, she indicated that Mexico's general regulatory system allowed, on a case-by-case basis, to consider a country or a particular industry subject to an investigation as a non-market economy (NME). In this vein, and according to the *Declaracion Conjunta* (Joint Declaration) of 28 June 2011, made by the Mexican and Russian Ministers of Foreign Affairs, both countries agreed that when it came to dealing with trade remedy disputes, and in conformity with WTO rules and the Mexican Law on International Trade and its Regulation, Russia would receive the same treatment as any other country. Consequently, what both countries had agreed was that the Mexican authority would determine, on a case-by-case basis, if the sector or industry under investigation was operating in conformity with market economy principles, and would examine on that basis any information presented by Mexican producers, foreign producers, or any other interested party. In other words, in the said Declaration, Mexico had confirmed that there would be no automatic determinations as to the market economy status of the Russian economy, but that when it applied the general regime Mexico would also consider the particular situation of the sector or industry concerned. Such

analysis would be based upon information provided by Russian exporters, the Russian Government, Mexican producers, and others.

15.7. During the meetings held with Russian officials, Mexico had emphasized the need for Russian exporters and the Russian Government to provide the Mexican authorities with detailed information as to the way in which their economy was operating in respect of each anti-dumping procedure. This was in line with domestic and international regulations, and with the said agreement between Russia and Mexico. However, no relevant information had been provided.

15.8. In light of the above, the Mexican authority had reached its decision based on the information available, including that provided by Mexican producers and the Mexican Investigating Authority. Consequently, the treatment provided to the Government of Russia and its exporters was in keeping with the provisions of the WTO Agreements, Mexican domestic regulations, and the Joint Declaration of 28 June 2011. Moreover, Mexico had raised this issue with Russian Government officials in the past, and remained ready to deal with this matter with Russia through the relevant regulatory bodies.

15.9. The Chairperson proposed that the Council take note of the statements made.

15.10. The Council so agreed.

16 EGYPT – MANUFACTURER REGISTRATION SYSTEM – REQUEST FROM THE EUROPEAN UNION

16.1. The Chairperson informed the Council that, in a communication dated 30 October 2017, the delegation of the European Union had requested the Secretariat to include this item on the meeting's agenda.

16.2. The delegate of the European Union recalled the calls that her delegation had made to Egypt in the TBT Committee inviting Egypt to suspend its manufacturers' registration system so as to fully abide by WTO rules. These measures overlapped with existing requirements in a number of sectors and lacked transparency. The EU would appreciate the prompt granting of authorizations by the Ministry of Foreign Affairs for mandatory registration of foreign companies wishing to export to Egypt under Decree 43/2016, particularly when Egypt's General Organization of Export and Import Control (GOEIC) had accepted and processed the files regarding these companies.

16.3. The EU was concerned about the disproportionate obstacles to trade that these measures created, and which, in addition, were detrimental to Egypt's economy, and which had hampered EU exporters from reaching Egyptian markets for more than a year.

16.4. The EU acknowledged that the measures had been adopted in a context of serious foreign currency shortages but, following the recent implementation of economic reforms under the IMF programme, including floatation of the Egyptian currency, foreign reserves were now almost at their peak and had exceeded pre-2011 levels; there was thus no further need to maintain restrictive measures aimed at reducing imports.

16.5. The EU called upon Egypt to reconsider and revise its arrangements in consultation with its stakeholders, but also to notify them to the TBT Committee before their enforcement. Such revised arrangements should meet the objectives sought without creating a disproportionate impact on trade, should be WTO-compliant, and should be notified in conformity with WTO rules, including allowing sufficient time for consultation before their adoption and entry into force.

16.6. The delegate of Switzerland reiterated the concerns on this issue expressed by his delegation at previous CTG and TBT Committee meetings. Switzerland still had difficulty understanding the rationale behind such stringent quality certification and registration requirements, and how this decree would contribute to the public policy objectives of the Egyptian authorities. Switzerland believed that the requirements created unnecessary obstacles to trade and remained concerned about the lack of clarity in the registration process, the requirements to be fulfilled, and the actual implementation of the measure.

16.7. Nevertheless, he thanked Egypt for the recent progress made during bilateral exchanges on this issue, for the availability of Egypt's delegation, and for having provided information and clarification about the registration process. Since the latest information had only been provided the day before the meeting, Switzerland would carefully analyse it and revert back to Egypt with any questions or comments it may have as soon as possible. Switzerland acknowledged the capacity constraints faced by Egypt. Even so, he encouraged Egypt to create a publicly accessible database of registered companies in order to improve transparency in the registration process.

16.8. The delegate of the United States thanked the EU for having again raised this issue; the US had similar concerns, which had likewise not yet been addressed by Egypt.

16.9. The delegate of Ukraine echoed the EU's concerns and indicated that there had been no progress made in bilateral consultations between Ukraine and Egypt. He encouraged Egypt to consider a less trade-restrictive measure to bring its legislation and implementation of the manufacturers' registration system into compliance with the WTO and TBT principles and rules.

16.10. The delegate of Egypt thanked delegations for their ongoing interest in this matter, took note of the concerns raised, and referred the Council to the replies provided at its previous meetings[2] and at meetings of the TBT Committee. Egypt believed that any credible manufacturer could easily comply with the requirements of Decree 43/2016; indeed, since its entry into force, not only had hundreds of producers and manufacturers been registered after having successfully submitted their complete files, but not one company's registration request had been rejected to date. Decree 43/2016 was permanent in nature and currently Egypt was not considering suspending or reviewing its application.

16.11. With regard to transparency, privacy restrictions did not allow for the publication of some of the data, such as the list of companies that had submitted applications and those that had been accepted. However, Egypt had shared with interested delegations the list of their registered companies and continued to encourage its trading partners to approach Egypt's authorities with regard to any pending applications. Consequently, after more than 18 months since its application, and given the number of companies registered, Egypt believed that the registration requirement under Decree 43/2016 was not more trade restrictive than necessary, and that it complied with WTO rules and those under the TBT Agreement in particular. He encouraged interested delegations to address this issue in the context of the TBT Committee and expressed Egypt's readiness to provide assistance to foreign companies facing difficulties in the registration process. All Members' concerns would be conveyed to Capital.

16.12. The Chairperson thanked delegations for their interventions and proposed that the Council take note of the statements made.

16.13. The Council so agreed.

17 CHINA – CUSTOMS DUTIES ON CERTAIN INTEGRATED CIRCUITS – REQUEST FROM THE EUROPEAN UNION, CHINESE TAIPEI, AND THE UNITED STATES

17.1. The Chairperson informed the Council that, in communications dated 30 October 2017, the delegations of the European Union, Chinese Taipei, and the United States, had requested the Secretariat to include this issue on the meeting's agenda.

17.2. The delegate of the European Union recalled that this issue had been raised by the EU and other Members in several WTO committees and also bilaterally. The semiconductor industry associations from several Members had also expressed their concerns in writing to the Chinese government. Regrettably, no progress had thus far been made.

17.3. She recalled that, as reflected in China's certified WTO Schedule of concessions, China had committed to maintain zero tariffs on some of the product lines identified as MCOs that were already duty free. However, China's duty rate for 2017 had been increased for some MCOs, from

[2] See document G/C/M/129, paragraphs 11.13–11.17, and document G/C/M/128, paragraphs 20.63-20.68.

0% in 2016 to 3.4%, including some MCOs covered under ITA duty-free lines. This went against the spirit of the ITA.

17.4. The EU was particularly concerned by the tariff rate after transposition of line 8542.39.10, whose new tariff rate was 3.4%, while for ten of the original tariff lines the bound tariff in China's 1 July 2016 Schedule was already zero. The new duties seemed to have been calculated by means of the duty averaging method and were well above the simple average of the original lines (that is, 2%). The EU believed that this also went against the letter and spirit of the ITA and could constitute a violation of China's ITA obligations. The EU looked forward to receiving an official clarification of the method followed by China and again requested China to restore a zero tariff on all MCO product lines covered by the ITA Agreement.

17.5. The delegate of the United States elevated again the concerns of the United States with regard to the change in China's applied duty rates for semiconductor products. This issue had previously been raised in both the ITA Committee and at the CMA.

17.6. In sum, since 1 January 2017, China had been imposing tariffs on a number of semiconductor products that were previously duty free by virtue of China's WTO bound commitments. Unfortunately, and despite the issue having been raised in the WTO and bilaterally, to date the situation had not changed and semiconductor shipments were still subject to duty when less than one year ago the shipments would have been duty free. China should clarify the consistency of this situation in relation to its WTO binding tariff commitments, particularly as it appeared to be part of a trend in support of the "Made in China 2025" campaign.

17.7. China had indicated that this was merely a technical issue and that it had simply used one of the WTO-sanctioned methodologies to perform a complex HS transposition for the semiconductor products in question. However, the General Council Decision on HS transpositions had made it clear that bound rates in a new HS nomenclature should fully reflect the same level of concessions as in the previous nomenclature – that is, the scope of concessions should remain unchanged.

17.8. The core of the issue was that the scope of China's concessions had changed substantially and the value of those concessions had been impaired in that the semiconductor products that were duty free for over a decade were now subject to duties. China had noted that, while the tariff rates had increased for the ten products that were previously duty free, the tariff rates were now relatively lower for the seven other tariff lines that were previously subject to duty. While this was a truism of simple mathematics, what it concealed was the fact that 93% of China's imports on these 17 items entered under the 10 duty-free tariff lines, based on 2015 trade.

17.9. The US pointed out that the General Council Decision on HS transpositions allowed for the use of an alternative methodology only if combining the tariff lines was "unavoidable" as part of the HS transposition process but, in the case of MCOs, the use of a simple arithmetic average was most certainly avoidable. For example, China could have chosen to apply the lowest rate of any previous tariff line to the entirety of the new tariff line – in this case, to apply a zero duty.

17.10. The US was not asking China to apply a zero duty to products that were previously subject to duty but to maintain its duty-free concessions by creating additional national tariff lines under HS heading 8542 for certain end-use products such as appliances. This was, indeed, the standard methodology that Members should apply in a transposition exercise.

17.11. Other ITA Members had managed to implement the HS2017 transposition without difficulty and without raising rates on semiconductors. She asked why China could not do the same. She also urged China to reinstate zero duties on all products previously under duty-free tariff lines in the previous nomenclature. China had an obligation to provide this duty-free treatment pursuant to its WTO bound commitments, and should do so without delay.

17.12. The delegate of Chinese Taipei reiterated the concerns of her delegation over China's attempt, since the beginning of 2017, to impose tariffs on multiple component integrated circuit products at a higher rate than its current WTO bound rate of zero duty. This was not a technical issue but an issue that had a direct bearing on China's WTO binding commitments, and which violated its obligations under GATT Article II. Her delegation called upon China to provide

additional explanation as to China's justification of its measure to apply an automatic average to the previous rate of duty, and immediately to eliminate the tariff rates applied to imports of multiple component integrated circuits.

17.13. The delegate of Thailand echoed the concerns raised by previous speakers, registered Thailand's interest in this topic, and requested China to provide a comprehensive response.

17.14. The delegate of Singapore also registered Singapore's interest in this implementation issue; Singapore would be closely monitoring this matter.

17.15. The delegate of Japan echoed the previous concerns raised about China's customs duties on certain products using multi-component semi-conductors (MCOs). China had explained that they had changed the MCO applied duties by using the arithmetic average of the previous duty rates. However, China had not explained which specific tariff line and which tariff rate it had used to calculate the current MCO applied tariff rates. Japan called upon China once again to provide a "correlation table" clarifying the relationship between the previous duty rates for each tariff line at issue and the current duty rates.

17.16. At the CMA of 22 September 2017, China had said that it had reduced the duty rates of the four tariff lines in June 2017 but Japan had not been able to find any facts to confirm this remark. He called upon China to provide detailed information in this regard.

17.17. Japan also asked China to confirm its commitment to fulfilling the phase-out schedule under the ITA expansion, including the complete elimination of duties on all MCO products by 2021.

17.18. The delegate of the Republic of Korea requested China to reinstate a zero duty rate on MCO items pursuant to its ITA expansion commitments.

17.19. The delegate of China thanked delegations for their interventions and said that China, one of the major trading partners in ICT products, had fully participated in the ITA expansion negotiation. China had separately implemented the tariff reduction commitment in accordance with the 2017 Chair's amendments to the WCO–MCO tariff lines which had been reclassified although the tariff levels had been based on the original tariff lines. Therefore, they were fully consistent with the relevant rules on tariff transposition and China's WTO commitments. China had provided explanations on this issue, and in a detailed manner, in the ITA and MA Committees.

17.20. The Chairperson proposed that the Council take note of the statements made.

17.21. The Council so agreed.

18 BRAZIL – MEASURES RESTRICTING BANANA IMPORTS – REQUEST FROM ECUADOR

18.1. The Chairperson informed the Council that, in a communication dated 30 October 2017, the delegation of Ecuador had requested the Secretariat to include this item on the meeting's agenda.

18.2. The delegate of Ecuador recalled that her delegation had repeatedly raised its concerns, in various WTO bodies, regarding the restrictions placed by Brazil on importers of Ecuadorian bananas into its market. This issue began 20 years ago; since then, Ecuador had made every possible effort to meet the requirements indicated by Brazil for those imports. For the last three years, Ecuador had presented a work plan for those exports, thereby fulfilling the requirements laid down by the Brazilian pest risk assessment of 2015. Despite the bilateral agreement reached with Brazil in the previous year, the work plan had been adjusted several times to respond to additional requirements laid down by Brazil. Thus far, the Brazilian market continued to be closed to Ecuadorian bananas.

18.3. Maintaining such a prohibition, and doing so for 20 years, represented a clear violation of the WTO Agreements, and Articles 5.1, 2.2, 5.6, 5.5, 2.3, and 5.7 of the SPS Agreement in particular. The situation had been further exacerbated in June 2017 when Brazil, instead of complying with the agreement reached to open its market to Ecuadorian bananas, then requested Ecuador to provide guarantees on the application of a number of entirely new requirements. This

action reaffirmed the restrictive nature of the measures and demonstrated that these measures were not in line with the risk assessment carried out by Brazil many years ago and that had led to Ecuador's work plan to solve this problem.

18.4. Ecuador believed that it had fully complied with the phytosanitary requirements stipulated by Brazil and could not accept that, having reached an agreement 30 years ago on the conditions to regularize and legalize Ecuadorian banana imports into Brazil, Brazil continued to lay down new requirements and adopt clearly protectionist measures. This ran counter to WTO standards, provisions, and rules. Brazil should implement the instruction issued in March 2014 that stipulated phytosanitary requirements for banana imports and exports. Ecuador had done everything necessary to comply with such requirements.

18.5. The delegate of Colombia expressed the interest of his delegation in Brazil's responses to this issue.

18.6. The delegate of Brazil referred to the clarifications provided by his delegation at the 2 November 2017 meeting of the SPS Committee and indicated that the Brazilian Government had been acting in line with its obligations under the SPS Agreement. The process to authorize such imports required a thorough exchange of technical information in order to ensure that all phytosanitary risks were properly addressed. Brazil had been transparent and had been cooperating closely with the Ecuadorian sanitary authorities. On 16 July 2017, the Brazilian sanitary authorities had requested from their Ecuadorian counterparts changes to the work plan to mitigate the *Mycosphaerella Filiensis* pest. On 8 November 2017, Ecuador responded to that request and its response was being considered by the competent Brazilian authorities. Brazil was interested in achieving a positive outcome for this issue, as had been the case regarding Ecuadorian shrimp exports to Brazil, an issue that had also been raised at the last CTG meeting. Brazil remained available for further bilateral consultations with Ecuador.

18.7. The Chairperson proposed that the Council take note of the statements made.

18.8. The Council so agreed.

19 NIGERIA – IMPORT RESTRICTING MEASURES – REQUEST FROM NORWAY

19.1. The Chairperson informed the Council that, in a communication dated 30 October 2017, the delegation of Norway had requested the Secretariat to include this item on the meeting's agenda.

19.2. The delegate of Norway said that there had been some positive developments with regard to exports of certain products to Nigeria, Norwegian seafood in particular, and that the currency restrictions had been replaced by import duties. He also acknowledged that Nigeria had altered its customs valuation practice such that the agreed price on the invoice was now used as the basis for calculating the customs fee.

19.3. The delegate of Nigeria thanked Norway for his positive statement with regard to Nigeria's efforts to address Norway's concerns, and recalled that at the last CTG meeting her delegation had assured Members that Nigeria was committed to the WTO, regardless of Nigeria's current challenges. Additional progress had been made by Nigeria in addressing the concerns raised by Members in past meetings, including on the issue of the exchange rate, which had now stabilized such that importers and exporters were able to access foreign currency at an official rate. There had also been improvement on ease of doing business thanks to reforms to enhance transparency and efficiency in the business environment. Members had also witnessed the seriousness of the present administration regarding advances in the process of business registrations, approval of permits, approval of visas, and the streamlining of port operations in Nigeria. Consequently, companies from certain Members had now indicated an investment interest in various sectors of Nigeria's economy.

19.4. Other concerns previously raised by Members had also been taken into account, and once the pertinent adjustment or changes had been finalized, those concerns would likewise be addressed. As soon as the relevant processes were completed Nigeria would notify the changes to the WTO or directly to the concerned Members.

19.5. She urged concerned delegations, especially Norway, to allow the internal consultations to continue in order to ensure that the Government received input from all the concerned parties. Nigeria was ever ready to continue with bilateral consultations with all interested Members.

19.6. The Chairperson proposed that the Council take note of the statements made.

19.7. The Council so agreed.

20 WORK PROGRAMME ON ELECTRONIC COMMERCE

20.1. The Chairperson reminded delegations that, at the Council's previous meeting, the interim Chairperson had recalled that Ministers in Nairobi had adopted the decision contained in document WT/L/977 on the "Work Programme on Electronic Commerce" (Work Programme, or WPEC). In that Decision, Ministers had reaffirmed not only the mandate of the "Work Programme on Electronic Commerce", adopted on 25 September 1998 and contained in document WT/L/274, but also the subsequent Ministerial Declarations and Decisions on the Work Programme. Therefore, Ministers had decided to continue the work under the WPEC since the last session, based on the existing mandate and guidelines and on the basis of proposals submitted by Members in the relevant WTO bodies, as set out in paragraphs 2 to 5 of the Work Programme. To this end, they had instructed the General Council to hold periodic reviews in its sessions of July and December 2016 and July 2017 and to report to the next session of the Ministerial Conference based on the reports that might be submitted by those WTO bodies entrusted with the implementation of the Work Programme. In this vein, and in order to fulfil the mandate, he invited delegations to express their opinions and to make suggestions as to how to work on the preparation of the periodic reviews to be held in the General Council at its session of July 2017.

20.2. He also recalled that, at the last CTG meeting, a thorough discussion on E-Commerce had taken place, where various delegations had explained the particularities of their submissions and/or expressed their views on different aspects of E-Commerce. As indicated in the meeting's agenda, four JOB documents had been submitted, respectively, by Chinese Taipei (two documents), ASEAN, and China. He therefore invited those delegations that had submitted documents on this issue to take the floor first, to be followed by other delegations that also wished to provide comments and views on the proposals tabled or with regard to any particular E-Commerce aspect or topic, and mindful of the fact that at the next meeting of the General Council he would, under his own responsibility, present a factual report of the discussions held in this Council.

20.3. The delegate of China reminded delegations that, in November 2016, China and Pakistan had submitted a communication on the WPEC to this Council, the CTS, the CTD, and the General Council. Since then, China had further elaborated its proposal in the various meetings of the aforementioned WTO bodies, and had proposed to focus discussions on how to further facilitate internet-enabled cross-border trade in goods, as well as related payment and logistics services. China had also emphasized that the discussions on E-Commerce in the WTO should continue on the basis of the existing mandate, should uphold the development dimension, and should focus on areas of common interest to Members.

20.4. China had proactively shared its experience in E-Commerce development with Members so as to promote in a pragmatic manner progress on this issue in the WTO. China had also encouraged Members to exchange information and compare best practice on E-Commerce in the relevant WTO bodies, so as to facilitate a better understanding of E-Commerce among Members, especially developing country Members, and thereby to enable the development of E-Commerce and to benefit from it while fully reflecting the inclusiveness of the multilateral trading system.

20.5. China noted that, based on the proposals submitted, extensive and valuable discussions had taken place on E-Commerce in the relevant bodies, including the CTG, with particular consideration given to the specific concerns and needs that Members had raised during the E-Commerce discussions.

20.6. In its communication on E-Commerce Elements for MC11, submitted to the relevant WTO bodies on 18 October 2017, in document JOB/CTG/9, China had identified some elements of interest to most of the Members that could encourage worthwhile continued discussion in the

future. China hoped that these elements would be reflected in the E-Commerce outcomes at MC11 and as building blocks for future work on this issue. Without prejudice to continuing the ongoing respective discussions under the relevant bodies, and given the cross-cutting nature of E-Commerce, the elements could be explored in the dedicated discussion of the General Council, or at a body to be agreed upon by all Members.

20.7. On the moratorium, China considered that Members might decide to maintain the current practice of not imposing customs duties on electronic transmissions until the next session of the Ministerial Conference, to be held in 2019, as had been the case at previous Ministerial Conferences. China also considered that the free zones and customs warehouses, as well as other good practices aimed at facilitating cross-border E-Commerce, had played a key part in promoting the development of industries and had also facilitated parties' on-line transactions. These good practices could not only save time for cross-border logistics and delivery so as to cut costs, improve E-Commerce customer experience, and enhance the transaction efficiency for both sellers and buyers, but also facilitate the job of regulatory authorities by reducing the administrative costs while raising the administrative efficiency in the regulation of relevant goods. In this vein, China noted that that the use of free zones and customs warehouses to facilitate the operation of cross-border E-Commerce was without prejudice to Members' trade policies, their regulatory framework, and the implementation aspects. China encouraged Members to share and explore successful experiences and other good practices with other Members, and suggested that the Secretariat, if Members so requested, should build a cooperative relationship with the World Customs Organization (WCO) to further explore facilitating measures relating to E-Commerce and better serve the objective of promoting inclusive trade and development through E-Commerce.

20.8. On the promotion of paperless trading, China believed that improved transaction efficiency, reduced transaction costs, and saved resources, were the greatest advantages of paperless trading. The Trade Facilitation Agreement (TFA) contained specific provisions in this regard, and Members should endeavour to promote paperless trading to the extent possible and, in particular, explore, through the implementation of the TFA, effective ways and means to encourage the development of E-Commerce, including the possibility of accepting trade administrative documents submitted electronically and those documents being granted the same legal status as paper versions, and also to make trade administration documents available to the public in electronic form. A number of E-Commerce proposals also referred to electronic signatures, electronic authentication, and electronic contracts. In actual fact, cross-border internet-enabled trade in goods was not possible without first signing and implementing an e-contract. E-signatures and e-authentication were key to the process itself. Furthermore, the recognition and standardization of e-signatures, e-authentication, and e-contracts, would help to enhance efficiency in transactions, secure electronic transactions, and improve consumer experience. The UNCITRAL Electronic Commerce Signature Model Law could serve as a basis for Members' future discussions in the WTO.

20.9. In addition to the above-mentioned elements, China believed that Members might also exchange information on relevant policies, in particular with regard to transparency. Enhanced transparency, including appropriate policy changes, could help Members and their business communities to better understand each other's policies in the area of E-Commerce. Therefore, transparency was conducive to the development of E-Commerce, and the attainment of the goals of inclusive growth. China was also of the view that transparency was a fundamental principle in the WTO Agreements, and that trade-related policies concerning E-Commerce were wide-ranging due to the cross-cutting nature of E-Commerce. Therefore, Members should endeavour to enhance transparency with regard to their E-Commerce policies.

20.10. China believed that the development of E-Commerce itself was inclusive in nature. Indeed, many Members' experience of E-Commerce development had proven that it was conducive to development and helped small farmers and MSMEs in remote areas to integrate into vast domestic and international markets. China reiterated that work at the WTO on E-Commerce should take into account the different stages of Members' development, in particular the specific demands of developing and least developed Members, and to strive to solve their developmental problems and enhance their ability to benefit from E-Commerce, while still taking into account the Special and Differential Treatment principle as an integral part of the WTO's work on E-Commerce.

20.11. Given the complexity of E-Commerce, and Members' realities at different developmental stages, China believed that a pragmatic approach to preparations in the lead-up to MC11 would be

to cooperate in a spirit of solidarity and focus on areas of common interest. Moreover, in parallel with ongoing discussions in the relevant bodies, Members might jointly explore how to achieve more effective exchanges in an appropriate way to promote positive progress at MC11 and beyond. China welcomed Members' extensive engagement in the discussions on the above-mentioned issues; these would spur the discussion onwards and contribute collectively to maintaining the relevance of E-Commerce to the multilateral trading system.

20.12. The delegate of Chinese Taipei introduced the technical views of his delegation contained in documents JOB/CTG/7 and JOB/CTG/8 and referred to the explanations already provided in the Council for Trade in Services, and contained in document RD/SERV/147, of 13 October 2017.

20.13. Document JOB/CTG/7 dealt with "The Paradigm Shift of Digital Trade", where a "deductive approach" had been adopted to try to identify the qualitative or fundamental differences between E-Commerce and traditional trade. The major difference was the so-called "atoms bits transformation" which meant that in the digital world bits were transferred, like an e-book, instead of atoms, like a paper magazine. The key issue was that atoms had borders, but bits did not. On this basis, two issues could be extracted: first, for the digital trade world what mattered was to think about how to remove trade barriers for bits, not atoms; and second, it was essential to have a better understanding of the new trade features under the digital revolution.

20.14. Document JOB/CTG/8 addressed "Information Insufficiency in E-Commerce" or the difficulties with accessing E-Commerce markets from three dimensions. The first difficulty was "Accessibility", which related to whether each E-Commerce operator had an equal opportunity of being seen online and thus having equal access to potential customers. When certain cyberspace trade barriers were applied that restricted access to online markets these actually prevented potential buyers (or consumers) from even noticing the existence of the suppliers. The second dimension concerned "Connectivity" and related to infrastructure insufficiency, such as lack of electricity, or optical fibre. It was important for all Members to be able to connect to as many international potential buyers, or sellers, as possible. The third dimension, "Transparency", related to another important difficulty, which was "regulatory barriers". The requirements to comply with different regulations and standards represented significant costs for E-Commerce operators.

20.15. Two issues deserved to be emphasized with a view to contributing to greater fairness: the importance of reciprocally equal access and the removal of accessibility blocks. Increasing access to ICT infrastructure was also a key factor in addressing the digital divide, as was making regulations transparent so as to allow businesses to prepare themselves to enter into any possible future market. The two documents explained above were not relevant to MC11 E-Commerce discussions but were intended simply to clarify the fundamental issues of E-Commerce with a view to facilitating future discussions in the WTO.

20.16. The delegate of Canada noted that over the past few years and, indeed, since 1998, there had been enlightening and substantive discussions in the CTG and across the WTO on the technical or trade-related aspects of E-Commerce. However, it was time to take the next step at MC11 by establishing a working party entrusted to conduct preparations for and to carry out negotiations on related disciplines. Canada was also in favour of extending the customs moratorium for a further two years to allow time for the negotiation of a permanent, binding prohibition on raising customs duties on electronic transmissions. Canada hoped that the outcome of MC11 would demonstrate that the WTO remained relevant and capable of delivering results that could benefit all Members in an inclusive manner.

20.17. The delegate of Singapore recalled that at the last CTG meeting her delegation had already introduced the ASEAN submission contained in document JOB/CTG/6 and, with regard to document JOB/CTG/9, indicated that China's latest submission had highlighted the various issues on which WTO Members had positively been engaged for over one and a half years. Singapore was interested in continuing the E-Commerce discussions post-MC11 in a focused manner; China's proposal was instructive in this regard. Singapore believed that the WTO could be at the forefront of addressing emerging and contemporary trade issues, such as E-Commerce, and would continue to work with all like-minded Members in the endeavour to ensure a good outcome on E-Commerce at MC11 and beyond.

20.18. The delegate of the European Union welcomed Members' submissions, particularly the new submissions from Chinese Taipei and the revised submission from China. The latter had clarified certain of the EU's questions about the previous version, which the EU looked forward to discussing further with China. She also reminded delegations that the EU, together with other Members, had submitted document JOB/GC/140/Rev.1, proposing the establishment of a Working Party on Electronic Commerce to address cross-cutting issues and to prepare and develop a debate and negotiations on trade-related aspects of E-Commerce on the basis of Members' proposals. The EU believed that this approach was balanced and constructive, and was mindful of Members' different views on what should be done at the WTO on E-Commerce, allowing any Member to bring any issue it considered important into the Ministerial Decision and ensuing debate. This responded to the mandate Members had agreed in the WTO and was also mindful of existing sensitivities across the Membership. The EU was not suggesting adopting a pre-set agenda on E-Commerce but proposing collectively to shape a negotiating agenda for the coming years, and looked forward to engaging further on that proposal.

20.19. The delegate of Ecuador thanked delegations for their submissions and reiterated Ecuador's view that priority should be given to negotiations on the issues under the Doha Agenda. Most of the proposals tabled referred to the establishment of a working group with the aim of beginning negotiations on market access issues that went beyond the 1998 Mandate of the WPEC. Ecuador believed that, as a first step, Members should find solutions on the basis of which to close the digital gap before moving on the E-Commerce negotiations to goods and services. If not, it would be impossible for developing countries to compete on equal terms and, as indicated in China's proposal, the Special and Differential Treatment was the mechanism by which to increase the developing country capacities to better benefit from E-Commerce, while taking into account their differing situations and their varying levels of development. However, China's proposal also referred to work towards MC11, which would also go beyond the existing mandate. The WPEC had a clear mandate as concerned its function, including mechanisms to deal with the relationship between E-Commerce and development in an articulated manner, on the basis of discussions in the relevant bodies, and without the pressure of fulfilling a negotiating mandate. Any ministerial decision on electronic commerce should reaffirm the WPEC and continue with the same mandate.

20.20. The delegate of South Africa recalled and reaffirmed the statement delivered by her delegation on behalf of the African Group at the previous CTG meeting, and requested that the Secretariat refer to it in the minutes of this meeting.[3] In the short time before MC11, she urged Members to engage substantively in the process led by the Chairman of the General Council.

20.21. The delegate of Bangladesh thanked the proponents for their submissions on the way forward on E-Commerce. Bangladesh believed that E-Commerce had the potential to benefit SMEs and make trade inclusive for all. This potential should be realized; however, there were other issues besides trade, such as digital infrastructure, consumer protection, cyber security, and competition, which related to E-Commerce and that required an holistic approach in order to benefit SMEs, to make trade inclusive for all, and to work for all.

20.22. Some proposals were apparently denying the existing Work Programme, but this had not been put at issue, nor denied, since it was established. The WPEC had been renewed by Ministers on several occasions and its core elements remained valid. Therefore, discussions should focus on some of the elements of the Work Programme, and also on technical issues, particularly in the case of delegations such as Bangladesh whose knowledge of E-Commerce issues remained limited. Consequently, before launching any negotiation on E-Commerce, various Members needed first to develop a better understanding of the core elements in the E-Commerce discussion; otherwise it would be immature to initiate a negotiation on it. In conclusion, the technical discussion should continue so as to address the core elements of the Work Programme.

20.23. The delegate of Switzerland thanked the proponents and said that, as stated in other fora, Switzerland wished for a multilateral declaration on E-Commerce, and supported all efforts that contributed towards this goal. The Ministerial Declaration should help to structure the work in a targeted manner. Therefore, Switzerland supported the establishment of a formal Working Group which could evaluate if and which rules needed to be strengthened or elaborated in order to foster E-Commerce. Switzerland also welcomed a commitment towards development issues in this work and supported making the moratorium on E-Commerce permanent.

[3] See document G/C/M/129, paragraphs 19.19 to 19.25.

20.24. The delegate of Brazil also recalled that his delegation had already introduced the joint submission made together with Argentina and Paraguay. Given the horizontal aspect that the discussion was taking, Brazil believed that the most appropriate forum for discussion of this issue in the short time before MC11 would be the consultations that the Chair of the General Council was conducting. With regard to the issue of the moratorium, he clarified that this related to a moratorium on electronic transmissions. Brazil reserved its right to provide its views on this issue during the GC Chair's consultations.

20.25. The delegate of Cuba welcomed the different submissions and noted that there was a movement to promote initiatives in the form of the elaboration of disciplines on aspects that were still far from being clear. Substantial debate was still required on the analysis of the digital divide and gap that developing countries and LDCs were suffering from, with minimal access to the internet, and the impact on developing countries and LDCs that the 4th Industrial Revolution would have. Cuba was not in favour of going beyond the current WPEC but was ready to explore and continue to discuss all these topics that were of great interest to many countries.

20.26. The delegate of the Bolivarian Republic of Venezuela thanked delegations for their efforts in submitting proposals on E-Commerce. His delegation acknowledged the importance of continuing to work with the existing Work Programme and on each of the elements that had been identified in each of the bodies mentioned in the WPEC. It was important to understand this Programme and its implications for developing countries. Venezuela thanked China for having included this in paragraph 6 of the proposal.

20.27. The delegate of Pakistan welcomed China's new proposal and considered it a useful contribution. Pakistan looked forward to engaging in future discussions with China in a constructive manner.

20.28. The delegate of Australia welcomed China's new proposal, as well as the positive contributions on E-Commerce from across the Membership. Australia supported the aim of realizing pragmatic progress on E-Commerce at MC11, including extending the moratorium.

20.29. In Australia's view, electronic authentication and e-signatures facilitated both domestic and cross-border E-Commerce. Australia's legislation was technologically neutral and consistent with the UNCITRAL Model Law on Electronic Commerce (1996). E-signatures would be a good subject for the continuation of E-Commerce discussions in 2018.

20.30. China's proposal in relation to e-signatures, which Australia would continue to assess, might overlap with the EU proposal contained in document TN/S/W/64. Australia looked forward to working with China and other Members to advance E-Commerce discussions in the WTO both in the lead up to MC11 and in 2018.

20.31. The Chairperson thanked delegations for their interventions and proposed that the Council take note of the statements made.

20.32. The Council so agreed.

21 CONSIDERATION OF ANNUAL REPORTS OF THE SUBSIDIARY BODIES OF THE COUNCIL FOR TRADE IN GOODS

21.1. The Chairperson recalled that, pursuant to the "Procedures for an Annual Overview of WTO Activities and for Reporting Under the WTO" (WT/L/105), which were adopted by the General Council on 15 November 1995, all bodies constituted under Agreements in Annex 1A of the WTO Agreement were required to submit annually a factual report to the Council for Trade in Goods, and the Council was to take note of these reports.

21.2. The Chairperson proposed that the Council take note of the following annual reports: (i) Committee on Agriculture, document G/L/1194; (ii) Committee on Trade-Related Investment Measures, document G/L/1197; (iii) Committee on Subsidies and Countervailing Measures, document G/L/1195; (iv) Committee on Anti-dumping Practices, document G/L/1193; (v) Committee on Safeguards, document G/L/1192; (vi) Committee on Market Access, document G/L/1190; (vii) Committee on Import Licensing, document G/L/1187; (viii) Committee

on Customs Valuation, document G/L/1199; (ix) Committee on Sanitary and Phytosanitary Measures, document G/L/1202; (x) Committee of Participants on the Expansion of Trade in Information Technology Products, document G/L/1200; (xi) Preshipment Inspection – Independent Entity, document G/L/1191; (xii) Committee on Technical Barriers to Trade, document G/L/1203; (xiii) Committee on Rules of Origin, document G/L/1188; (xiii) Committee on Trade Facilitation, document G/L/1201; and (xiv) Working Party on State Trading Enterprises, document G/L/1196.

21.3. The Council so agreed.

22 ADOPTION OF THE ANNUAL REPORT OF THE COUNCIL FOR TRADE IN GOODS TO THE GENERAL COUNCIL (G/C/W/746)

22.1. The Chairperson recalled that the draft Annual Report of the Council had been circulated in document G/C/W/746. In accordance with the "Procedures for an Annual Overview of WTO Activities and for Reporting under the WTO" (WT/L/105), adopted by the General Council on 15 November 1995, it was agreed that "[T]he respective sectoral Councils should report in November each year to the General Council on the activities in the Council as well as in the subsidiary bodies" and that the reports of the sectoral Councils should be "factual in nature, containing an indication of actions and decisions taken, with cross-references to reports of subordinate bodies and could follow the model of the GATT 1947 Council reports to the CONTRACTING PARTIES". He noted that the draft report would be updated in light of this meeting.

22.2. The Chairperson proposed that the Council agree to adopt the report, subject to update and revision to take into account the Council's work at this meeting.[4]

22.3. The Council so agreed.

23 OTHER BUSINESS

23.1. The Chairperson recalled that, at the start of the meeting, he had said that he would raise two issues under "Other Business": (i) the appointment of officers to the subsidiary bodies of the Council for Trade in Goods; and (ii) the date of the next meeting.

23.1 APPOINTMENT OF OFFICERS TO THE SUBSIDIARY BODIES OF THE COUNCIL FOR TRADE IN GOODS

23.2. The Chairperson reminded delegations that, at the last General Council meeting, and in line with the Guidelines for the Appointment of Officers to WTO bodies set out in document WT/L/510, the Chairperson had announced that at the next GC meeting he would make a formal announcement to begin the process of consultations for the appointment of officers to WTO bodies for 2018. In turn, as CTG Chair, he had the intention to launch the process for the appointment of officers to the subsidiary bodies of the CTG in the second half of January 2018 and that, in this process, he would coordinate closely with the Chairperson of the Council for Trade in Services. He therefore encouraged group coordinators promptly to start their consultation process and to aim to be in a position to present their candidates as early as possible in 2018.

23.2 DATE OF THE NEXT MEETING

23.3. The Chairperson informed the Council that the next meeting of the Council was scheduled to take place on Thursday, 15 March 2018.[5] The Agenda would close on Friday, 2 March 2018.

23.4. With regard to closure of the CTG Agenda he reminded delegations that, according to the Rules of Procedure, meetings of WTO bodies were convened by a meeting notice (Airgram) issued not less than ten calendar days prior to the date set for the meeting. The agenda itself therefore closed one WTO working day prior to circulation of the meeting notice; in other words, 11 calendar days before the date set for the meeting (or, if the date fell on a weekend, the previous Friday).

[4] The Annual Report to the General Council was circulated in document G/L/1204.

[5] The date of the meeting was then moved to Friday, 23 March 2018. The Agenda closed on Monday, 12 March 2018.

23.5. The meeting was closed.