



Council for Trade in Goods

**MINUTES OF THE MEETING OF THE COUNCIL FOR TRADE IN GOODS
21 AND 22 APRIL 2022**

CHAIRPERSON: HE MR LUNDEG PUREVSUREN

The meeting of the Council for Trade in Goods (CTG, or the Council) was convened by Airgram WTO/AIR/CTG/21 and WTO/AIR/CTG/21/Rev.1; the proposed agenda for the meeting was circulated in document G/C/W/806 and G/C/W/806/Rev.1. The meeting proceeded on the basis of the following modified agenda, as detailed below:

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The Chairperson observed that, given the long agenda, it would be preferable for Members to keep their interventions short, if possible. He invited those Members that were planning to submit longer written statements for incorporation into the meeting's minutes to expressly indicate their intention to do so when taking the floor. To ensure transparency in the preparation of the minutes, the Secretariat would only reflect what had been said at the meeting, except in those cases where a Member had explicitly indicated that it was their intention to submit a longer statement in writing.

The delegate of the United States requested to be included as a co-sponsor of Agenda Item 9, "India – Restrictions on Imports of Certain Pulses".

Finally, the Chairperson informed delegations that, under agenda item "Other Business", he would report on the Functioning of the CTG and its subsidiary bodies, on the Annual Plan of Meetings (document RD/CTG/15), and on 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 the adoption by the General Council of the Transparency Mechanism¹, the CTG was to be kept informed of Members' notifications of new regional trade agreements (RTAs). He informed the Council that nine RTAs had been notified to the CRTA, as followed:

¹ Documents WT/REG/16, WT/L/671, and G/C/M/88.

- Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), Goods and Services – Entry into Force for Peru (WT/REG395/N/2–S/C/N/920/Add.1);
- Agreement on Trade in Services between the Republic of Korea and Turkey (S/C/N/1078);
- Comprehensive Economic Partnership Agreement between the EFTA States and Ecuador, Goods and Services (WT/REG463/N/1-S/C/N/1077);
- Free Trade Agreement between Turkey and the EFTA States, Goods and Services (WT/REG462/N/1-S/C/N/1076);
- Free Trade Agreement between Turkey and the EFTA States (1992), Goods (WT/REG86/N/2) – Notification of Termination;
- Free Trade Agreement between Turkey and Serbia, Services (S/C/N/1073);
- Free Trade Agreement between Turkey and Kosovo², Goods (WT/REG461/N/1);
- Free Trade Agreement between Iceland, Liechtenstein and Norway, and the United Kingdom, Goods and Services (WT/REG459/N/1-S/C/N/1072); and
- Free Trade Agreement between the Eurasian Economic Union (EAEU) member States and Serbia, Goods (WT/REG458/N/1).

1.2. The Council took note of the information provided.

2 STATUS OF NOTIFICATIONS UNDER THE PROVISIONS OF THE AGREEMENTS IN ANNEX 1A OF THE WTO AGREEMENT (G/L/223/REV.29)

2.1. The Chairperson drew Members' attention to document G/L/223/Rev.29 containing the status of notifications under the provisions of the Agreements in Annex 1A of the WTO Agreement. The first page of this report described the discussions by Members that had led to its current format, the most recent of which had taken place in 2018, with a view to reflecting the Trade Facilitation Agreement. The new revision of the report by the Secretariat described the status of notifications as of 31 December 2021.

2.2. In a related matter, the Chairperson also drew Members' attention to the Notifications Portal, available in notifications.wto.org for which the Secretariat had released a Beta version at the beginning of the year. The Notifications Portal sought to consolidate, under a single system, all general information concerning notifications and the information for the agreements on trade in goods summarized and presented following the template of document series G/L/223/-. The Chairperson encouraged the Membership to review the information in the Notifications Portal and to contact the Secretariat in case they had any comments.

2.3. The delegate of Ukraine indicated the following:

2.4. Ukraine's measures remain transparent; it continues to fulfil its WTO notification obligations and demonstrate its commitment to the fundamental rules of the Organization. At the most recent meetings of the Market Access and Import Licensing Committees, the delegation of Ukraine apprised Members of its measures on the exportation of certain agricultural products and fertilizers introduced due to Russia's military invasion of Ukraine, and reiterated that these measures were necessary to ensure national food security in the hard and terrifying times being experienced by the people of Ukraine. In addition, Ukraine informed Members that all its resources and measures, including trade and economic measures, would be directed to maintaining the national economy and to saving the lives of the Ukrainian people.

2.5. At the same time, such export restricting measures are regularly reviewed and, if possible, replaced by less restrictive ones, or abolished altogether. In particular, the "zero" quota for a number of mineral fertilizers has been replaced by a quota of 210 thousand tonnes. Licensing requirements for the exportation of sunflower oil and corn have been abolished. Restrictions on the exportation of live bovine animals and meat of bovine animals have been replaced by automatic licensing. Wheat and some other agricultural products (including poultry and eggs) are subject to automatic licensing. In this regard, Ukraine has already provided the relevant notifications to the WTO. Thus, at present, there are no quantitative restrictions on Ukraine's major agricultural goods exports, namely sunflower oil, corn, and wheat.

² Reference to Kosovo shall be understood to be in the context of the United Nations Security Council resolution 1244 (1999).

2.6. Ukraine's current ability to export is limited not only by the economic situation but largely and primarily by Russia's actions, including the continued planting of landmines on the fields and the deliberate destruction and theft of Ukraine's property, particularly its agricultural machinery, and most importantly, its blockading of Ukraine's ports in the Black Sea and the Sea of Azov, which disrupt Ukraine's exports. As a result, commodity exports from Ukraine have been partially suspended. If the war continues, Ukraine will not be able to supply the world with 6 million tonnes of wheat and 15 million tonnes of corn left over from the previous harvest; nor will it be able to fully sow and harvest this year.

2.7. Prior to the military invasion, Ukraine exported up to 5 million tonnes of agricultural products through the ports of Odessa and Mykolayiv every month, but now, due to Russia's blockade, the country can transport barely 500,000 tonnes of grain a month. This leads to a monthly shortfall of about USD 1.5 billion in Ukraine's export earnings. Therefore, it seems that lifting Ukraine's naval blockade would be even more effective for global food security than creating new special supporting funds. The Russian aggression jeopardizes future harvests in Ukraine.

2.8. In order to avoid a food crisis not only in Ukraine, but also around the world, despite the current extremely difficult conditions in Ukraine, with continuing hostilities, the sowing campaign began in all Ukraine's regions, including Luhansk and Donetsk. In some regions, the sowing campaign is carried out only 30 km from the front line. Therefore, farmers are forced to wear bullet-proof vests and to begin sowing only after the fields have been de-mined by sappers. In a pessimistic scenario, in the current year Ukraine could be sowing in only 70% of its cultivated areas.

2.9. For most of today's economic challenges and concerns, there is only one solution, namely a swift end to the war. And if the war could be stopped, there would still be a chance to mitigate the damage and prevent hunger. If not, there is no saying what will come next. Since the beginning of their full-scale invasion of Ukraine, the Russian occupiers have destroyed or damaged 30% of the country's infrastructure, worth USD 100 billion.

2.10. On all international platforms, the world's attention is being drawn to the growing global food crisis, and everyone is united in understanding that Russia's war against Ukraine is one of the main factors in such a crisis. According to UN Secretary-General António Guterres, the war in Ukraine could condemn more than a fifth of humanity to unprecedented poverty and hunger.

2.11. As long as Russia's illegal invasion of Ukraine continues, the consequences will continue and persist, not only for Ukraine but for the world. Therefore, Ukraine calls upon all Members to stand together with Ukraine to counteract Russia's military aggression by all possible means.

2.12. The delegate of the United Kingdom indicated the following:

2.13. The United Kingdom thanks the Secretariat for its preparation of the report. Additionally, the UK thanks Ukraine for the updates on their notifications on this occasion, as well as in the Committee on Market Access and in the Committee on Import Licensing; the updates pertain to measures that Ukraine judged necessary due to the impacts of Russia's illegal invasion. Indeed, in the UK's view, the timely manner in which Ukraine's notification has been submitted, in the extraordinary circumstances outlined by Ukraine earlier, clearly demonstrates Ukraine's dedication to the WTO and the international rules-based system.

2.14. This stands in sharp contrast to the Russian Federation. Russia's illegal war violates international law and a cornerstone principle of this institution, which is respect for the international rules-based system. While Russia continues to violate international law, human rights, and multiple commitments to peace and security, the United Kingdom will continue working with its allies and partners across the multilateral system to condemn Russia's appalling actions and to isolate it on the international stage. As the UK does so, it will remain transparent regarding its measures, as appropriate, including through the WTO, in the Council for Trade in Goods and its subsidiary bodies.

2.15. The delegate of the United States indicated the following:

2.16. The United States thanks the delegation of Ukraine for their statement and reiterates its strong support for Ukraine. The United States condemns Russia's premeditated and unprovoked attack on Ukraine as well as the actions of Belarus' regime, which is aiding Russia's war of

aggression. The US calls upon Russia immediately to cease its use of force against Ukraine and to refrain from any further unlawful threat or use of force against any UN member state. The WTO is predicated on certain values, including that a fair and just international order is one built on rules, reciprocity, and transparency.

2.17. The actions of Russia are incompatible with the rules-based system that Members have built and worked to improve. Russia's conduct in perpetuating a war of aggression against Ukraine undermines its rights in this Organization, and is fundamentally incompatible with the values and principles of the WTO.

2.18. The United States always finds the data contained in document G/L/223 to be very informative. In addition, the US welcomes the work under way by the Secretariat to make more timely information on notifications available through a WTO notification portal, including the notification information detailed annually in document G/L/223. The US observes, upon reviewing document G/L/223/Rev.29, that there has been no real improvement in notification compliance across agreements since the previous report, and that Members' failure to comply with their notification obligations remains a concern for a number of CTG committees and working parties.

2.19. The challenge of tardy, incomplete, and missing notifications is not limited to Members of a particular region or grouping, but is quite widespread despite the availability to Members, even during the pandemic, of Secretariat assistance and training opportunities. The following are some specific examples: (i) 25 Members have not submitted an annual subsidies notification as required by Article 25.1, even though obligated to do so. The same number have also not submitted semi-annual subsidies notifications under Article 25.3 for the period 2019-2021; (ii) 21 Members have not submitted the questionnaire on import licensing procedures (Article 7.3), and an additional 10 have only submitted the questionnaire once; (iii) 48 Members have not notified state trading enterprises as required by Article XVII:4 of GATT 1994, and paragraph 1 of the Understanding on the Interpretation of Article XVII of GATT 1994 during the ten-year period covered by document G/L/223/Rev.29; and (iv) 28 Members have never submitted the required annual Table DS:1 notification, and 20 have never submitted the required annual Table ES:1 notification under the Agreement on Agriculture. In total, approximately 26% of all required Agreement on Agriculture notifications are outstanding.

2.20. WTO Members' persistent challenges in meeting their notification obligations have a real and practical impact on other Members and on the effective functioning of the WTO. Clearly there continues to be a pressing need to consider steps to improve the situation. Addressing the operation and effectiveness of current notification practices, as supported by the United States and 21 co-sponsors in the proposal on transparency and notification procedures, is a practical means of making progress on reform work that can strengthen the WTO.

2.21. The delegate of the European Union indicated the following:

2.22. The European Union and its member States' express their full solidarity with Ukraine and its people. The EU condemns, in the strongest possible terms, Russia's unprovoked and unjustified military aggression, which grossly violates international law and undermines international security and stability. It is inflicting unspeakable suffering on the Ukrainian population. The EU resolutely supports Ukraine's right of self-defence. The EU and its member States will continue to provide coordinated political, financial, material, and humanitarian support to Ukraine. The EU has also adopted significant economic and trade sanctions against Russia and stands ready to move quickly with further measures.

2.23. Moreover, the European Union strongly condemns Russia's actions targeting Ukraine's food supply and production. The food security situation is already dramatic for those directly involved in Ukraine. However, the impact of the Russian aggression is not just restricted to Ukraine and its citizens but is also seriously challenging food availability in some vulnerable net food-importing countries.

2.24. The European Union calls upon the international community to demand from Russia an immediate end to its aggression, the withdrawal of its military, and to respect Ukraine's sovereignty and territorial integrity. Russia's actions are endangering international peace and security on a global scale, and Russia must at all times respect its responsibilities under international humanitarian law.

2.25. The delegate of Canada indicated the following:

2.26. Canada thanks the Secretariat for its report and for the work to provide real-time access to this information through the Notifications Portal. Canada also thanks the United States for its comments on the situation with respect to notifications, the continued lack of improvement in this area, and how the situation seems to be afflicting a number of WTO Members. In this regard, Canada encourages Members to continue to reach out to the Secretariat for help with their notifications. In the meantime, Canada also encourages Members to support the notifications and transparency proposal that the US mentioned in its intervention. WTO Members need to revive the Working Group to help them to find better ways to ensure that they live up to their WTO obligations.

2.27. Canada also thanks the delegate of Ukraine for his continued work to provide transparency to WTO Members, especially given the unimaginable circumstances and challenges his colleagues in capital, and his fellow citizens throughout Ukraine, continue to face. In coordination with its allies and partners, Canada will continue to impose severe costs on the Russian regime for its unjustifiable and unprovoked invasion of Ukraine and will relentlessly pursue accountability for Russia's actions. In this respect, Canada recently submitted to the Committee on Market Access (CMA) document G/MA/QR/N/CAN/4/Add.3, which provides information on a new quantitative restriction imposed on imports of petroleum products from the Russian Federation. Specifically, as of 10 March 2022, Canada has banned the imports of all petroleum products from Russia. Canada continues to stand by the brave men and women fighting for their freedom in Ukraine.

2.28. The delegate of Switzerland indicated the following:

2.29. Switzerland thanks the Secretariat for its report. Switzerland also thanks the delegation of Ukraine for the timely update of its notifications in view of the exceptional circumstances in which its country finds itself. Ukraine's commitment to WTO disciplines, even in the current situation, is a tangible sign of support for international law.

2.30. Like other delegations, Switzerland condemns Russia's military aggression against Ukraine in the strongest terms. Such aggression blatantly violates international law, most notably the prohibition on the use of force and the principle of the territorial integrity of States. Switzerland calls upon Russia to honour its international obligations, reconsider its actions, withdraw its troops, and help to de-escalate the situation. Switzerland calls upon all actors to respect international law, in particular humanitarian international law.

2.31. The delegate of Japan indicated the following:

2.32. Japan thanks the Secretariat for its updated report on the status of notifications. Japan also thanks Ukraine for having explained the background to its notification to the Market Access and Import Licensing Committees.

2.33. Russia's invasion of Ukraine clearly infringes upon Ukraine's sovereignty and territorial integrity and constitutes a grave breach of the United Nations Charter, which prohibits the use of force. Any unilateral attempt to change the status quo by force is an extremely serious situation that shakes the very foundation of the international order and is totally unacceptable. Japan condemns Russia's actions in the strongest terms. Japan strongly urges Russia to cease its attack and immediately to withdraw its forces back to Russian territory. Japan will continue to make efforts to improve the situation in cooperation with the international community, including the G7. Japan stands in solidarity with Ukraine and its people.

2.34. The delegate of New Zealand indicated the following:

2.35. New Zealand thanks the Secretariat for preparing this report. Like other Members, New Zealand thanks Ukraine for its updates. Ukraine's approach is to be commended and clearly illustrates its commitment to the WTO and to maintaining the international rules-based system.

2.36. Russia's war in Ukraine is exacerbating current global food supply disruptions and food insecurity. Ukraine is a significant source of grain, including being the largest source of food for the World Food Programme (WFP) by volume in 2021. The current war, imposed by Russia, is expected to have serious ramifications on the WFP's ability to feed the hungry.

2.37. New Zealand stands with the international community in condemning President Putin's unjustified and illegal attack on Ukraine. Russia's war in Ukraine has very real implications for global peace, security, and economic stability. The actions of President Putin are a grave breach of international rules; the use of force to change borders is strictly prohibited under international law, as is the targeting of civilians.

2.38. The delegate of Australia indicated the following:

2.39. Australia commends the WTO Secretariat for its important work in promoting WTO transparency, including through its update to document G/L/223 and its development of a Notifications Portal.

2.40. Australia thanks Ukraine for its intervention, and joins others in condemning, in the strongest possible terms, Russia's unprovoked, unjust, and illegal invasion of Ukraine. Russia's invasion is a gross violation of international law, including the Charter of the United Nations. Australia strongly supports Ukraine's sovereignty and territorial integrity, and calls on Russia to cease its attacks on Ukraine and to withdraw its forces from Ukrainian territory.

2.41. Russia's war on Ukraine is exacting a catastrophic humanitarian toll, in addition to trade disruptions and a food crisis. Australia supports the collective action of all countries and has imposed far-reaching sanctions that have imposed a heavy toll on Russia and those responsible.

2.42. The delegate of the Republic of Korea indicated the following:

2.43. The Republic of Korea thanks the Secretariat for its informative report, and the United States for its comments on the report. Korea also encourages Members to implement their notification obligations.

2.44. The Republic of Korea thanks Ukraine for its update, and echoes the comments of previous speakers regarding the situation in Ukraine. As the UN Secretary-General mentioned recently, the war in Ukraine has created immense human suffering, but it has also seriously damaged the global economy. Wheat and maize prices have been volatile since the war began and are 30% higher than at the beginning of the year. Oil prices are up more than 60% over the previous year and natural gas prices have risen by 50% in recent months. As many as 1.7 billion people are now highly exposed to disruptions in food, energy, and finance systems. World merchandise trade volume and world GDP have been seriously damaged by the war.

2.45. The Korean government strongly condemns Russia's armed invasion against Ukraine as a violation of the principles of the UN Charter. Ukraine's sovereignty, territorial integrity, and political independence must be respected. Korea also shares the international community's deep concerns over the unfolding humanitarian situation in Ukraine.

2.46. Reaffirming its commitment to the rules-based global trade order under the WTO, the Republic of Korea is concerned by the serious impact of Russia's actions on the global supply chain in many areas, including food security. The way to end all this is obvious, which is for Russia to stop its military action in Ukraine.

2.47. The delegate of Chinese Taipei indicated the following:

2.48. Chinese Taipei thanks the Secretariat for its updated report and efforts to set up a Notifications Portal.

2.49. Chinese Taipei also thanks Ukraine for its intervention and its latest notifications to the relevant committees, despite its very difficult circumstances. Chinese Taipei joins others in expressing its serious concern over Russia's military aggression in Ukraine, which continues to cause a devastating loss of human life. From any perspective, this unprovoked and unjustified attack needs to be stopped immediately. Chinese Taipei calls upon Russia to respect international law and the territorial sovereignty of another country. Chinese Taipei stands firmly by Ukraine and its people as it seeks to survive this dreadful crisis.

2.50. The delegate of Norway indicated the following:

2.51. Norway thanks the Secretariat for its great work in assisting the Membership in fulfilling its notification obligations. Notifications and transparency constitute an important WTO pillar, and it is important that the Membership fulfils its obligations in this regard.

2.52. Norway also thanks Ukraine for fulfilling its notification obligations despite the very difficult circumstances created by Russia's ongoing aggressive military invasion. Norway condemns Russia's military aggression against Ukraine in the strongest possible terms. In addition, Norway expresses its concern over the severe destruction and human suffering that Russia's illegal act of aggression is causing. By these unprovoked, unjustified, and premeditated military actions, the Russian Federation and its government is grossly violating international law, the core principle on which the international rules-based order is built, and the fundamental principles of the UN Charter that have prevailed since World War II. It is an attack against what the UN, the WTO, and Geneva as a capital of multilateralism stand for. In conclusion, Norway expresses its full solidarity with Ukraine and its people.

2.53. The delegate of the Russian Federation indicated the following:

2.54. The Russian Federation thanks the Secretariat for document G/L/223/Rev.29.

2.55. Regarding Members' interventions, the Russian Federation rejects all the unfounded allegations that were voiced by some delegations. During the previous two months, Russia has heard the same statements from the same small group of Members over and over again. These statements are clearly aimed at advancing those Members' self-serving political agenda and reflect on issues that have nothing to do with the WTO's mandate. At the same time, the global economy and the multilateral trading system are still struggling to recover from the shock of the COVID-19 pandemic, while a collective response to global food security risks is urgently required. Russia urges the Members concerned to show respect to this body, and to other participants at this meeting, and to stop sabotaging Members' common work at this time, when that work is most needed.

2.56. Meanwhile, the discussion in the WTO on the trade-related fallout of the situation in Ukraine is quite relevant. It is the same Members that are wasting our time by making political statements that chose the path of economic confrontation, demonstrating blatant disregard for universally accepted WTO rules and fuelling global economic instability. Russia has introduced a specific agenda item on the unilateral restrictive measures of those Members, including the effect of the measures on the world economy and trade. Russia believes that a frank and meaningful discussion of these issues would be much more useful for the future and benefit of this Organization than the statements just heard.

2.57. The Council took note of document G/L/223/Rev.29 and the statements made.

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

3.1. The Chairperson reminded delegations that the Guidelines for Appointment of Officers to the WTO (WT/L/510), adopted by the General Council on 11 December 2002, provided that the Chairperson of the CTG would conduct consultations on the appointment of the Chairpersons of the Council's subsidiary bodies, including consultations with the Group Coordinators, in line with the practical steps to be taken to improve the process of appointment of officers contained in document JOB/GC/22, dated 27 July 2012.

3.2. He reported on the informal meeting that he had held immediately preceding the current formal meeting, as required by Rule 7.3 of the Guidelines for Appointment of Officers to WTO Bodies (WT/L/510). During that meeting, he had reported to Members on the process that had been held to reach consensus on a slate of names for the CTG's subsidiary bodies. Unfortunately, such a consensus had not yet been reached.

3.3. In his report on the status of the consultations that had been conducted regarding the appointment of officers for the subsidiary bodies of the CTG, he recalled that the Chairperson of the General Council at that time, Ambassador Dacio Castillo, had requested that he, Ambassador Lundeg Purevsuren, as Chairperson of the Goods Council, together with the Chairperson of the Council for Trade in Services (CTS), Ambassador Ángel Villalobos, proceed with an early launch of the process

for the election of officers for the subsidiary bodies of the CTG and CTS, with a view to trying to avoid some of the challenges faced during the previous year's process. On that basis, and after the Tier 1 process had advanced, the CTS and CTG Chairpersons launched their respective Council's procedures at end-January 2022.

3.4. On 26 January 2022, he informed Members of the launch of the CTG process and convened a first meeting with the Group Coordinators of the four Regional Groups, namely Asia and the Pacific, Latin America and the Caribbean, Africa, and Developed Countries. Throughout this process, he had proceeded in line with the guidelines set out in documents WT/L/510 and JOB/GC/22, and had actively coordinated with the Chairperson of the CTS.

3.5. After the first meeting with the Group Coordinators, the CTS and CTG Chairpersons had begun to meet jointly with the Group Coordinators, with a view to reaching an agreement on the CTG and CTS slates concurrently. They had met in that configuration on 3, 11, and 24 February. As in the past, it had not been an easy task due to overlapping interests and the many candidates presented by some of the regional groups.

3.6. On the basis of those discussions, the CTS and CTG Chairpersons prepared a tentative slate of names that was sent to Group Coordinators so that it could be consulted on with their constituencies. In addition, on 4 March, the CTG Chairperson sent a copy of that tentative slate of names to those Members that were not represented by a Group.

3.7. At the end of that process, it emerged that, unfortunately, there was no consensus on the slate of names. Since then, the CTG Chairperson had tried on several occasions to meet with the relevant delegation that had been objecting to the slate of names with a view to exploring different ways to accommodate their concerns and secure an agreement. For various reasons, this had unfortunately proven difficult.

3.8. On 8 March, at the request of the Group Coordinators, the CTG Chairperson had requested the Chairperson of the General Council to assist in the process. The Chairperson of the General Council met with interested parties and subsequently asked the Chairperson of the CTG to resume the consultations, which he did, with the CTG Chairperson's most recent consultation with the delegation concerned having taken place the previous day. Regrettably, the position of that delegation on not joining the consensus on the slate of names had remained unchanged.

3.9. The Chairperson then reminded the Membership of the high risk of facing serious organizational problems regarding regular Committee work as a result of the current situation, and that the issue remained unresolved in the lead-up to a Ministerial Conference taking place in only seven weeks' time. Therefore, since time was of the essence, he urged delegations to show their utmost flexibility.

3.10. For these reasons, he proposed that the Council suspend Agenda Item 3, and that the Council be reconvened as soon as a slate of names was ready for its consideration. In addition, in light of his own imminent departure from Geneva, he had requested the Chairperson of the General Council to take up and continue the consultations, and the Chairperson of the General Council had agreed to do so. The CTG would be reconvened as necessary, including at short notice.

3.11. The Council so agreed.

4 MEASURES TO ALLOW GRADUATED LDCS, WITH GNP BELOW USD 1,000, BENEFITS PURSUANT TO ANNEX VII(B) OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES – COMMUNICATION FROM CHAD ON BEHALF OF THE LDC GROUP (WT/GC/W/742-G/C/W/752)

4.1. The Chairperson recalled that this item had been included on the agenda at the request of Chad, on behalf of the LDC Group.

4.2. The delegate of Chad, speaking on behalf of the LDC Group, indicated the following:

4.3. The current context is extremely difficult for LDCs, with their highly fragile and vulnerable countries suffering enormously from the COVID-19 crisis, and now also with the crisis due to the conflict in Ukraine. LDCs are net importers of food products and face a very difficult situation. This

is why the LDC Group considers that WTO Members need to understand the situation of LDCs, and to provide their consensual support for this proposal, which has been on the negotiating table for some time.

4.4. This agenda item is important for LDCs in terms of their smooth economic development and better integration into global trade. Indeed, the LDC Group has reiterated its desire for a smooth transition for graduating LDC economies. To that end, the LDC Group reaffirms the importance of its proposal on the flexibility to be accorded to graduating LDCs, which remains on the negotiating table under document symbol G/C/W/752, and reiterates the LDC Group's ongoing support for it.

4.5. As the LDC Group has consistently explained, in the context of the CTG and at bilateral meetings, its proposal is simply intended to correct a technical oversight relating to Annex VII to the Agreement on Subsidies and Countervailing Measures, ensuring that graduated LDCs can benefit from the same conditions as non-LDCs listed in Annex VII, in terms of flexibilities under Article 27.2 of the SCM Agreement, providing that the gross national income (GNI) per capita of the graduated LDC remains below USD 1,000 (constant 1990 USD), or if this income falls back below USD 1,000. Therefore, the LDC Group calls for this correction to be made in order for the text simply to refer to graduated LDCs.

4.6. Chad reiterates, on behalf of the LDC Group, that the possibility for graduated LDCs to continue to benefit from such flexibility, as long as their GNI per capita does not exceed USD 1,000, is not clearly enshrined in the 2001 Doha Ministerial Decision on Implementation-Related Issues and Concerns (WT/MIN(01)/17). Rather, it is a technical question that the LDC Group simply requests to be corrected in order for the text to refer to graduated LDCs.

4.7. The LDC Group believes that this proposal is sufficiently straightforward and clear, and it follows the request made by LDC Ministers as part of their declaration adopted in Buenos Aires and for MC12. The LDC Group thanks the Members that have supported this proposal, and hopes that those Members that have expressed reservations can lift them and state their support for a positive decision on the proposal both in the CTG and in the General Council. Finally, the LDC Group requests that this matter remain on the agenda of the CTG until Members are able to reach a consensus decision. The LDC Group counts on the understanding of those Members that have expressed their reservations regarding the proposal, and remains open to discussions and bilateral meetings with them.

4.8. The delegate of the United States indicated the following:

4.9. The United States thanks the Secretariat for producing its Note of 22 November 2021, as found in document G/SCM/W/585, titled "GNP Per Capita Calculations for all WTO Members Using the Methodology in G/SCM/38". The United States has reviewed the Note carefully, and unfortunately, the Secretariat's calculations confirm US concerns, namely that gaps remain in the information that is needed for this proposal to be workable from a technical perspective. The United States is willing to consider ideas and proposals as to how to address those gaps, or otherwise address the issue raised by the proposal.

4.10. The delegate of the European Union indicated the following:

4.11. The European Union thanks Chad for its intervention and welcomes the circulated document showing tables with GNI per capita for WTO Members. The EU supports constructive initiatives to better integrate LDCs into the multilateral trading system and encourages discussing this proposal, as any Special and Differential Treatment SDT proposal, on the basis of analysis that shows where specific problems lie. The EU is mindful of the challenges that graduating LDCs face, and also takes into account the current circumstances, namely the COVID-19 pandemic and the crisis in Ukraine.

4.12. However, the European Union still needs to assess the actual use of export subsidies by LDCs in order to establish whether a transition period is needed that would allow graduated LDCs to continue using export subsidies. The EU appreciates the LDC Group's replies given so far. Unfortunately, the EU still has little knowledge of whether, or to what extent, LDCs use export subsidies (or any other subsidies, for that matter) because LDCs hardly submit any notifications under Article 25 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement).

4.13. WTO technical assistance is available to support LDCs as concerns their notifications. In this regard, the European Union recalls its suggestion that the LDC Group could make a presentation on how LDCs make use of export subsidies, and how such export subsidies help their economic development. In addition, the EU suggests that the countries concerned seek assistance for reshaping any export subsidies to make them WTO-compatible. The EU supports other Members' requests to the Secretariat to enlighten the discussion and stands ready to engage in informal consultations with the LDC Group on this matter.

4.14. The delegate of Bangladesh indicated the following:

4.15. Bangladesh aligns itself with the statement delivered by Chad on behalf of the LDC Group. The specific objective of this proposal is to correct a technical oversight. According to Article 27.2(a) of the SCM Agreement, some Members are eligible to enjoy flexibilities under the Agreement. Those Members are specified under Annex VII to the Agreement, in two separate categories: (a) the LDCs; and (b) some developing countries, as long as their GNI per capita remains below USD 1,000 in constant 1990 US dollar terms.

4.16. It is possible that some LDCs, that is, countries listed in Annex VII(a), may graduate from the LDC category while still remaining with a GNI per capita below USD 1,000 in constant 1990 US dollar terms. Nepal is a possible example in this regard. It is not clear whether LDCs like Nepal, after graduation, having the GNI threshold like that of Annex VII(b) countries, can still benefit from the Article 27.2 flexibility. This is clearly a technical oversight that should be corrected.

4.17. Therefore, the LDC Group's submission proposes that an LDC, after graduation, as long as it remains below the threshold of USD 1,000 in constant 1990 US dollar terms, should be allowed to use the flexibility under Article 27.2 of the SCM Agreement. The LDC Group's proposal is focused on a clarification issue only and is not proposing to change any rule. The submission has already received wide support and the LDC Group is grateful to all Members.

4.18. The LDC Group is engaging with the delegations of the European Union and the United States on the concerns that they have raised. Bangladesh, along with other LDC Members, looks forward to continuing informal meetings with Members to get positive results on this submission.

4.19. The delegate of India indicated the following:

4.20. India has already supported this proposal in earlier meetings of the CTG and its position remains the same.

4.21. The delegate of Nepal indicated the following:

4.22. Nepal associates itself with the statement delivered by Chad on behalf of the LDC Group, and wishes to refer to its statement under this agenda item delivered at the Council's previous meeting, on 1 November 2021.³ Nepal wishes to reiterate that the provision in question needs to be applied in a fair manner by extending the same flexibility to Members even after graduation if they are eligible for it, as per the provision and spirit of the Agreement. The LDC Group is not demanding anything new but only requesting a minor adjustment as per the spirit of the law.

4.23. The delegate of Brazil indicated the following:

4.24. Brazil refers to its previous statements on the topic and reiterates its support for the LDC proposal.⁴

4.25. The delegate of Angola indicated the following:

4.26. The Angolan delegation supports the statement made by Chad on behalf of the LDC Group.

4.27. The delegate of Zambia indicated the following:

³ Document G/C/M/141, paragraphs 6.26-6.34.

⁴ Document G/C/M/141, paragraphs 6.15-6.16.

4.28. Zambia supports the statement delivered by Chad on behalf of the LDC Group.

4.29. The delegate of Chad indicated the following:

4.30. The LDC Group thanks Members for their comments, and especially thanks those Members that support the proposal; at the same time, the LDC Group takes note of the concerns raised by the United States and the European Union. The LDC Group is open to holding discussions and bilateral meetings to explain its proposal in detail. Regarding the calculations referred to by the United States, they are not persuaded that it reflects reality despite the fact that it was calculated by the WTO Secretariat. The LDC Group wonders whether the Secretariat could update the figures with a view to having a basis on which Members could continue their discussions towards reaching convergence on the LDC Group's proposal.

4.31. The Council took note of the statements made.

5 INDIA – IMPORT POLICY ON TYRES – REQUEST FROM THE EUROPEAN UNION, INDONESIA, THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU, AND THAILAND

5.1. The Chairperson recalled that this item had been included on the agenda at the request of the European Union, Indonesia, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and Thailand.

5.2. The delegate of Chinese Taipei indicated the following:

5.3. The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu would like to register, once again, its concerns over India's measure identified under this agenda item. The situation has been ongoing for almost two years, since June 2020, when India introduced its restrictive import measure on new pneumatic tyres. Chinese Taipei has since registered its concerns on numerous occasions, at meetings of this Council, the Committee on Import Licensing, and the Market Access Committee. However, despite Chinese Taipei's efforts, the measure remains unchanged, which Chinese Taipei considers to be a matter of great regret.

5.4. Since the new import licensing measure came into effect, Chinese Taipei has noticed that only approximately 40% of its application cases have been approved by India's Authority, compared to the substantially higher average in previous years. Difficulties in obtaining import licences, as well as the introduction of lengthy approval processes, have severely affected the levels of Chinese Taipei's exports to India. Chinese Taipei's trade in the products concerned has decreased sharply in both 2020 and 2021 compared to the same period in 2019.

5.5. It appears to Chinese Taipei that India is issuing import licences only for the kind of pneumatic tyres that are not produced domestically, and yet at the same time it is setting a limit on the number of such tyres that can be imported. Such a measure clearly hinders normal trade and may constitute a ban on certain tyre imports. Chinese Taipei must therefore question how this measure could be compatible with WTO rules concerning quantitative restrictions.

5.6. Chinese Taipei urges India to ensure that all applications in full compliance with the quality of tyre products it requires are granted import licences without hindrance and undue delay. This is important to ensure that non-automatic licensing procedures be implemented in a transparent and predictable manner, and not create trade-restrictive or trade-distortive effects on imports that are additional to those caused by the imposition of restrictions. Chinese Taipei therefore calls upon India to review its current practices and to engage with the Members concerned with a view to solving the issue in a timely and constructive manner.

5.7. The delegate of the European Union indicated the following:

5.8. The European Union wishes to reiterate the concerns it already raised in July 2021, regarding the licensing regime for importation of pneumatic tyres for motor cars, buses, lorries, motor scooters and motorcycles introduced by India under Notification No. 12/2015-2020 on "Amendment in Import Policy of Tyres" of 12 June 2020. This has become a long-standing issue and it is very worrying that, despite it having been raised on multiple occasions at this Council and at various WTO Committees

(Market Access Committee, TRIMs Committee, and TBT Committee), no progress has been made towards a possible resolution.

5.9. The European Union continues to be concerned about the effect of this measure on the importation of tyres, which has become highly restricted since June 2020. Only a limited number of licences have been granted to EU tyre manufacturers. In addition, these licences are limited in terms of duration, quantity, and type of tyres. For these reasons, no licences have yet been granted to bus and truck tyres. This is blatant discrimination against EU bus and truck tyre manufacturers. Therefore, the EU urges India to reconsider and eliminate any implicit or explicit quantitative or other (for example, end-user principle) restrictions on the import of replacement tyres that could run contrary to WTO requirements.

5.10. The delegate of Indonesia indicated the following:

5.11. At the outset, Indonesia expresses its gratitude to India for their constructive bilateral meetings, both on the sidelines of the TBT Committee and in the Working Group on Trade and Investment, in order to resolve issues relating to India's policy on imported tyres from Indonesia. However, Indonesia regrets that it has so far not received from India a positive response and the right solution to this problem.

5.12. Indonesia is aware that India has imposed import restrictions on tyre products with certain types and size categories that can be produced by tyre manufacturers in India. As stated in India's Notification No. 12/2015-2020, dated 12 June 2020, regarding India's amendment to its tyre import policy, this regulation was implemented shortly after India had imposed a temporary import ban on tyre products to India for a period of six months.

5.13. Indonesia intends to request an explanation from India regarding the obligations of Indian importing business actors to provide separate statements via email concerning import restrictions based on the type and size category of imported tyres, while at the same time there are no official rules governing those requirements. The requirements have hampered market access for Indonesian tyre products to India.

5.14. In addition, Indonesia also intends to seek further clarification regarding the application of a royalty or marking fee policy on tyre products that use the Indian Standard (ISI) mark. Indonesia views the imposition of an ISI marking fee on tyre products to be exported to third countries as potentially being a burden on business actors, creating unnecessary barriers to international trade. In this regard, Indonesia seeks further clarification, and requests the Indian government immediately to review its policy to ensure that its regulation is in accordance with WTO principles, in particular the principle of national treatment.

5.15. The delegate of Thailand indicated the following:

5.16. Thailand would like to reiterate its concern regarding India's import policy on tyres, which has considerably affected Thailand's exports of tyre products to India. Moreover, as approval for import permits for tyres could face significant delays, Thailand reiterates its request for clarification and further details from India regarding the procedures and time-frames for issuance of import permits for tyres.

5.17. The delegate of India indicated the following:

5.18. India thanks the delegations of the European Union, Indonesia, Chinese Taipei, and Thailand for their continued interest in this issue. The issue was also discussed in the Council's November 2021 meeting, and the Committee on Market Access in its October 2021 and March 2022 meetings, and India believes that it had clarified Members' questions on those occasions.

5.19. India reiterates that its non-automatic licensing requirements for tyres are administered in a manner consistent with the rules of the Agreement on Import Licensing Procedures, including with respect to the time-frames for the granting of import licences. Accordingly, India considers that its licensing procedure is being administered fairly, as reflected in the fact that a number of licences have been granted after approval by the Exim Facilitation Committee.

5.20. India's import policy measure has been taken in view of quality issues for tyre products. For granting licences under its non-automatic licensing procedure, India has laid down specific criteria to evaluate the applications received. The comments of the administrative ministries concerned are also taken into account as part of this non-automatic licensing procedure.

5.21. Specifically on Indonesia's questions, it may be clarified that the fee charged is a Marking Fee and not a Royalty Fee. The Bureau of Indian Standards operates a Product Certification Scheme as per the Bureau of Indian Standards (BIS) (Conformity Assessment) Regulation 2018 under the BIS Act 2016. Under the scheme, the BIS grants Product Certification licences to domestic or foreign manufacturers. The manufacturer is required to pay the BIS the necessary marking fee. The marking fee for a product is specified as follows: Minimum Marking Fee per annum; and Unit and Unit rate.

5.22. The manufacturer is required to pay the minimum marking fee in advance for the validity period of the licence. Additionally, the actual marking fee for each year is calculated by multiplying the unit rate with the quantity (units) marked with the ISI mark during the year by the manufacturer. The actual marking fee thus arrived at is the higher of the two values. The marking fee as per the process described above is the same for domestic and foreign manufacturers. The marking fee is chargeable on all production of tyres carrying an ISI mark.

5.23. India requests the proponents of this agenda item to share their specific data on applications submitted and any other substantiating information. India remains committed to addressing these concerns bilaterally.

5.24. The Council took note of the statements made.

6 EUROPEAN UNION – IMPLEMENTATION OF NON-TARIFF BARRIERS ON AGRICULTURAL PRODUCTS (G/C/W/767/REV.1) – REQUEST FROM AUSTRALIA, BRAZIL, CANADA, COLOMBIA, COSTA RICA, DOMINICAN REPUBLIC, ECUADOR, JAMAICA, PANAMA, PARAGUAY, PERU, THE UNITED STATES, AND URUGUAY

6.1. The Chairperson recalled that this item had been included on the agenda at the request of Australia, Brazil, Canada, Colombia, Costa Rica, Dominican Republic, Ecuador, Jamaica, Panama, Paraguay, Peru, the United States, and Uruguay.

6.2. The delegate of Australia indicated the following:

6.3. Australia, as a co-sponsor of this item, again highlights its ongoing concerns in relation to the European Union's non-tariff barriers on agricultural products, including agricultural chemical regulations and policy and the potential negative effect on farmers and trade. Australia's concern includes elements of the EU's Farm to Fork Strategy and its implementation. Australia has previously raised its concerns about the EU's risk assessment and import tolerance setting policies in this Council, as well as the TBT and SPS Committees.

6.4. Australia raised or supported a number of specific trade concerns against the European Union, including at the most recent SPS and TBT Committee meetings. Many other Members also joined in expressing concerns, highlighting a strong level of concern from a broad cross-section of Members regarding the EU's measures. It is clear that these concerns are largely based on the EU's lack of transparency and predictability for exporters.

6.5. While Australia recognizes the right of WTO Members to regulate agricultural and other chemicals in a manner that protects animal, plant and human health and the environment, Members are also bound by WTO obligations, particularly in relation to undertaking science-based risk assessments and ensuring that measures are no more trade-restrictive than necessary. Australia is a strong supporter of robust, risk and science-based regulations of agricultural chemicals.

6.6. Australia questions the European Union's approach to the approval and renewal of plant protection product authorizations and import tolerance limits that relies primarily on hazard-based assessment. In doing so, it is unclear how the EU hazard-based assessment is consistent with internationally agreed risk assessment standards for import tolerances.

6.7. In the last decade, the European Union's ban on many active constituents on the basis of their hazardous properties, and the subsequent reduced availability of plant protection products (PPPs), has significantly contributed to the increasing number of emergency authorizations granted under Article 53 of Regulation (EC) No. 1107/2009. Australia notes that, since 2011, there has been a considerable increase in the number of these authorizations, many of which are for non-approved plant protection products (PPP).

6.8. The use of emergency authorizations and the setting of related temporary MRLs to allow the supply and consumption of treated produce can lead to trade imbalances that are not in line with WTO standards and obligations. Australia is concerned that the establishment of MRLs under emergency authorization does not apply equally to imported and EU produce. Australia would welcome more details on the process of emergency authorizations and the establishment of temporary MRLs.

6.9. Australia thanks the European Union for its engagement with Australia to date on these long-running issues.

6.10. The delegate of Colombia indicated the following:

6.11. Colombia thanks the European Union and its delegates in Geneva for their continued interest in and willingness to discuss this issue. Colombia regrets that, since this item was first placed on the agenda, no significant progress has been made on the substance to allow for it to be removed from the agenda. Colombia wishes to express the frustration of its producers, who continue to fear restrictions and likewise regret the fact that to date no progress has been made.

6.12. On the process of setting Maximum Residue Levels (MRLs), Colombia remains concerned about the European Union's overall hazard regime, which is evident mainly in the pesticides policy that establishes technical and health regulations that are more restrictive than necessary, and possibly discriminatory. This is evident, for example, in the fact that 88% of the Maximum Pesticide Residue Limits set in the regulation are default values, and are not scientifically based or based on uses authorized by other countries. Colombia has therefore questioned the scientific basis for such determinations and, in particular, the precautionary application of new MRLs in the absence of any negative information on their effects.

6.13. On the apparently discriminatory aspects of the implementation of the European Union's policy, Colombia has stated that the process is discriminatory when selecting the substances to be reviewed, when allowing the involvement of stakeholders, when establishing criteria such as how a food product is consumed, and in disregarding the different geographical and climatic conditions of countries, especially in tropical areas, and, last but not least, when establishing different exemption regimes for European and foreign producers. Indeed, in addition to the problems of the MRL adoption procedure, Colombia finds that the exceptional measures, in other words the so-called emergency authorizations used by European producers, allow the continued use of certain products and also appear to be discriminatory.

6.14. On this occasion, Colombia wishes to reiterate all of these arguments and its previous statements. Colombia also calls upon Members to read the questions on the issue that it has raised, together with a group of Latin American countries, in the SPS Committee. The unresolved problems that Colombia and others are bringing back to this forum on this occasion are evident in those questions and replies. Colombia also draws Members' attention to those EU member States, including Belgium, Spain, France, Bulgaria, Slovakia, Greece, Poland, Slovenia, Finland, Hungary, Italy, Lithuania, Portugal, and Romania, that are permanent beneficiaries of internal exemptions to the European Union's regime. This concern also extends to the non-tariff measures of individual WTO Members, with the European Union being the competent authority to implement certain measures, such as emergency authorizations, for example.

6.15. Colombia once again emphasizes the need for the establishment of a structured and comprehensive plurilateral dialogue mechanism, in parallel to bilateral discussions, in order to seek constructive and substantive solutions to this uneven playing field. Colombia proposes the following options: (a) maintaining MRLs established by the Codex Alimentarius in cases in which scientific evidence is inconclusive, until the scientific data is complete. In cases in which there are no Codex MRLs, the European Union could establish a fixed MRL, by default more reasonable than the

existing 0.01%, almost a prohibition, in cases where the information is considered inconclusive; (b) creating a simplified import authorization mechanism for foreign producers, equivalent to the existence of emergency authorizations within the EU for European producers, in other words a mirror mechanism; (c) allowing longer transition periods, especially in cases where there are no viable alternatives for substances not renewed on the market; and (d) establishing a joint review of the marketing authorization procedure for a substance, to ensure the effective participation of the countries affected during the process.

6.16. The delegate of Ecuador indicated the following:

6.17. Ecuador once again deems it necessary to address this matter, in keeping with the trade concerns that it has been raising for several years in the SPS and TBT Committees.

6.18. Ecuador refers to its previous statements in this Council⁵ and once again urges the European Union: (i) to avoid adopting restrictive and discriminatory measures without conclusive scientific evidence; (ii) to observe the globally recognized standards on human, plant and animal health protection; (iii) to comply with the requirements established in the WTO SPS Agreement to take a risk assessment approach to any measure, rather than one based on the persistent application of the precautionary principle; and (iv) to consider suspending the ongoing implementation of measures to reduce MRLs and maintain the levels recommended by Codex, granting the necessary adjustment period in cases where the reduction of MRLs is shown to be essential.

6.19. Bodies such as the Codex Alimentarius offer a key space for science-based discussions on issues such as the definition of MRLs and for outlining the effects of the technological and economic asymmetries among Members. Tropical developing countries like Ecuador face challenges different to those faced by producers in temperate climates, which by no means signifies that tropical developing countries are not committed to protecting human health and the environment. To put it simply, one size does not fit all.

6.20. Non-tariff barriers have a negative impact on small-scale farmers and reduce market access opportunities for minor crops, thereby making it difficult to take advantage of the benefits offered by trade liberalization agreements. A significant part of the Ecuadorian economy is sustained by income from agricultural exports, which is an efficient sector that is not supported by extensive subsidy programmes.

6.21. Ecuador hopes to continue exchanging information with other delegations and the European Union. Ecuador also encourages use to be made of all the channels available for dialogue in order to resolve this very long-standing trade concern.

6.22. The delegate of Peru indicated the following:

6.23. Peru wishes to support this trade concern regarding the implementation of non-tariff barriers by the European Union, which in practice are unjustified barriers restricting trade in agricultural products.

6.24. As has been mentioned on a number of occasions in the SPS Committee, the hazard-based approach used by the European Union for assessing any maximum limit for pesticide residues results in such limits being more restrictive than necessary and at the same time does not take into account the provisions of the SPS Agreement, which establishes the need for measures to be based on a risk analysis.

6.25. This situation becomes even more concerning given the European Union's moves to take into consideration environmental aspects as a factor for future pesticide risk assessments, despite the fact that there is no technical basis for such a policy.

6.26. Peru notes that non-tariff barriers do not only refer to MRLs for pesticides, since the European Union is also establishing maximum levels for contaminants that deviate from those established under the Codex Alimentarius, and which are substantially lower, as in the case of cocoa derivatives. Regarding other foods, Peru has also approached the EU bilaterally to request information on the

⁵ Document G/C/M/141, paragraphs 10.44-10.47.

process for the adoption of new maximum levels for contaminants, and for it to provide adequate time-frames for their implementation given that mitigation measures vary and are effective after a subsequent extended period of implementation.

6.27. Peru requests the European Union to take into consideration the concerns raised in this Council and the SPS Committee, to ensure that its policies are aligned with the provisions of the SPS Agreement, and to avoid any further unnecessary disruptions to trade.

6.28. The delegate of the United States indicated the following:

6.29. The United States joins the concerns of Australia, Brazil, Canada, Colombia, Costa Rica, the Dominican Republic, Ecuador, Jamaica, Panama, Paraguay, Peru, and Uruguay concerning the European Union's implementation of non-tariff barriers on agricultural products. Increasingly, the EU is developing rigid policies with extraterritorial implications that have the impact of forcing third countries to adopt European production practices or to abandon trade with the EU.

6.30. The European Union continues to lower many MRLs to trade-restrictive levels without clear scientific justification or measurable benefit to human health. The EU's hazard-based approach to pesticide regulation may lead to trade barriers that threaten the security of global food systems.

6.31. Furthermore, the European Union enforces new reduced MRLs at the point of production for domestic goods, and at the point of importation for imported goods. This causes trade inefficiencies and disruptions for products destined for the EU market, depending on when a new reduced MRL is enforced, and results in an unfair advantage for EU producers, especially for products with a long shelf life.

6.32. The United States remains concerned that it appears as though the European Union is following a similar approach through its new veterinary drug legislation, which could prohibit producers from using antimicrobials that are not considered medically important. The United States recalls its concerns, as raised in the SPS Committee, that these prescriptive restrictions, which do not appear to be based on completed risk assessments, will apply to foreign producers shipping animals and animal products to the EU.

6.33. The United States requests that any EU measure allow flexibility to trading partners to meet the EU level of protection in a manner that is appropriate to the needs of farmers and producers in the exporting countries' own domestic context.

6.34. In light of recent calls for coordinated action to ensure predictable trade flows and support international food security, the international community should be working together to support science-based measures that promote a safe and sustainable food supply, and the United States calls upon the European Union to join with its trading partners in identifying such mutually beneficial solutions.

6.35. The delegate of Uruguay indicated the following:

6.36. Uruguay wishes to reiterate its concern regarding the European Union's use of a hazard-based approach, rather than full risk assessments, in its regulatory decisions relating to SPS matters.

6.37. Uruguay understands that every determination of MRLs, particularly when they deviate from international standards established by the Codex Alimentarius, must be based on a full scientific risk assessment and conclusive scientific evidence, in accordance with the SPS Agreement. This is essential to maintain the effective balance that must exist between the right of Members to pursue their legitimate objectives and the need to avoid unnecessary barriers to trade.

6.38. Uruguay agrees with other Members that the issue of exceptional regimes, including emergency authorizations that are granted by European Union member States to their domestic producers, should be discussed in more depth, since Uruguay understands that the current system carries inconsistencies that could be discriminatory vis-à-vis third parties.

6.39. In parallel, this also gives rise to the concern that adequate transition periods are not being granted to make the necessary adjustments and to ensure that the products concerned comply with the amended MRLs.

6.40. Furthermore, Uruguay wishes to reiterate its concern about persisting uncertainties over the approach, definition, and implementation of the new EU regulations on veterinary drugs, deriving from Regulation No. 2019/6, particularly regarding the requirements that would be imposed on exporting third countries. In this regard, Uruguay wishes to stress that measures should be based on international standards, or on conclusive scientific evidence; that they should take into account the specific circumstances of different countries; and that appropriate transition periods should be provided.

6.41. In conclusion, Uruguay once again urges the European Union, as one of the largest markets for agricultural products, to reconsider its regulatory approach in order to avoid the unjustified proliferation of barriers to international trade in agricultural products.

6.42. The delegate of Canada indicated the following:

6.43. As noted in its previous interventions on this subject, Canada emphasizes the need for transparency and predictability in international trade. An important aspect in achieving this is regulatory frameworks that are based on scientific data and risk analysis, and that are discussed in close cooperation with trading partners in order to achieve the outcomes desired while facilitating trade where this is feasible and appropriate.

6.44. With this in mind, and in accordance with WTO obligations, Canada continues to recognize Members' right to regulate in the public interest and to apply the food safety measures deemed necessary to protect human health. However, such measures must be implemented in a transparent manner that does not unjustifiably restrict international trade.

6.45. As such, while Canada shares the European Union's high standards of health, safety and environmental protection, Canada encourages the EU to implement all measures in a predictable manner based on assessments of risks, in accordance with internationally recognized approaches, and to provide an opportunity for consultation at an early stage with affected sectors and countries, and to take comments received into account.

6.46. Moreover, in a context where global food security and food supply is of utmost importance, Canada urges the European Union to reconsider its current approach to the setting of MRLs for crop protection tools authorized in various jurisdictions, in order to allow for solutions that are appropriate to their particular circumstances and needs.

6.47. In particular, Canada once again echoes the concerns raised regarding the European Union's hazard-based regulation for active substances in plant protection products (PPP) and the consequential impacts this may have on the setting of import tolerances. Canada continues to urge the EU to consider both hazards and exposure for all active substances in its regulatory decision-making. This would bring the EU's regulatory framework back in line with internationally recognized approaches while continuing to protect users and consumers as well as enhancing global food security.

6.48. Canada recalls that the European Union has stated that it will be changing how requests for import tolerances are established in the context where the hazard-based cut off criteria are involved, including taking into account certain environmental impacts in the country of origin. Canadian growers and exporters have yet to be convinced of the real-world feasibility, commercial viability, and compliance with international obligations of the EU's proposed approach. Consequently, Canada once again requests that the EU consider maintaining MRLs for substances that do not pose unacceptable dietary risks to European consumers. Canada would also appreciate further information in this regard, including who would determine what environmental factors would be considered, and how these relate to the consumer dietary risk assessment that is the scientific basis for the specification of import tolerances.

6.49. Additionally, Canada notes that EU member States have authorized numerous emergency derogations to allow PPPs to be placed on the EU market. There are many examples of emergency

derogations being granted for individual member States for multiple years, and often with a lack of justification for their authorization. This would seemingly contradict the EU's approach to renewing PPPs as their approval periods expire, as well as allowing domestic producers an unjustified advantage through the repeated approval of these derogations without affording importers the same approvals. There is also uncertainty regarding how numerous emergency derogations align with the EU's low risk tolerance for these substances.

6.50. Furthermore, Canada took note of the EU's recent "Call for evidence" process for input into a planned report on "Imports of Agricultural and Food Products – Applying EU Health and Environmental Standards". Canada again emphasizes that, given the wide variation in countries' sizes, climates, pests, diseases, crop varieties, and infrastructure, farmers and producers rely on a wide variety of tools and production methods to feed their populations. A unilateral application of EU health and environmental policies to MRLs would be detrimental to the efforts and technological advances made to address the unique challenges faced by countries, and could be detrimental to global food security.

6.51. Consequently, Canada urges the European Union to conduct complete trade impact assessments and transparent public consultation processes on all regulatory proposals impacting trading partners. Canada also continues to request that all regulatory changes arising from new EU policies impacting trade be commensurate with the level of risk involved, taking into account important differences between countries, such as pest pressures, pesticide use patterns, and good agricultural practices.

6.52. Canada also requests the European Union to take into account the timelines necessary for practical decision-making by farmers and producers, as well as the time and effort required to bring products to market, particularly for commodities with a long shelf life. Transition periods should therefore be appropriate to the circumstances and should allow commodities to clear channels of trade where no dietary risks of concern to consumers have been identified.

6.53. In conclusion, Canada hopes that reiterating its concerns to the Council serves as a clear indication of the importance that Canada, and many WTO Members, attribute to seeking enhanced transparency and predictability for trade, particularly in a context where such trade can contribute to global food security and supply.

6.54. The delegate of Costa Rica indicated the following:

6.55. Costa Rica shares and associates itself with the statements made by those Members that previously took the floor. Costa Rica considers that all the elements of this discussion continue to be relevant and so it continues to co-sponsor and support this concern as an agenda item, as well as document G/C/W/767/Rev.1. To save time, Costa Rica wishes to refer Members to its previous statements in this Council⁶, and calls upon the European Union to address the concerns of Members expressed in the various committees and within this body.

6.56. The delegate of Brazil indicated the following:

6.57. Brazil regrets that, since this issue was first raised, nearly two years ago, the European Union has not provided adequate answers to the many concerns raised by a large number of Members, while it has continued to adopt non-tariff barriers that lack scientific evidence and cause further imbalance in the trade in agricultural goods. Brazil therefore makes reference to its previous statements on this topic, as all Brazil's concerns remain valid.⁷ Additionally, Brazil wishes to address what has been the EU's frequent answer on this topic.

6.58. The European Union has claimed that the measures being questioned have not prevented it from being a large importer of agricultural goods. First, Brazil notes that nowhere in the GATT does it say that being a large importer of agricultural goods enables a Member to adopt discriminatory policies. Second, such imports simply reflect the reality that other regions of the world can produce more effectively and more sustainably than the EU without the thousands of euros of subsidies per farmer. But while enabling a more efficient allocation of production and promoting the rise of living

⁶ Document G/C/M/141, paragraphs 10.63-10.64.

⁷ Document G/C/M/141, paragraphs 10.2-10.9.

standards through trade are key goals of this Organization, Members have never had a level playing field in the trade of agricultural goods, and the reform mandated by Article 20 of the Agreement on Agriculture is a clear indication of that. Besides, the scientific principle, enshrined in the SPS Agreement and materialized through risk analysis, exists for a reason, namely, to establish a balance between the principle of protection of life and human and animal health and the guarantee that the market access conditions negotiated multilaterally are not undermined by unjustified non-tariff barriers.

6.59. After nearly 30 years, however, the European Union has not engaged meaningfully in negotiations on domestic support and is constantly imposing prohibitions based on the hazard approach or recourse to Article 5.7 of the SPS Agreement, despite contrary technical advice from renowned institutions. This not only tilts the balance towards protectionism, but also undermines the capacity of developing countries to raise living standards in rural areas. It is important to continue to stress this topic: such EU policies further imbalance trade in agricultural goods and are particularly negative to the poorest in developing countries.

6.60. Lastly, Brazil notes that it is still waiting for adequate answers regarding the compatibility with WTO law of the publication by the European Union of more than 2,600 emergency authorizations by its member States of substances under review since 2017, many of which presented the same arguments as delegations from other Members on the SPS and TBT Committees, while others simply did not offer any justification and yet were approved.

6.61. The delegate of Paraguay indicated the following:

6.62. Paraguay regrets having once again to include this matter on the Council's agenda. Unfortunately, it has not been possible to move forward with the European Union on this matter and, in fact, the EU continues to press ahead with the implementation of these measures without listening to its trading partners. This is demonstrated by the proliferation of EU-related trade concerns on this meeting's agenda. Of the 40 trade concerns listed on the agenda, over ten have been submitted to the EU and more than half affect agricultural products or have the potential to do so.

6.63. The European Union continues to apply measures that are inconsistent with its WTO obligations. Moreover, the requirement for mirror clauses, which seeks to ensure compliance with standards that the EU's own producers are only able to meet thanks to generous subsidies worth millions, does not seem to be an attempt to level the playing field, but rather to unbalance it further, particularly for small agricultural exporting countries that do not have the policy space in this Organization, according to its rules, and that even if they were to have such policy space, they would still not have the fiscal space to permit them to make use of it. In other words, the EU requires us to comply with mirror measures, but without mirror subsidies to do so. These are subsidies that the EU has been reluctant to reform in agricultural negotiations. Here Paraguay echoes the words of Brazil.

6.64. Members will certainly hear once again at this meeting that the measures have not had any impact on trade and that the European Union is an important trading partner for many of the Members that are again raising their voices on this occasion. However, the EU knows perfectly well that its measures are in the early design and implementation stage and that the true effects will only be felt in the years to come.

6.65. Paraguay notes with concern the imminent notification of the ban on import tolerances for products treated with neonicotinoids, while hundreds of emergency authorizations for these very products, which have been banned in the European Union since 2017, are still being granted to its own producers. And here we echo Colombia's words, for when requesting these authorizations, European producers put forward the same arguments as Paraguay and others have done in this and other Committees. However, the "mirrors" required by the EU for compliance are not granted for exceptions.

6.66. Paraguay considers that the need for tools for efficient and sustainable production, capable of feeding the world, is an increasingly important issue, particularly under the current circumstances. The lack of a science-based approach damages our producers' capacity, and those of other countries,

to contribute to the massive food security challenge before us now, and that we will surely continue to face, in the coming years.

6.67. Paraguay once again encourages the European Union to reconsider its approaches and adopt measures that are consistent with its WTO obligations, taking into account its responsibility as the main importer of agricultural products, as the EU delegate will surely recall from their earlier response. It is precisely for this reason that the EU's measures have a major impact on this Organization's Members, and we therefore urge the EU to explore all avenues for dialogue to seek mutually acceptable solutions for all parties involved in this trade concern. Paraguay also recalls that it is still waiting for replies to its latest set of questions submitted in the March meeting of the SPS Committee. Paraguay looks forward to receiving those replies as soon as possible.

6.68. The delegate of Panama indicated the following:

6.69. Panama wishes to echo the statements made by previous speakers. As a co-sponsor of this trade concern, Panama reiterates the importance it attaches to this issue. The reduction of MRLs without sufficient scientific evidence restricts access to substances that are vital for agricultural production, particularly in countries with a tropical climate, such as Panama.

6.70. Panama believes that the European Union's set of policies and practices carries the risk of nullifying and undermining the legitimate rights of WTO Members that have signed the Agreement on Agriculture and the SPS Agreement.

6.71. Panama agrees with the European Union's goal of supporting the global transition to more sustainable world agri-food systems, but such a transition must be based on building solutions designed and implemented through dialogue mechanisms and multilateral cooperation frameworks. In this regard, Panama regrets that no progress has been observed to date, and once again urges the EU to listen to the legitimate concerns of dozens of WTO Members. Panama believes that a constructive, serious, and ongoing dialogue, in conjunction with mutually agreed technical assistance, will enable Members to find solutions beneficial to all parties.

6.72. The delegate of India indicated the following:

6.73. India thanks the proponents of the communication, and shares the concerns it raises regarding the European Union's application of SPS standards on agriculture products.

6.74. In implementing its SPS measures, the European Union seems to have imposed its own domestic regulatory approach onto its trading partners. India observes with concern that this is becoming a wider trend, as also seen under the regulations relating to the European Green Deal. India believes that the European Union has not accounted for the feedback provided by the Members on its proposed regulations. The hazard-based approach being used by the European Union does not adequately balance the twin objectives of protecting human health and facilitating trade.

6.75. India notes that, under the previous agenda item, the Council discussed transparency obligations through notifications. The objectives of transparency are discussed vocally in forums like the Committee on Agriculture, so much so that transparency has become an additional eighth pillar of the Agreement, but when it comes to applying the same principles to their own trade practices, the votaries of transparency fail to be consistent. Transparency is not just about notifications; it is also about not erecting trade-restrictive practices that seek to internationalize Members' domestic regulations.

6.76. The delegate of Guatemala indicated the following:

6.77. Guatemala wishes to thank the co-sponsors of this agenda item. Guatemala also wishes to express its concern about the process of discussing this topic in the different WTO committees and the lack of a genuine solution to the issues that Members have raised. The solution indicated by the European Union is through import tolerance authorizations, although the conditions attached to these are different to those to which European producers are subject (such as emergency requests), both in terms of procedure and in terms of time and cost. Guatemala mentions the cost aspect because it is a process that could be out of the economic reach of developing countries. Despite expressing concern about this in this forum, the concerns of Guatemala and others have never been

considered, particularly in the solution the European Union offers to tropical countries, such as Guatemala, regarding the use of these measures. For these reasons, Guatemala supports Colombia's request.

6.78. Using the precautionary principle without considering risk analyses, which are key tools for coping with climatic conditions that are different to those of the European Union, puts tropical developing countries, like Guatemala, at a disadvantage. These non-tariff barriers will affect future trade with the European Union. The negative outcomes and effects on trade are expected to start to be felt in 2023, as each productive process works differently, and the region's location influences those processes.

6.79. Guatemala thanks the European Union for its space for dialogue and for searching for genuine alternatives together, particularly as Members face a possible global food crisis and, therefore, a disruption to rural development.

6.80. The delegate of the European Union indicated the following:

6.81. The European Union takes note of the concerns expressed by WTO Members.

6.82. The European Union provided detailed replies to these concerns at previous meetings of the CTG. Without repeating its previous statements in full, the European Union wishes to highlight that its earlier statements remain unchanged and valid in their entirety.

6.83. The European Union is the biggest importer of agri-food products in the world. The European Union has developed a highly trusted, transparent, and predictable system based on its high level of consumer health protection, to which some other countries defer in the absence of their national MRLs.

6.84. The European Union has an open market, and its high level of consumer protection has never been an impediment to the import of agricultural commodities, including from the Members raising this concern, whose large exports of agricultural products to the European Union during these five years have remained stable.

6.85. The European Union provides technical assistance to developing countries and LDCs, directly or through other international organizations, such as the FAO, to support a smooth transition towards new products or production systems.

6.86. The European Union again emphasizes its commitment to continuing an open dialogue on its policies and measures. The EU stands ready to further engage and explain its policies to its trading partners. Finally, based on the outcome of the UN Food Systems Summit convened in September, the EU believes that Members have a shared interest in making their food systems sustainable by tackling the issue of toxic active substances and protecting their citizens' health with appropriate measures.

6.87. The Council took note of the statements made.

7 CHINA – IMPLEMENTATION OF TRADE DISRUPTIVE AND RESTRICTIVE MEASURES – REQUEST FROM AUSTRALIA

7.1. The Chairperson recalled that this item had been included on the agenda at the request of Australia.

7.2. The delegate of Australia indicated the following:

7.3. Australia and China have enjoyed a strong trading relationship built over decades of engagement. Australia has welcomed China's growth, noting the increased prosperity and higher standard of living that economic growth provides for the people of China and for the world at large.

7.4. Given this close and mutually beneficial relationship, Australia continues to be concerned about China's wide range of trade disruptive and restrictive measures that have been targeting Australian products over the past two years.

7.5. As Members will now be familiar, these measures include the following: (i) *de facto* import bans or quantitative restrictions; (ii) the imposition of unjustified anti-dumping and countervailing duties; (iii) increased and arbitrary border testing and inspections, including delays, applied without prior notification; and (iv) unwarranted delays in listing and re-listing export establishments, and issuing import licences.

7.6. These measures have continued to limit Australia's trade with China in a wide range of products over the last two years – including barley, coal, copper ores and concentrates, cotton, logs, rock lobsters, and bottled wine. China's measures have also delayed Australia's technical market access for hay and meat, among other commodities. Significantly, Australia is not aware of any Member other than China that has found issues or imposed restrictions on these products.

7.7. Technical issues arise during the normal course of trade between countries. However, the extent and duration of the restrictions that have been imposed on Australian products destined for China over the last two years, and the lack of response from China's authorities to Australia's detailed submissions, appears to take these beyond the realm of the technical and into the political. Australia remains concerned by statements from Chinese officials that directly link China's actions to unrelated issues in Australia's bilateral relationship with China. For this reason, Australia once again raises these ongoing issues.

7.8. Such discriminatory and unfair measures are relevant not only to Australia, but to all Members. In January 2022, the European Union initiated a WTO dispute against China regarding trade disruptive and restrictive practices imposed on Lithuania. Similarly, Canada has alleged that Canadian canola seed exports to China continue to be arbitrarily and unjustifiably restricted. Canada has requested the establishment of a WTO panel on this matter.

7.9. China's increasing and ongoing use of trade disruptive and restrictive measures appears to be a pattern of behaviour that poses a risk to all Members and undermines global markets and the multilateral trading system on which all Members rely.

7.10. Australia continues to be deeply concerned with China's failure to observe due process and its lack of engagement on the technical merits for each measure, including in response to Australian statements. China's responses to Australia's requests for advice in this Council and other WTO bodies have not provided satisfactory answers on how these measures are consistent with China's WTO commitments. For example, most recently China said that it was "inappropriate for Australia to make groundless speculation on the normal inspection and quarantine measures taken by China and the business decisions made by Chinese enterprises based on the market demand".

7.11. China has also reiterated its belief that "trade and investment cooperation between Members based on equality and mutual benefit, and in accordance with the WTO rules and market principles, is conducive to improving the well-being of people around the world." Australia urges China to give full effect to this belief by ceasing immediately all non-market practices, including instructions to traders, and other discriminatory trade disruptive and restrictive measures targeting Australian products, and by taking steps to ensure that its trade policies are fully consistent with its WTO obligations.

7.12. Australia stands ready to engage with China bilaterally on these matters at any time.

7.13. The delegate of the United Kingdom indicated the following:

7.14. The United Kingdom again wishes to show its support for Australia's concerns about trade restrictive measures taken by China. It is important that trade measures are applied in a non-discriminatory, predictable manner, and with the necessary transparency around laws in force and measures adopted, as required by the relevant WTO Agreements. It is vital that China, as a WTO Member, adheres to the fundamental principles and objectives of free and fair trade underpinning the rules-based multilateral trading system.

7.15. Actions that are deliberately targeted against goods of certain countries for political reasons risk undermining the integrity of, and trust in, the multilateral trading system, and could lead to direct harmful consequences for business and citizens worldwide.

7.16. The United Kingdom continues to closely monitor reports of trade restrictive measures and urges China to engage in good faith and in a timely and responsive manner, providing clarifications to the points raised by Australia.

7.17. The delegate of the United States indicated the following:

7.18. The United States shares Australia's concerns and remains deeply troubled by the information provided by Australia, and that it has also heard from other, credible sources.

7.19. The United States again registers its systemic concern with the broad range of restrictive measures, both formal and informal, that China has imposed on certain Australian goods in an abusive, arbitrary, and pretextual manner. In this connection, the United States is concerned by reports that Chinese authorities have informally instructed importers not to purchase certain goods.

7.20. China's actions are not isolated to Australia. There are many instances of China using these harmful non-market practices against WTO Members in apparent retaliation for unconnected bilateral issues, including China's discrimination against Lithuanian goods and EU products with Lithuanian content.

7.21. China claims to uphold the "rules-based multilateral trading system", but its actions speak for themselves. China continues to exploit the rules-based system to its advantage, ignoring or breaking rules in order to inflict harm on others to advance its geopolitical and economic ends.

7.22. China's failure to adhere to global trade norms and WTO principles threatens and undermines the rules-based multilateral trading system and harms relations between its Members.

7.23. The delegate of Canada indicated the following:

7.24. Canada shares the systemic concerns raised by Australia and other WTO Members regarding trade disruptive and restrictive measures adopted by China. China's systematic use of trade restrictions that are inconsistent with established international practices negatively impacts Canada's agricultural and non-agricultural exports.

7.25. In relation to agriculture, China's lack of transparency and predictability with its application of SPS measures continue to restrict Canada's exports of food, plant and animal products, which continue to experience significant undue delays in China's approval procedures.

7.26. Canada requested the establishment of a WTO panel as a result of China continuing arbitrarily and unjustifiably to restrict Canadian canola seed exports to the Chinese market.

7.27. In addition, Canada remains concerned with the trade disruptive impact of China's COVID-19 measures on food imports. The latest WHO/FAO guidance reconfirms that neither food nor food packaging is a pathway for the spread of viruses causing respiratory illnesses, including COVID-19. With no scientific evidence to support these measures, the continued suspension of Canadian meat establishments can now only be viewed as a tool to block trade.

7.28. At a time of rising food prices and disruptions to global supply chains that are impacting food security, Canada asks China to take a science-based approach to its decisions and measures.

7.29. In non-agricultural trade, Canada notes new significant barriers to trade related to product certification requirements, such as expanding the scope of review to the point where product certifications that used to take several months now take several years for the same product types, as well as for modifications of existing and previously certified products.

7.30. The use of these trade disruptive and coercive measures challenges and destabilizes the rules-based international trading system from which China, Canada, and all WTO Members have benefited. Canada encourages all WTO Members, including China, to abide by their WTO commitments.

7.31. The delegate of the European Union indicated the following:

7.32. The European Union shares Australia's concerns with regard to the matters Australia is once again raising in this Council on China's implementation of trade disruptive and restrictive measures.

7.33. On this occasion, the European Union wishes to raise the same points of principle and of law. The EU continues to be concerned by the sheer number of alleged measures and the cumulative product range and trade value affected. The EU is likewise concerned by the form which these measures allegedly take. GATT rules also cover such informal measures. More importantly, informal, unpublished, and non-transparent trade regulations are *per se* at odds with the WTO's rules and spirit. WTO Members should not adopt such measures; this is not how international trade, or this Organization, can operate.

7.34. The European Union is also concerned by the alleged purpose of the measures in question. If the true reason for their adoption was an intention to punish, put pressure on, or coerce another Member because of a policy choice, which lies within the rights of that Member, then in addition to the trade angle, these measures are also at odds with general international law.

7.35. Within the European Union, growing concerns as to such practices have led to a legislative proposal for a so-called anti-coercion instrument. That proposal is presently being considered in the European Union's legislature. In addition, the European Union has recently initiated a WTO dispute vis-à-vis China in relation to a range of measures negatively affecting its trade with China where there also appears to be a coercive intention.

7.36. The delegate of New Zealand indicated the following:

7.37. New Zealand shares a systemic interest in the concerns expressed on this topic.

7.38. As New Zealand has repeatedly noted in a number of forums, the multilateral rules-based trading system provides that all Members, regardless of their size or trading capacity, are subject to the same rights and obligations. This provides the predictability and certainty necessary to ensure that trade can take place efficiently and with the least possible friction. Given the challenges all Members are facing as a result of the COVID-19 pandemic and other disruptions, the certainty provided by the multilateral trading system is more important than ever.

7.39. If Members step away from their commitments, or adopt remedies or other measures provided for under the WTO Agreements in an arbitrary manner and for other purposes, this will undermine the predictability and certainty on which the system rests. It will also reflect on perceptions of the Member undertaking such actions.

7.40. The adoption of measures by WTO Members that cause widespread disruption to trade and lack transparency cause serious concern to New Zealand, including actions undertaken against a range of exports from Australia and other WTO Members.

7.41. New Zealand encourages Members to comply fully with their WTO obligations, including in the application of trade remedies and the obligation to apply them in good faith.

7.42. The delegate of Chinese Taipei indicated the following:

7.43. Chinese Taipei shares the systemic concern raised by Australia. China's coercive trade actions attempting to hamper certain Members' trade interests based on unconnected bilateral issues surely poses a systemic risk to the rules-based multilateral trading system.

7.44. Chinese Taipei notes that Australia has been expressing concerns over a range of disruptive measures imposed by China, formally or informally, for a long time now. Chinese Taipei also notes that China has imposed discriminatory trade measures against Lithuanian goods, or any products with Lithuanian content, since the beginning of the year.

7.45. Chinese Taipei has also experienced China's unconstructive approach concerning its application of unjustified SPS requirements on the exportation of its fruits to China. This specific trade concern has been raised in an earlier meeting of the SPS Committee. Chinese Taipei therefore calls upon China once again to engage in dialogue aimed at solving this ongoing issue, and to apply trade measures in a manner consistent with the principles and obligations of the WTO.

7.46. The delegate of Japan indicated the following:

7.47. As Japan commented at the CTG's previous meeting, it shares the concerns expressed by Australia over China's trade measures, including trade remedy measures, which should be implemented within the framework of the WTO Agreements, and also that China's measures should comply with the relevant WTO Agreements in the procedures and fact-finding.

7.48. As Members pointed out during China's Trade Policy Review (TPR), its government measures conducted in an informal or undisclosed manner are problematic in terms of China's WTO accession protocol as well as the transparency principle in the WTO. Japan believes that it is important that China ensures transparency for its relevant measures.

7.49. If China operates trade measures in an arbitrary manner, as reported, it does so in conflict with the international trading system, which is based on free and fair rules. Japan hopes that China will respond to Australia's concerns in good faith and in a timely manner.

7.50. The delegate of China indicated the following:

7.51. China has repeatedly provided its explanations of these China-Australia bilateral trade measures, which have been raised by Australia in previous meetings of this Council and other relevant committees. China wishes to refer to its statements made in previous CTG meetings.⁸

7.52. China also wishes to reiterate that the measures taken by Chinese authorities against some Australian exports to China are aimed at protecting the legitimate rights and interests of domestic industries and the safety of consumers. They are consistent with Chinese laws and regulations and WTO rules. China also notified these measures to Australia and the relevant communication between the government authorities from both sides is open.

7.53. China would also like to share some latest trade figures. In 2021, China and Australia bilateral trade increased rapidly, by 35.1%, reaching USD 231 billion. For the first three months of the current year, 2022, the bilateral trade continued to grow by 2.4% year-on-year.

7.54. Meanwhile, China carefully listened to the interventions made by Members. China considers that some of the interventions have gone beyond the China-Australia bilateral trade issue and are inappropriately linked to other unrelated trade issues. China urges Members to focus on this specific trade issue when making their statements.

7.55. Some Members mentioned economic coercion and non-market practices. China wishes to make it clear that it opposes coercion and non-market practices. China is actually itself the victim of economic coercion and non-market practices. China's high-tech companies are threatened by various tailor-made market access restriction measures imposed by certain Members. China's steel and aluminium companies are threatened by 232 tariff measures imposed by one Member under the pretext of national security. So China certainly opposes economic coercion and non-market practices. Having said that, China again urges Members to focus on the specific trade issue under this item when making their statements.

7.56. The Council took note of the statements made.

8 CHINA – COSMETICS SUPERVISION AND ADMINISTRATION REGULATIONS (CSAR) – REQUEST FROM AUSTRALIA, THE EUROPEAN UNION, JAPAN, AND THE UNITED STATES

8.1. The Chairperson recalled that this item had been included on the agenda at the request of Australia, the European Union, Japan, and the United States.

8.2. The delegate of the United States indicated the following:

8.3. It is unfortunate that the United States must continue to reiterate its serious concerns, and imperative that it finds a resolution to its concerns with China's development of the CSAR and its

⁸ Document G/C/M/141, paragraphs 15.43-15.44.

implementing measures. Despite continued multilateral and bilateral engagement from the United States, US industry, and other WTO Members and stakeholders, significant trade concerns remain.

8.4. First, the United States has significant concerns that the only means for importers to establish conformity with good manufacturing practices in China involves animal testing, unless their respective governments do not issue Good Manufacturing Practice (GMP) export certificates. Providing a means for companies to establish conformity with the ISO 22716 Guidelines for Cosmetics GMP would be a far more effective means of determining that a company follows GMPs than animal testing. The US also questions China's response to the comments of several WTO Members that its GMP requirements for imports and domestic products are equivalent. In this regard, the US reiterates its request that China consider less trade disruptive means for US importers to meet China's animal testing exemption requirements, such as second- and third-party certificates to the ISO GMP cosmetics standard. The US also again asks that China be flexible and transparent with respect to which government or other GMP certificates or production licences it will accept as demonstrating conformity.

8.5. Second, the United States understands that the Good Manufacturing Practices for Cosmetics (GMP) was published as final in January and will enter into force in July 2022. The US again asks China to confirm that, for the purposes of overseas inspections, foreign manufacturers will be considered to be in conformity with the Chinese GMP standard, as provided in Article 17 of the Provisions for the Management of Cosmetics Registration and Notification Dossiers (a draft of which was notified as document G/TBT/N/CHN/1524), if they are in conformity with international GMP standards.

8.6. Third, the United States remains concerned that CSAR and its implementing measures require overly extensive information to assess conformity and fulfil China's regulatory objectives. The US is disappointed that China has not pared back these highly burdensome requirements. The US asks China's National Medical Products Administration to reconsider the extent of the information requirements.

8.7. Fourth, the United States considers that China has failed to address concerns that exceptions to the provisions protecting confidential business information (CBI) and reference to China's Regulation on the Disclosure of Government Information may undermine protections for trade secrets and CBI. The US asks that China clarify whether it will develop a specific mechanism for companies to indicate to its National Medical Products Administration (NMPA) when information provided should be treated as trade secrets and CBI, to protect such information from unauthorized disclosure. The US requests that NMPA provide a mechanism to ensure that the treatment of CBI is monitored and legally enforceable within China.

8.8. Fifth, the United States requests that China not require duplicative testing at laboratories that have Chinese Metrological Accreditation, if companies provide test results from other laboratories that are in conformity with China's requirements. The US requests that China consider accepting test results from laboratories certified to Good Laboratory Practices or Good Clinical Practices, as per the International Council for Harmonization of Technical Requirements for Pharmaceuticals for Human Use (ICH) Guidelines.

8.9. Sixth, the United States continues to have a concern over new cosmetics labelling requirements potentially creating unnecessary obstacles to trade. As explained previously, the US requests that China not require companies to disclose the product manufacturer on the product label and that China allow for foreign packaging and labelling, so long as the foreign product safety and claims information does not conflict with the Chinese label.

8.10. Seventh, the United States is concerned, given the magnitude of some of the new CSAR requirements, that China has not consistently notified its transition periods for the new CSAR requirements so as to allow for public comment. The US asks that China allow importers and manufacturers at least two to three years to update existing registrations and to sell through existing inventory for products already on the market.

8.11. The United States requests that China delay finalization of additional measures until these trade concerns expressed by the US and many other WTO Members are addressed.

8.12. The delegate of the European Union indicated the following:

8.13. The European Union wishes to reiterate its concerns already shared in previous meetings of the CTG (July and November 2021) with regard to the Cosmetic Supervision and Administration Regulation in force since 1 May 2021, notably the following: (i) the mandatory disclosure of commercially sensitive information, touching on the intellectual property rights of companies involved, in the registration process. In this regard, the EU requests China to consider the possibility of requiring continuous access to inspect the sensitive information at the companies' files, but without imposing the obligation to submit it to an external database; (ii) the amount of information required for the notification of new ingredients, as well as potential issues over the disclosure of such information after a certain period of time. In particular, the Chinese legislation requires both the specification issued by the raw materials manufacturer and the ingredient composition reported by the cosmetics companies in their product application to be exact matching figures, with any mismatch between the information provided by the raw material producer and the cosmetics companies making the application of the latter invalid. Given that the exact composition of raw materials is never completely stable but may vary/evolve over time within certain limits, it is almost impossible to guarantee a complete consistency between the figures. Furthermore, access to the database would reveal cosmetics' formulation. The EU encourages China to accept a range of values instead of exact matching figures; and (iii) the need to publish a detailed summary of efficacy evaluation, which may damage business secrets.

8.14. The European Union believes that these requirements are unnecessarily stringent to ensure consumer safety and traceability of the ingredients used in cosmetics, diverging from international practice. Such an extensive level of information is not required elsewhere in the world for notification and registration purposes, and the safety of consumers is always ensured.

8.15. Finally, the European Union wishes to reiterate its comment that a differentiated approach is needed between new products and products already on the market, thus avoiding a situation where product supply could be interrupted for an extended period due to insufficient preparation time for both industry and the supervisory authorities.

8.16. The delegate of Australia indicated the following:

8.17. Australia respects the right of Members to implement technical measures for legitimate policy purposes and in accordance with their WTO obligations. However, Australia remains concerned that measures under China's CSAR and various implementing regulations which entered into force on 1 May 2021 are more stringent than necessary. In that context, Australia asks that China pursue its objective of ensuring the safety and quality of imported cosmetics using less trade-restrictive measures.

8.18. Australia requests that China provide a transition period until at least January 2023 for cosmetics manufacturers to consider the regulation's requirements and make adjustments to their processes. Australia also requests that China clarify why it has maintained its requirement for mandatory animal testing of cosmetics products to be used on children, regardless of the level of risk presented by those products. Australian exporters are concerned about stringent and inflexible measures under the CSAR framework, particularly regarding testing and registration requirements and requirements to provide detailed information on production processes and other aspects of their intellectual property.

8.19. Australia reiterates that it is a reliable supplier of high quality and safe cosmetics products domestically, and to international markets. As Australia has said on previous occasions, the Australian Government stands ready to work with China and to discuss the CSAR and their respective systems for cosmetics regulation.

8.20. The delegate of Japan indicated the following:

8.21. Japan notes that China has conducted notifications on the CSAR and related implementing regulations. Since the March 2019 meeting of the TBT Committee, Japan has continued to express its concerns on the aforementioned regulations and their related implementing regulations.

8.22. Japan wishes to point out that, in terms of the safety and efficacy evaluation of cosmetics, there is a problem in that China only approves the results verified by domestic Chinese testing laboratories, whereas it does not accept internationally recognized standards and methods of investigation, such as the ISO.

8.23. Furthermore, when a cosmetics manufacturer registers cosmetics with the Chinese authorities, it is required to provide information about the raw material manufacturer of the cosmetics. However, this information is required to be updated every time the raw material manufacturer is changed. This practice places a heavy burden on the cosmetics manufacturer, whereas the international practice is to present information about raw material manufacturers at the time when the products are made commercially available, rather than at the time of registration, when requested by the authorities.

8.24. Japan requests China to ensure that the CSAR is formulated and implemented in accordance with Article 2.2 of the TBT Agreement and without deviating from the international standard.

8.25. The delegate of the Republic of Korea indicated the following:

8.26. The Republic of Korea welcomes China's continuous cooperation through bilateral channels, especially on its cosmetics regulations. However, taking into consideration that the cosmetic industry is important to China and Korea, Korea echoes the concerns raised by other Members and requests China to address this issue swiftly.

8.27. Regarding China's CSAR, the Republic of Korea is of the view, as it expressed at previous meetings of the TBT Committee, that China's requirements are more rigorous than necessary to fulfil the objectives of ensuring product safety and compliance with China's domestic market norms. For example, under the regulation, exporters to China are required to specify the sources and quality data of all ingredients in their applications, which Korea believes is demanding more information than that of any other countries. In fact, such information may contain trade secrets that are critical to businesses. Similarly, Korea considers China's labelling requirements to be more excessive than necessary compared to internationally recognized practices.

8.28. Accordingly, the Republic of Korea requests China to provide further details and its rationale regarding the requirements stipulated in its regulation, while encouraging China to harmonize its regulation with international practices so as not to raise unnecessary barriers to trade.

8.29. The delegate of New Zealand indicated the following:

8.30. New Zealand welcomes China's endeavours to modernize its regulatory system for cosmetics and also welcomes the opportunity to comment on specific elements of China's Cosmetics Supervision and Administration Regulations.

8.31. While New Zealand welcomes the intention to improve safety and quality assurance, it would like to encourage China to ensure that facilitation of trade is considered in the implementation of the regulations.

8.32. New Zealand notes that, under the measures, non-animal tested cosmetics are able to enter China's market only on the basis that regulator-issued GMP certification is provided. Non-special use cosmetics are considered to be low-risk products in many countries, including New Zealand, and for this reason are not subject to regulator-issued GMP certification.

8.33. While New Zealand welcomes the introduction of alternatives to mandatory animal testing for imported products, like others, it is disappointed that the measures do not provide for non-regulator-issued GMP certification or other trade facilitative mechanisms for providing product assurances. This appears to mean that animal testing requirements will still apply for Members that cannot offer regulator-issued GMP certification for cosmetics imported into China. As such, it will act as a significant and unnecessary barrier to trade for imported cosmetics products, particularly where products are certified to be manufactured in full compliance with the relevant ISO 22716 standard by a reputable non-government body.

8.34. New Zealand wishes to better understand what consideration China has accorded to less trade restrictive alternatives. New Zealand encourages China to engage directly with it and other affected Members to identify a trade-facilitative mechanism to demonstrate GMP conformity without imposing animal-testing requirements.

8.35. New Zealand further requests that China also provide flexibility in respect of product testing requirements. In particular, New Zealand encourages China to accept test reports from accredited laboratories situated outside of China. If test reports from internationally accredited bodies outside of China are not accepted, then this will create burdensome and unnecessary trade barriers for exporters that send products to China as well as multiple other markets. Building in flexibility to accept test reports from accredited laboratories outside of China would be trade facilitative and in accordance with international best practice.

8.36. New Zealand also holds concerns, that it notes are shared by a number of Members, around the issue of China requiring more detailed disclosure of product formulas than is required in other markets, including specific sources of each ingredient. In this regard, New Zealand encourages China to limit disclosure requirements to that which is required to assure product safety in China's domestic market, particularly that of sensitive information so as not to compromise intellectual property.

8.37. New Zealand looks forward to engaging further with China on its CSAR measures and welcomes China's response to the concerns raised by New Zealand and other Members.

8.38. The delegate of China indicated the following:

8.39. China provided long and detailed explanations of this issue at the TBT Committee's meeting of March 2022. China refers to its statement made at that meeting, and for the sake of time, wishes on this occasion to briefly highlight only the following few points: (i) regarding the protection of business secrets, China reiterates that its national Medical Production Administration will strictly protect enterprises' business secrets according to Chinese laws and regulations when conducting registration and filing works; (ii) regarding cosmetics labelling, the Measures for the Administration of Cosmetics Labels does not require all contents of Chinese labels to be consistent with those of the original packaging labels. The requirement is that the contents of product safety and efficacy claims should be consistent with those of the original labels. As for trace ingredients, cosmetic enterprises could declare those raw materials with very low amounts, but having certain effects, on the label as long as the label fulfils the relevant requirements for efficacy claims. As for the information of product manufacturer and its location, the relevant information needs to be marked on the label and cannot cause consumer confusion according to the Measures for the Administration of Cosmetics Labels; (iii) regarding the Chinese cosmetics inspection method, China highlights that it does not require toxicological safety assessment to be carried out only through animal tests. Alternative methods are also allowed; (iv) regarding the cosmetics inspection institution, cosmetics used for whitening, sun protection, and hair loss prevention, are administered as special cosmetics. The efficacy evaluation test report of such products should be submitted at the time of product registration. Therefore, efficacy evaluation tests should be completed in cosmetics registration and filing inspection institutions. The institutions should be qualified for cosmetics inspection and testing (CMA). However, China does not prohibit foreign inspection institutions from becoming cosmetic registration and filing inspection institutions. At present, many laboratories of foreign inspection institutions located in China have obtained COSMETIC CMA and undertaken cosmetic registration and filing inspections; (v) regarding the toxicology test, in line with the principle of non-discrimination, the toxicology test for both domestic and imported ordinary cosmetics could be exempted by conducting the proper safety risk assessment after obtaining the relevant production quality management certification issued by relevant government authorities.

8.40. As concerns children's cosmetics, due to insufficient data on safety assessment, China believes that children's cosmetics should be evaluated for product safety through both safety assessment and necessary toxicological tests.

8.41. On quality management, the basic principles and requirements in the "Good Practice for The Production Quality Management of Cosmetics" are consistent with those in ISO 22716. Furthermore, they are aligned with international prevailing requirements aiming to standardize the production quality management of cosmetics in China and to ensure the safety of cosmetics.

8.42. China will continue to engage with interested Members on this issue.

8.43. The Council took note of the statements made.

9 INDIA – RESTRICTIONS ON IMPORTS OF CERTAIN PULSES – REQUEST FROM AUSTRALIA, CANADA, THE EUROPEAN UNION, AND THE UNITED STATES

9.1. The Chairperson recalled that this item had been included on the agenda at the request of Australia, Canada, the European Union, and the United States.

9.2. The delegate of Australia indicated the following:

9.3. Australia's concerns with India's restrictive measures on pulses imports are well known, particularly India's quantitative restrictions (QRs). While Australia has previously welcomed India's various temporary suspensions of the renewed QRs for mung beans (Moong), pigeon peas (Tur), and black gram (Urad), this does not address Australia's underlying concerns and its continued request that the QRs be permanently removed.

9.4. Australia has previously said in this Council and other relevant WTO bodies that it believes that India is using these WTO-inconsistent measures as an ongoing means to flexibly manage imports in response to changing domestic circumstances. Australia understands that the temporary suspension of the QRs and the imposition of domestic stock limits for some pulses was intended to address concerns about inflation in pulse prices. Australia also notes that, at the same time, India continued to increase the minimum support prices for a range of pulses. This reinforces Australia's concerns about how India is using the QRs.

9.5. Pulses are not an insignificant commodity for India, neither by tonnage nor by the value of production and consumption, nor with respect to trade. Therefore, India's measures matter in the global pulses market. India's current suite of measures on pulses, including significant levels of market price support, high tariffs, and QRs, continue to negatively impact the stability and predictability of the global pulses market, to the detriment of all producers and consumers, including those in India.

9.6. Australia and other co-sponsors of this agenda item have submitted numerous formal questions to India in various WTO forums, including in this Council. It is important that India provide detailed answers to explain the market and other conditions behind its decisions, including the temporary suspension, and to explain how its measures are WTO-consistent. While the WTO Agreements contain exceptions, Australia reiterates that the onus is on the Member implementing the measure to explain how such exceptions may apply.

9.7. Australia welcomes India's recent decision to allow free import of urad and tur. However, Australia is disappointed that the period only extends until 31 March 2023 and does not include yellow peas or mung beans. Therefore, Australia asks India to clearly explain the status of all its quantitative restrictions remaining on pulses, in particular the status of the QR on yellow peas and mung beans for the fiscal year 2022-2023.

9.8. India needs to provide certainty and stability to exporters, traders, and the global pulses market, which will not be achieved by continuing to implement potential "temporary suspensions" to what were claimed to be "temporary measures" that have now been in place since August 2017. Australia requests that India respond to its questions and permanently remove the QRs.

9.9. The delegate of Canada indicated the following:

9.10. As previously noted in this Council and in other committees, Canada continues to be concerned with India's trade restrictive measures, including quantitative restrictions, minimum import prices, restricting imports to one seaport, and uncertainty introduced by frequent changes to tariffs on imports of pulses, in particular for dried peas.

9.11. Canada continues to question India's justifications for these trade restrictive measures and calls upon India to immediately implement alternative and trade facilitative measures for the import of pulses.

9.12. The delegate of the European Union indicated the following:

9.13. The European Union fully supports the interventions from Australia and Canada. As mentioned before, the European Union remains concerned with India's import restrictions for certain pulses and urges India to provide certainty and stability when it comes to its import regime for pulses.

9.14. The delegate of the United States indicated the following:

9.15. The United States shares the concerns of other Members regarding India's quantitative restrictions for select varieties of pulses.

9.16. Similar to its recent statements in the Committee on Import Licensing, the Committee on Agriculture, and the Committee on Market Access, the United States repeats its previous requests for information on how the measures reflect India's WTO commitments, and when and how the measures will be ended.

9.17. Taking note that earlier this year India reinstated restrictions on certain pulses, the United States continues to urge India to consider less trade restrictive requirements and to notify future relevant measures and regulations in a timely manner.

9.18. The delegate of Argentina indicated the following:

9.19. Argentina wishes to associate itself with this concern. This measure affects two of the main pulses exported from Argentina to India: yellow peas and mung beans. The latest measures in that regard posed an issue for shipments that were already on the way to India when that country re-notified the restriction on access to these products. As has already been mentioned, Argentina does not know whether these are temporary measures or whether they will continue to be applied over time. Argentina, like those Members that have taken the floor before it, reiterates its concern over the uncertainty that this measure creates for its exporters.

9.20. The delegate of India indicated the following:

9.21. India thanks the delegations of Australia, Canada, the European Union, the United States, and Argentina for their continued interest in this issue. As addressed in the previous meetings of the Committee on Market Access, as well as at the CTG, the measures adopted by India remain temporary and are undertaken for the purpose of maintaining food and nutritional security. This is an area of great importance to India's economy and the policies on imports are regularly reviewed and updated.

9.22. India's Notification No. 63/2015-2020 made by the Directorate General of Foreign Trade on 29 March 2022 on the free import policy of urad (HS code 07133110) and tur or pigeon peas (HS code 07136000) has been extended until 31 March 2023. On the changes to the import of moong, the measure has already been notified to the Committee on Import Licensing under Article 5.1-5.4 notifications.

9.23. India's notification on QRs, document G/LIC/N/3/IND/21, made against the Section 7.3 notification requirement and circulated on 20 January 2022, clearly calls out and gives the background to these measures with full transparency.

9.24. Furthermore, India's notifications in documents G/LIC/N/2/IND/19 and G/LIC/N/2/IND/20, made under Section 5.1-5.4 of the WTO Agreement on Import Licensing, clearly demonstrate its transparent communication on this issue. These notifications also show that the process of review of import restrictions is agile, dynamic, and continuous. And India continues to review the measures in question.

9.25. The Council took note of the statements made.

10 PLURINATIONAL STATE OF BOLIVIA – EXPORT RESTRICTIONS ON AGRICULTURAL AND HYDROBIOLOGICAL PRODUCTS – REQUEST FROM PERU

10.1. The Chairperson recalled that this item had been included on the agenda at the request of Peru.

10.2. The delegate of Peru indicated the following:

10.3. Peru would like to express before WTO Members its trade concern regarding various restrictive measures that the Government of the Plurinational State of Bolivia has applied on Peruvian agricultural exports. These measures have established blockades on the entry into the Bolivian market of the main products originating in Peru, such as potatoes and onions, as well as the exportation of whole trout. In this connection, it should be mentioned that Bolivia has implemented the measures indicated below that are in contravention of the provisions of Article XI of the GATT 1994.

10.4. The Bolivian government authorities, together with the private sector, have made short-, medium- and long-term commitments, *inter alia*, to control and restrict access to the Bolivian market for agricultural products by increasing tariffs and imposing non-tariff restrictive measures such as the operation of quotas.

10.5. The Bolivian health authorities have indicated that their regulations only allow for the marketing of eviscerated animals and that other types of products could not be accepted under its regulatory framework, despite the fact that five years earlier the same authorities approved a health certificate for the exportation of whole Peruvian trout and that there is no technical justification for the ban.

10.6. In addition, Bolivia has applied measures that are in contravention of the provisions of the SPS Agreement, such as: failure to grant any phytosanitary permits for the importation of Peruvian agricultural products such as potatoes and onions; failure to conduct phytosanitary inspections on perishable agricultural products originating in Peru; refusal of the importation of potato consignments without any evidence of a technical justification for imposing a ban as an emergency measure; and failure to notify the SPS Committee of the draft regulations that may affect trade.

10.7. These actions would also be in breach of the bilateral agreements between Peru and Bolivia, which include addressing any type of issue relating to bilateral trade in agricultural products and ensuring the issuance of phytosanitary permits and the conducting of phytosanitary inspections at the border.

10.8. In view of the above, and as mentioned in the SPS Committee, Bolivia's actions would contravene the provisions of the GATT, the SPS Agreement, and the bilateral agreements between both Parties. Peru therefore requests Bolivia to rescind any *de jure* or *de facto* restrictions in place on Peruvian exports of perishable goods and whole trout.

10.9. The delegate of the Plurinational State of Bolivia indicated the following:

10.10. The delegation of the Plurinational State of Bolivia takes note of Peru's comments. While this issue is being addressed at the regional level within the Andean Community (CAN), and was also discussed less than a month before in the SPS Committee, Bolivia considers it important to reiterate its position and to place on record and bring to the attention of Members the relevant information concerning Peru's claims.

10.11. The alleged effects mentioned by Bolivia's neighbouring country in relation to (*de facto*) blockades over the past three years have been extensively addressed bilaterally in various formats, ranging from technical meetings with the health authorities of both countries to high-level meetings between deputy ministers and Ministers, including commitments made within the framework of the Binational Cabinet meeting held at the end of 2021. The agreements reached at those meetings addressed the technical difficulties and key aspects that were identified in both countries, and which, in a spirit of transparency and good faith, were notified to the Peruvian health authority. The agreements reached to date are in the process of being implemented by both parties.

10.12. Peru has triggered the dispute settlement mechanism at regional level, which draws even greater attention to the fact that the issue continues to be addressed systematically, in all forums, without allowing for a reasonable period of time being given for Peru and Bolivia to fulfil the commitments agreed on bilaterally or, where appropriate, to comply with the ruling of the Secretary-General of the Andean Community.

10.13. Within this context, Bolivia wishes to reiterate that it has not applied any restrictive measures on the entry of perishable agricultural products of Peruvian origin, and that, in any case, this is demonstrated by the fact that phytosanitary import permits (PFIs) are issued on a regular basis, as shown in the Gran Paitití system. It is not true that they are issued "barely ever or on a discretionary basis", or indeed not issued at all, as stated by the Peruvian delegate, since according to the system's records, in 2021 alone, 814 PFIs were issued. The issuance rate has obviously fluctuated on account of external factors such as COVID-19, the seasonal nature of agricultural production, and market behaviour (which affects the will of importing users), aspects that are clearly not at all within the remit of Bolivian institutions.

10.14. Furthermore, it is vital to make clear that the memorandum of understanding of 21 July 2021, as referred to by Peru in document G/SPS/GEN/2009, is directly linked to the commitment to fight smuggling head-on as part of a state policy that affects domestic production just as much as imports. This policy has not, however, generated restrictions on imports of perishable products of Peruvian origin, as there is no legal provision establishing any form of restrictive measure that regulates, controls, or increases import tariffs, especially when imports coming from and originating in Peru are exempt from the payment of tariffs provided that they comply with rules of origin in accordance with Decision No. 415 of 30 July 1997.

10.15. Lastly, so as not to tire the Membership by reiterating aspects that are being addressed in other forums, Bolivia considers it prudent to elaborate on the information concerning inspections, alleged QRs, and other allegations made by Peru in those forums, making it clear that Bolivia respects international law and is therefore in full compliance with international trade agreements. This is even more important when tireless bilateral efforts have been made to resolve the difficulties facing both countries with a view to ensuring that they do not lead to trade restrictions, as is maintained in the aforementioned claims, which lack objectivity and are based on isolated cases that in no way reflect the full picture of the trading relationship between Bolivia and Peru.

10.16. The Council took note of the statements made.

11 ECUADOR – IMPORT RESTRICTIONS ON GRAPES AND ONIONS – REQUEST FROM PERU

11.1. The Chairperson recalled that this item had been included on the agenda at the request of Peru.

11.2. The delegate of Peru indicated the following:

11.3. Peru raises this trade concern with respect to the restrictive measures applied by Ecuador on the reopening of access for grapes and onions from Peru.

11.4. Despite the fact that the SPS Agreement provides that approval procedures must be undertaken without undue delay, Ecuador has provided replies that appear to stall access for Peruvian grapes to the market concerned beyond what is necessary, as in the following examples: Ecuador submitted an unscheduled request for an inspection visit, and the inspection report was sent to Peru after seven months; Ecuador unilaterally changed the action plan proposed by Peru to access the market for grapes; it was proposed, without any technical justification and disregarding the fact that, historically, trade is conducted by land and that grapes should enter by ship only via the Guayaquil seaport; the use of refrigerated transport for grape consignments was proposed, despite this bearing no relation to the risk of the presence of pesticides; in addition, in the case of onions, despite the fact that the ban on Peruvian imports has been deemed to be a trade-restrictive measure within the subregion, according to Resolution No. 2253 of the Andean Community, Ecuador has requested a new risk analysis to provide access to its market.

11.5. It should be noted that the Ecuadorian regulations imposing restrictions on Peruvian exports of grapes and onions were not notified to the SPS Committee, despite the fact that this measure establishes additional requirements that have an impact on the trade of other Members.

11.6. Considering that the measures applied by Ecuador contravene the provisions of the SPS Agreement, Peru requests Ecuador: (i) to avoid proposing measures that violate the provisions of the SPS Agreement and the basic principles of the WTO; (ii) to ensure that it does not disregard the technical agreements previously established; (iii) to notify its measure and give other WTO Members the opportunity to submit comments; and (iv) to provide access for imports of Peruvian grapes and onions.

11.7. The delegate of Ecuador indicated the following:

11.8. Ecuador wishes to highlight that the restrictions have been lifted as provided by the Court of Justice of the Andean Community, notwithstanding that both Members have requested a revision of the decision. Accordingly, in line with regional regulations, Ecuador awaits the dossiers concerning onions and grapes in order to be able to proceed with the evaluation that will allow the entry of these products into its market.

11.9. The Council took note of the statements made.

12 PANAMA – UNDUE DELAYS AND EXPORT RESTRICTIONS ON AGRICULTURAL AND HYDROBIOLOGICAL PRODUCTS – REQUEST FROM PERU

12.1. The Chairperson recalled that this item had been included on the agenda at the request of Peru.

12.2. The delegate of Peru indicated the following:

12.3. Peru wishes to raise this trade concern regarding Panama's undue delays in renewing authorizations or the approval of new authorizations for processing plants of Peruvian fish and livestock enterprises, and regarding its re-establishment of trade in Peruvian onions and potatoes.

12.4. Peru wishes to highlight that, despite bilateral meetings and efforts undertaken, as well as the trade concerns raised in the SPS Committee, Panama has failed to renew authorizations or include new enterprises authorized to export to the market concerned; there is also uncertainty as to the length of time that would be granted to Peruvian enterprises should renewal or a new authorization be secured. This situation is in violation of the provisions of the SPS Agreement and is also discriminatory in terms of the authorization periods that may be granted to the enterprises of other trading partners.

12.5. In the case of potatoes and onions, Panama has also implemented measures that contravene the provisions of the SPS Agreement, given that the measures in question have not been supported by proper scientific evidence, international phytosanitary reference standards have not been taken into consideration, less trade-restrictive measures have not been taken into account, there are still undue delays, and compliance with transparency provisions has been lacking.

12.6. Regrettably, Panama has still not provided any sanitary or phytosanitary reasons regarding authorizations for Peruvian enterprises or market access for potatoes and onions, despite the fact that these types of measures are to be applied only when necessary to protect human, animal or plant life or health, and only when based on a risk assessment.

12.7. In view of the above, and to avoid a violation of the provisions of the SPS Agreement, Peru requests Panama to authorize Peruvian enterprises to export to the market in question and to provide access to Peruvian potatoes and onions, as well as to avoid any other action that may unnecessarily prolong both processes, generating unnecessary and unjustified barriers to trade.

12.8. The delegate of Panama indicated the following:

12.9. Panama thanks Peru for its comments and takes note of its concerns. Panama is closely coordinating with the relevant institutions in capital in order to provide a timely response to Peru's

questions. In this regard, Panama reiterates its commitment to working with the delegation of Peru to find mutually agreeable solutions.

12.10. The Council took note of the statements made.

13 EUROPEAN UNION – QUALITY SCHEMES FOR AGRICULTURAL PRODUCTS AND FOODSTUFFS – THE REGISTRATION OF CERTAIN TERMS OF CHEESE AS GEOGRAPHICAL INDICATIONS – REQUEST FROM NEW ZEALAND AND URUGUAY

13.1. The Chairperson recalled that this item had been included on the agenda at the request of New Zealand and Uruguay.

13.2. The delegate of Uruguay indicated the following:

13.3. Uruguay regrets having to place this item on the agenda once again and wishes to refer to its previous statements⁹, while reaffirming its concern at the European Union's decision to register the term Danbo as a protected geographical indication (PGI), despite objections by several Members.

13.4. As Uruguay has long noted, Danbo refers to a cheese manufacturing technique, which does not correspond to any known geographical location. This manufacturing technique is covered by Codex Alimentarius Standard 264, which lays down the characteristics, form of production, and labelling of this type of cheese. This standard has been amended several times, most recently in 2007, with the approval and participation of the European Union and its member States. However, the European Union subsequently decided to include Danbo cheese as a PGI. It was also included in its free trade agreements, thereby indirectly excluding from third markets non-Danish producers of this type of cheese, which, in Uruguay's view, constitutes a limitation on trade. Uruguay therefore considers that the registration by the EU of the term Danbo as a PGI is not only contradictory, but also amounts to a *de facto* monopoly on a Codex standard, which creates legal uncertainty.

13.5. For these reasons, despite the time that has elapsed, Uruguay will continue to maintain this trade concern.

13.6. The delegate of New Zealand indicated the following:

13.7. New Zealand supports Uruguay's statement. New Zealand is raising this item at the Goods Council because it sees a conflict in positions the European Union has taken in standard-setting bodies and the actions that they have taken *ex post facto* to restrict the labelling within the EU of products produced using those standards by producers outside of Denmark. This issue does not relate solely to the grounds for granting or denying IP protection, but also to the importance of legal consistency, upholding internationally agreed standards, and not frustrating legitimate expectations of businesses operating within those standards.

13.8. New Zealand remains concerned that the European Commission has chosen to register the terms "Danbo" and "Havarti", despite having previously agreed to a Codex standard in which the European Commission and Denmark both acknowledged that "the country-of-origin statement preserves its generic nature".

13.9. Such actions will negatively affect producers outside Denmark that have invested with the legitimate expectation that the standard could be used. Furthermore, the European Union's approach to registering cheese names for which there are existing CODEX standards shows disregard for the integrity of the standards-setting system that promotes reliability and consistency in international trade rules, which New Zealand would expect the EU to support.

13.10. The delegate of the European Union indicated the following:

13.11. The European Union has consistently said that the fact that a geographical indication name is subject to a specific Codex Alimentarius standard, or that it is listed in Annex B to the Stresa Convention, does not imply that the name should be considered as a common or generic term.

⁹ Document G/C/M/141, paragraphs 12.2-12.5.

13.12. Generic status in the European Union can only be assessed with regard to the perception of the consumers on the EU territory. In the EU, the relevant public is comprised mainly of the reasonably well-informed members of the public and/or customers who may purchase the product or a like product.

13.13. Regulation (EU) No. 1151/2012 on quality schemes for agricultural products and foodstuffs, as well as subsequent delegated and implementing acts, were notified to the WTO under the TBT Agreement as they contain provisions relevant to the TBT, such as provisions relating to technical standards, definitions, and labelling issues. Nevertheless, even if intellectual property rights (in particular, elements relating to the substantive protection of geographical indications) are part of the notified measures, these are not relevant for TBT purposes.

13.14. The Council took note of the statements made.

14 EUROPEAN UNION – PROPOSED MODIFICATION OF TRQ COMMITMENTS: SYSTEMIC CONCERNS – REQUEST FROM CHINA AND URUGUAY

14.1. The Chairperson recalled that this item had been included on the agenda at the request of China and Uruguay.

14.2. The delegate of China, addressing Agenda Items 14 and 15, indicated the following:

14.3. China-EU and China-UK negotiations on this TRQ issue are still ongoing. China wishes to reiterate that the outcomes of the negotiations should reflect the reality of China-EU and China-UK bilateral trade, and not diminish the commercial value of China's existing market access in the European Union and the United Kingdom. Accordingly, China will continue to negotiate with the EU and UK and hopes to reach mutually satisfactory outcomes to these negotiations at the earliest possible date.

14.4. The delegate of Uruguay, addressing Agenda Items 14 and 15, indicated the following:

14.5. Uruguay wishes once again to reaffirm its position and trade and systemic concerns on the issue of modifications of concessions in the form of European Union tariff rate quotas under Article XXVIII of the GATT 1994.

14.6. In Uruguay's view, there was no need for the European Union to modify, as a consequence of an internal matter such as Brexit, the concessions set out in its WTO schedule, as applied to third parties. However, despite the complaints lodged by many trading partners, which saw how their conditions of access would be undermined as a result of the apportionment, the EU decided to go ahead with the project.

14.7. Without prejudice to existing fundamental differences, Uruguay was a committed and constructive participant in the process under Article XXVIII from the outset, taking into account the relevance and sensitivity of market access conditions and concessions bound at the WTO by important trading partners, such as the European Union, with respect to key products for a small developing country such as Uruguay, whose economy is largely dependent on its agricultural exports.

14.8. As a sign of flexibility and in a spirit of compromise, Uruguay adjusted its claims downwards, with a view to achieving the balance needed to ensure moderate but tangible results, taking into account the context and scope of this process. However, even these more modest requests were met with nothing more than a further refusal from the European Union.

14.9. Unfortunately, refusals from the European Union in this kind of process are not new to Uruguay. In fact, Uruguay has systematically reserved its rights in open-ended negotiations throughout the successive enlargements of the EU in the past. This is why Uruguay wishes once again to reiterate its profound disappointment and dissatisfaction with this current situation, while reaffirming its willingness to find a mutually agreed solution, insofar as the European Union recognizes Uruguay's specific conditions and needs, and demonstrates the necessary political will to reach an agreement.

14.10. The delegate of India indicated the following:

14.11. India continues to discuss the issue of TRQ commitments with the European Union. India shares some of the concerns raised by previous speakers and continues to work bilaterally with the EU towards resolving these issues.

14.12. The delegate of Brazil, addressing Agenda Items 14 and 15, indicated the following:

14.13. Brazil wishes once again to express its systemic concerns with the modification of the WTO commitments of the United Kingdom and the European Union due to Brexit. The recent circulation of a DS:1 notification by the United Kingdom, indicating that, despite not having its schedule certified, it would have a Final Bound Total Aggregate Measurement of Support (FBTAMS), reinforces Brazil's concerns. As Brazil pointed out at a previous CTG meeting, the conversion commitments taken in euro, when the UK was part of the EU, to commitments in pounds sterling, with the choice of the period 2015-2019 instead of 1986-1988, will yield additional rights to grant distortive and environmentally harmful domestic support of nearly GBP 1 billion. Even worse, at this moment, there is a *sui generis* situation in which, according to the rights claimed by the United Kingdom and the EU-27, their most recent DS:1 notification indicates that the sum of their FBTAMS entitlements would be greater than the FBTAMS entitlements of the EU-28. The exchange rate arbitrarily chosen by the United Kingdom also has the potential to distort the tariff rates it seeks to consolidate. Finally, yet importantly, Brazil is also concerned about the non-compliance to agreements reached in previous negotiations under Article XXVIII, in particular with regard to tariffs applied to one of Brazil's country-specific quotas and the discontinuity in application of certificates of origin that had been required for bilateral trade before Brexit.

14.14. The delegate of the European Union indicated the following:

14.15. The European Union is pleased to report good progress achieved so far with agreements formally signed with six partners, initialled with another three partners, and negotiations progressing well with several other partners.

14.16. The European Union welcomes the increased engagement of many WTO Members and remains fully committed to continuing these negotiations and consultations and to bringing them to a successful close in the coming months.

14.17. The Council took note of the statements made.

15 UNITED KINGDOM – DRAFT GOODS SCHEDULE AND PROPOSED UK TRQ COMMITMENTS: SYSTEMIC CONCERNS – REQUEST FROM CHINA AND URUGUAY

15.1. The Chairperson recalled that this item had been included on the agenda at the request of China and Uruguay. He also recalled that China had already addressed this item¹⁰, and that Uruguay had partially addressed this item¹¹, in their respective interventions under Agenda Item 14. Finally, he noted that Brazil's intervention under Agenda Item 14 had also covered this agenda item.¹²

15.2. The delegate of Uruguay indicated the following:

15.3. In addition to the various elements raised under the previous item, which are fully applicable also to Agenda Item 15, Uruguay wishes once again to reaffirm the following points: (i) the claim of the United Kingdom to have a bound total Aggregate Measurement of Support (AMS) warrants analysis and discussion on the part of the Members, and is especially problematic since, more than a year after the completion of said Member's exit from the European Union, it has still not lowered its bound AMS levels. In this regard, even though Uruguay recognizes the submission of the first DS:1 notification by the United Kingdom within the established deadlines, it notes with concern the inclusion of an alleged AMS entitlement of GBP 4,949.3 million, for which there is no clear or convincing justification; (ii) in connection with the above, Uruguay recalls that the proposal to introduce a currency conversion into the draft schedule of concessions based on the average daily exchange rate in the 2015-2019 period also raises concerns; (iii) furthermore, it does not seem appropriate for the United Kingdom to attempt to replicate the rights to invoke the special

¹⁰ Paragraphs 14.2-14.3.

¹¹ Paragraphs 14.4-14.9.

¹² Paragraphs 14.12-14.13.

agricultural safeguard, under Article 5 of the Agreement on Agriculture, for all products and under the same criteria and conditions as set out in the European Union's Schedule.

15.4. In this context, Uruguay remains willing to enter into substantive bilateral negotiations, on the basis of any meaningful proposals, to arrive at a mutually advantageous agreement.

15.5. The delegate of India indicated the following:

15.6. India continues to discuss the issue of the United Kingdom's modified Goods Schedule post-Brexit bilaterally. These discussions have focused on three areas, namely tariff rate quotas, the UK's automatic assumption of special safeguards from the EU-28 Schedule, and the UK's determination of its Aggregate Measurement of Support.

15.7. India believes that the use of a near-term exchange rate has led to the United Kingdom assuming an additional Aggregate Measurement of Support (AMS) of almost GBP 1 billion under the Agreement on Agriculture. While India appreciates that, for visibility on tariffs, the United Kingdom used exchange rates that were current, the same logic cannot be applied to the calculation of the AMS.

15.8. The AMS was determined for all Members at the time of the WTO coming into force. When India and other Members explain their position on the changing nature of economic circumstances and relevant factors like inflation, there is no appreciation of these issues in the Committee on Agriculture. However, the United Kingdom's attempt to recalculate the AMS for itself is actually taking a benefit from the near-term exchange rate.

15.9. The common response to the demand of India and other Members for considering inflation is that the decisions taken at the inception of this Organization were cast in stone. However, when it comes to deriving a new goods schedule, the United Kingdom has conveniently used near-term exchange rates for its AMS determination.

15.10. India believes that these concerns are also shared by other Members and continues to work with the United Kingdom with the expectation of resolving these issues constructively.

15.11. The delegate of the United Kingdom indicated the following:

15.12. The United Kingdom thanks Members for their interest in this item. As the United Kingdom has set out at a number of previous meetings, it remains strongly committed to resolving all discussions on its Goods Schedule – including through the process under Article XXVIII.

15.13. Members will be aware that, at the CTG meeting of November 2021, and in the communication dated 21 October 2021, the United Kingdom extended the timelines under Article XXVIII:3 of the GATT by six months, until 1 July 2022. The United Kingdom has continued to have productive discussions with relevant Members towards resolving their concerns since then, and its aim remains to work closely with Members and successfully conclude these discussions in the coming months.

15.14. For more information on AMS, special safeguards, and currency conversion, the United Kingdom refers Members to its earlier statements, as reflected in the minutes of this Council, and at the Committee on Market Access, which sets out the UK's position on these issues as it still stands.

15.15. The United Kingdom thanks those Members that have engaged constructively on all matters relating to its Goods Schedule so far, including for the recent in-person engagement in March. The UK continues to welcome constructive bilateral dialogue towards resolving the concerns voiced by Members today.

15.16. The Council took note of the statements made.

16 INDONESIA – IMPORT AND EXPORT RESTRICTING POLICIES AND PRACTICES – REQUEST FROM THE EUROPEAN UNION, JAPAN, NEW ZEALAND, AND THE UNITED STATES

16.1. The Chairperson recalled that this item had been included on the agenda at the request of the European Union, Japan, New Zealand, and the United States.

16.2. The delegate of the European Union indicated the following:

16.3. The European Union regrets that once again the CTG needs to address Indonesia's import and export restricting policies and practices. This long-standing agenda item is an issue of deep concern to the European Union given that no real progress towards resolving it has yet been registered. Rather, the number and scope of Indonesia's restrictions seem to have further expanded over time, with corresponding negative impacts on trade flows.

16.4. In particular, the European Union reiterates its serious preoccupation with Indonesia's burdensome and lengthy SPS import authorization procedures, its complex rules on halal labelling and certification, its mandatory use of, and limited possibilities for audits on domestic SNI standards, its wider use of local content requirements (LCRs), and its restrictive import licensing requirements for an increasingly broad range of goods (foodstuffs, textiles, footwear and electronics, tyres and auto parts, to name just a few) that *de facto* hinder access to the Indonesian market for a variety of EU products and hamper bilateral trade and investment relations.

16.5. Accordingly, the European Union urges Indonesia to reduce its high number of trade barriers, which have been affecting EU trade flows for too long, and to refrain from creating any new barriers. In addition, the European Union reiterates its call for Indonesia to ensure that all its relevant measures are notified to the WTO in order to allow Members an opportunity to provide their comments on them.

16.6. The delegate of Japan indicated the following:

16.7. In past meetings of the CTG and the TRIMs Committee, Japan has continuously expressed its concerns about the WTO-consistency of various Indonesian Local Content Requirement (LCR) measures relating to 4G LTE equipment, TV equipment, and the retail industry. In this regard, it is regrettable that Indonesia has declared that it has no plans to review its LCR measures in the near future. Indonesia has repeatedly explained that its LCR measures relate in general to the following three points: (i) government procurement; (ii) policies that involve the need to maintain the welfare and basic life necessities of the Indonesian people; and (iii) policies that involve state-managed strategic resources. However, not all LCR measures fall under these reasons or are justified by them.

16.8. Japan is also concerned about the increase in import restricting measures for the import registration and approval system for textile products and air conditioners, including their consistency with Article XI:1 of the GATT. Japan appreciates that there is an improvement in the level of permitted quantities. However, Japan hopes that the criteria will be clear, and that operational transparency will be improved.

16.9. Moreover, Japan continues to express its concerns with regard to Indonesia's import licensing system for steel products, which has been implemented in accordance with the Minister of Trade Regulation No. 20 of 2021. After the introduction of the measure, the number of approved licence applications reduced significantly compared to the actual number of applications submitted, regardless of the type of licence.

16.10. As a measure that has a trade-restricting effect on imports, this may not be consistent with Article 3.2 of the Import Licensing Agreement and Article XI:1 of the GATT. The volume of applications should not be significantly reduced, and the reasons and criteria for the reduction in applications should be clarified.

16.11. Furthermore, with regard to textile products, it was truly regrettable that Indonesia introduced a safeguard measure on carpets on 17 February 2021, even though Japan had called upon Indonesia to reconsider its measure during the Committee on Safeguards, as well as in bilateral consultations.

16.12. Japan sees two main problems: (i) the tariff rate, which is as high as 150-200% in terms of *ad valorem* tax conversion; and (ii) the tariff has been introduced in a situation in which carpet exports have dropped sharply.

16.13. Japan is concerned about the increase in Indonesia's trade restricting measures and requests a concrete explanation regarding their background and consistency with the WTO Agreements. In particular, Japan submitted written questions to the Import Licensing and TRIMs Committees earlier in the year regarding Indonesia's measures regulating imports of air conditioners, its import licences for steel, and its import regulations for textiles. Japan expects Indonesia to respond promptly to these questions.

16.14. In conclusion, Japan hopes that Indonesia's import regulations on air conditioners will be operated so as not to fall under the category of import restrictions, that its permit standards and procedures will be stipulated with more transparency, and that its other measures will be corrected or abolished as soon as possible.

16.15. The delegate of New Zealand indicated the following:

16.16. New Zealand echoes the concerns raised by the European Union and Japan. New Zealand believes that Indonesia's restrictions on agricultural imports continue to undermine core WTO principles.

16.17. Indonesia's frequent changes to import requirements reduces commercial certainty, which in turn hampers returns for farmers and increases price volatility for customers. New Zealand is particularly concerned about Indonesia's inconsistent issuance of import licences. Delays in import licences lead to commercially significant market access issues for trading partners.

16.18. New Zealand requests that Indonesia also provide further information to trading partners on the development of the Commodity Balance Mechanism, including how the mechanism is calculated, and what the schedule is for adding more products into the mechanism.

16.19. The delegate of the United States indicated the following:

16.20. The United States again underscores its concerns with Indonesia's import and export restricting policies and practices. The US has raised concerns with specific Indonesian policies in past meetings of the Council, as well as in the TRIMs, TBT, Information Technology Agreement (ITA), and Market Access Committees, and regrets that it must raise them again on this occasion. The US believes that Indonesia's trade-restricting policies run counter to its broader economic recovery goals as well as the interests of its consumers, workers, and businesses. Accordingly, the US strongly encourages Indonesia to reconsider its policies.

16.21. The United States is specifically concerned by Indonesia's expanding use of local content requirements (LCRs). As Members know, Indonesia has imposed such requirements across a wide range of sectors, including telecommunications, mobile technology, energy, retail, and franchising. The United States again notes that Indonesia's ICT Ministry has announced plans to increase existing LCRs for 4G and 5G devices. The United States requests that Indonesia share further information on these plans, make any draft measures it is considering available for public comment, and reconsider its use of LCRs generally.

16.22. The United States is also concerned by Indonesia's continued practice of finalizing trade-related measures without sufficient opportunities for stakeholder input. Indonesia has demonstrated a pattern of issuing into effect final measures connected to its halal product assurance law, without sufficient notification, and with little, if any, opportunities for public input. These measures have the potential to impact a significant proportion of global goods trade with Indonesia, including US exports. Going forward, the United States strongly encourages Indonesia to adopt a more transparent and consultative policy-making process.

16.23. Lastly, the United States again wishes to underscore its concerns regarding Indonesia's application of tariffs on a category of ICT products that appear to exceed its WTO bound tariff commitments. The US has raised this issue several times with Indonesia over the past three years, including in the Market Access and the ITA Committees, as well as bilaterally. Unfortunately,

Indonesia has yet to provide a substantive response to US concerns. In this regard, the United States has been patient and constructive, providing concrete examples that clearly illustrate its concerns multiple times, as well as preparing several specific questions that were circulated to the ITA Committee in April 2021. Unfortunately, Indonesia has yet to provide a substantive response to repeated US attempts at engagement. In addition to calling into question Indonesia's bound commitments, the US believes that these policies are to Indonesia's own detriment as they limit access for Indonesian consumers and firms to important high-tech products that form the backbone of the digital economy. US traders have also been actively noting the disincentives to investment that result from these tariffs. The US understands that Indonesia has just issued its new 2022 tariff schedule. The US welcomes further information on this new schedule, including how it might address US concerns.

16.24. The United States is hopeful that raising these issues again on this occasion could help pave the path for greater engagement, and stands ready to work with Indonesia to address these concerns.

16.25. The delegate of India, addressing Agenda Items 16 and 26, indicated the following:

16.26. India remains concerned over Indonesia's import substitution programme and exports policies, which aim to reduce access to the Indonesian market. Indonesia is maintaining a number of restrictions on imports as well as exports, which are affecting Indian businesses, both in terms of exports as well as supply chain disruptions.

16.27. First, Indonesia has been applying an annual quota system on importation of bovine meat. Indonesia reduced the quota in 2021. Apart from the quota system, there are port restrictions on imports, which have led not only to difficulties, but also increases in costs for India's exports. There is also a quota system on the importation of sugar.

16.28. Second, there has been a delay in the issuance of Horticultural Products Import Recommendations (RIPH) in respect of agricultural products, including onions and potatoes, without assigning any reason for the same. There have also been cases of RIPH non-issuance. These issues are impacting upon India's exports of its horticultural products. Indonesia has also put dry red chillies in its horticulture category, thus subjecting their import to RIPH requirements.

16.29. Third, India also requests Indonesia to lift its restrictions on exports of ginger.

16.30. Fourth, Indonesia imposes quantitative restrictions on imports of automobiles and components thereof. There have also been instances of delay in the issuance of Type Registration Certificate (TPT) import permits for import of commercial vehicles from India.

16.31. Fifth, these policies remain a concern for the Indian chemicals and pharmaceutical products.

16.32. Lastly, on the exports side, India wishes to inform the Council that Indonesia has put in place a high export duty and export levy on palm oil, as well as adopting export curbing procedures, which is pushing up the prices of palm oil and edible oils in India. India requests Indonesia to take whatever action necessary to avoid resorting to increases in the reference price of palm oil.

16.33. India has discussed all of the above-mentioned issues bilaterally with Indonesia, but so far no clear response has been received. Therefore, India urges Indonesia constructively and transparently to engage with Members on these proposals, and not to adopt trade restrictive measures.

16.34. The delegate of Canada indicated the following:

16.35. Canada wishes to speak specifically on one issue in relation to Indonesia, which was the issue also raised by the United States relating to ICT products. Canada considers that Indonesia's application of its tariffs is above its bound rates on ICT products and inconsistent with its WTO commitments, as well as being contrary to the objectives of multilateral trade liberalization. Indonesia's application of tariffs on ICT products has impacted over USD 1 million in Indonesian imports from Canada in 2020, which represents a decrease of 29% compared to 2019. Canada calls

upon Indonesia to uphold its WTO commitments and eliminate all tariffs on ICT products, as it had committed to do under the ITA.

16.36. The delegate of Indonesia indicated the following:

16.37. Indonesia expresses its appreciation to the European Union, Japan, New Zealand, the United States, India, and Canada, for their continued interest in Indonesia's trade policies and practices.

16.38. Regarding the imposition of import duties on telecommunications products, Indonesia is still in the coordination stage with the relevant Ministries and Agencies. Indonesia reiterates its previous statement, namely that it will continue to strive to comply with all its WTO commitments, including those undertaken under the ITA.

16.39. On the Domestic Component Level (TKDN) for the telecommunications, mobile technology, energy, textiles, retail, and franchise sectors, and as Indonesia stated in its statement at the most recent meeting of the TRIMs Committee, the TKDN is intended for government procurement policy, policies that involve maintaining the welfare and meeting the needs of the Indonesian people, or policies involving the handling of strategic resources managed by the state. Indonesia also informs Members that, regarding a comprehensive review of localization measures, it has begun several reviews, and consultations are ongoing.

16.40. Regarding the licensing regime for imports of textiles, steel, agricultural and electronic products, Indonesia refers to its previous statements delivered at the meetings of the Import Licensing and TRIMs Committees, in which it informed Members that Minister of Trade Regulation No. 77/2019 had been revoked. Regarding the licensing regime for imports of agricultural products, Indonesia has always been committed to implementing the recommendations and decisions of the Dispute Settlement Body (DSB) in WT/DS477-WT/DS478, and all articles in the law that are not in accordance with WTO rules have been amended and are no longer valid. Regarding the licensing regime for imports of steel products, and as previously stated in its intervention at the most recent meeting of the Import Licensing Committee, Indonesia intends to ensure that all steel products entering the Indonesian market meet the standards, specifications, and qualifications of the relevant health and safety aspects.

16.41. With regard to import permit procedures relating to SPS, Indonesia refers to its previous statement at the most recent meeting of the SPS Committee, in which it informed Members that, over the past two years, EU accusations of undue delay had no longer been relevant, since Indonesia had also made progress, improvements, and been transparent in its approval procedures. Indonesia also intends to advise the European Union that its SPS National Inquiry Point in Brussels could improve its internal coordination with EU representatives in Geneva so that progress in Brussels could be properly conveyed to Geneva.

16.42. On safeguards for carpets, Indonesia believes that the whole process of their imposition has complied with WTO rules. Indonesia had also taken Japan's concerns seriously, further to hearing those concerns regularly voiced by Japan in various bilateral and multilateral meetings. However, after taking all relevant aspects into serious consideration, and in order to prevent or remedy the serious injury faced by the domestic industry, the government of Indonesia eventually decided to impose such necessary, if temporary, measures.

16.43. Regarding halal labelling rules, and as previously stated in its intervention at the most recent meeting of the TBT Committee, Indonesia intends to reaffirm its openness and transparency for international cooperation in the Halal Assurance System, based on the principles of cooperation, recognition, and acceptance, and in accordance with international practice and regulations. Regarding non-halal labels, labelling is only intended to provide information regarding the product's ingredients.

16.44. On the obligation to use the Indonesian National Standard (SNI), Indonesia notes that the purpose of the SNI policy is to ensure that the relevant products protect the safety, security, and health of Indonesian consumers, and that the SNI is applied to both domestic and imported products. In addition, Indonesia notes that it always strives to fulfil the transparency obligation by reporting every implementation of mandatory SNI regulations and other technical regulations to the WTO.

16.45. In essence, Indonesia reiterates that it has never intended to impede the flow of international trade through import and export policies, especially those relating to government procurement policies concerning meeting the needs and welfare of the Indonesian people. Trade data from 2016 to 2020 shows that, in general, the products in question did not experience a decline, but rather showed a positive comparative trend. Indonesia will always support simplification, transparency, and efficiency to make the implementation of exports and imports easier.

16.46. The Council took note of the statements made.

17 MEXICO – CONFORMITY ASSESSMENT PROCEDURE FOR CHEESE UNDER MEXICAN OFFICIAL STANDARD NOM-223-SCFI/SAGARPA-2018 – REQUEST FROM THE UNITED STATES

17.1. The Chairperson recalled that this item had been included on the agenda at the request of the United States.

17.2. The delegate of the United States indicated the following:

17.3. The United States sustains its concerns for Mexico's NOM-223 – Cheese Conformity Assessment Procedures (CAP), a measure that was recently updated and re-notified to the WTO.

17.4. The US concern is four-fold. First and foremost, NOM-223 contains a conformity assessment scheme that is overly trade restrictive, as the United States has previously detailed. Providing information to consumers about cheese quality is typically a low-risk undertaking. The US and industry are concerned that Mexico's scheme may not be proportional to those risks, and that Mexico does not appear to have seriously considered the alternatives available to meet its consumers' needs. The United States requests Mexico to halt the finalization of the regulation and to consider the alternatives previously proposed by the US Government and industry stakeholders, including reverting the measure to voluntary and using standards of identity, labelling, or supplier's declaration of conformity to demonstrate the completion of third-party test procedures. Second, cheese made from animal fat will have to undergo these burdensome testing and certification requirements, while cheese produced from vegetable fat will not. The US requests Mexico to explain the reasoning for the difference in treatment of these products. Third, the US asks if Mexico has seriously taken into account the comments it received from WTO Members and stakeholders. In 2020, stakeholders provided input into a draft and participated in good faith in the Working Group that concluded in September 2020, and yet the final draft is significantly different from the draft agreed by that Working Group. Fourth, the processes for revising NOM-223 are confusing and potentially conflicting. The United States asks how Mexico will harmonize the final cheese CAP in NOM-223 while the resulting cheese standard in NOM-223 is still being formulated in 2022.

17.5. The United States again asks Mexico to suspend the cheese CAP in its mandatory form and to reconsider the less trade-restrictive alternatives presented to it by other WTO Members and dairy industry stakeholders.

17.6. The delegate of Mexico indicated the following:

17.7. Mexico thanks the United States for its comments. As mentioned in the meeting of the Committee on Technical Barriers to Trade of 10 March, Mexico had notified a new version of its Conformity Assessment Procedure on 8 February, in document G/TBT/N/MEX/465/Rev.1, with a deadline for submitting comments of 9 April.

17.8. The delegations of the European Union and the United States had nevertheless requested an extension of the deadline to submit their comments to 30 April and 9 May, respectively. Mexico is therefore waiting to receive these comments before continuing with the standardization process, which will take place in accordance with the Federal Law on Metrology and Standardization. To date, 278 comments have been received from 21 interested parties.

17.9. The Council took note of the statements made.

18 CHINA – ADMINISTRATIVE MEASURES FOR REGISTRATION OF OVERSEAS PRODUCERS OF IMPORTED FOODS – REQUEST FROM INDONESIA AND THE UNITED STATES

18.1. The Chairperson recalled that this item had been included on the agenda at the request of Indonesia and the United States.

18.2. The delegate of the United States indicated the following:

18.3. The United States notes that China's Decrees 248 and 249 came into effect on 1 January 2022, but China has not responded to requests for scientific justification for these measures and explanation of how these measures will address food safety and public health concerns. The lack of guidance provided by China, and inconsistency in China's implementation and enforcement of the measures, is causing considerable confusion for exporters and competent authorities, which is leading to negative trade impacts.

18.4. The United States requests China to take the following steps to facilitate trade: (i) to allow entry of all products from registered facilities until 1 July 2023. This additional time will allow facilities to accurately enter or update product information in their online registration; (ii) to provide a point of contact at the General Administration of Customs of China (GACC) for facilities to directly submit concerns and feedback about the online registration system; and (iii) to hold an information session, or sessions, in Geneva for trading partners to learn more about GACC's implementation of the Decrees.

18.5. The delegate of Indonesia indicated the following:

18.6. Indonesia expresses its gratitude to China for its prompt response at the March 2022 meeting of the TBT Committee regarding the registration process for Indonesian business actors to be able to continue distributing their products in China. However, Indonesia reaffirms its concern over the implementation of the GACC Decree No. 248, considering that the regulation has created obstacles for Indonesian industry.

18.7. In this regard, Indonesia needs and requests further clarification from China on the following points to rationalize the food product registration process: (i) explanations and guidelines from China regarding the conformity of the HS Code with the CIQ Code, considering that the CIQ Code is only applied specifically to China; (ii) improvements to be made by the Chinese authorities to the guidelines for using the GACC website; (iii) China's clarification of the timeline for the registration process, and China's provision of a contact point or contact person able to provide a quick response during the handling of the registration process; and (iv) clarification from the Chinese authorities regarding the new amendments to Article 11 of GACC Decree No. 248, noting that, since February 2022, China has made adjustments using two mechanisms at once, namely the protocol mechanism and the GACC Decree Registration Mechanism No. 248, which further hampers market access for Indonesian food products to China, including for swallow nest products, fishery products, and porang products.

18.8. Indonesia hopes that China will provide a written response to the issues previously described, and consider a relaxation in the implementation of its registration obligations to prevent losses and obstacles for business actors exporting to China. China has become a significant trading partner for Indonesia for various products, including food and beverages. Indonesia wishes to continue to be a strategic trading partner for China and sincerely hopes that China will reconsider the timing of the policy's implementation.

18.9. The delegate of the European Union indicated the following:

18.10. The European Union expresses its concern about the implementation of Decree No. 248 of the Chinese Customs Administration, in force since 1 January 2022.

18.11. The European Union does not question China's wish to ensure that imported food products come from legitimate sources. Overall, the EU shares and supports this objective. However, problems persist with the mechanism set up by China, in particular the registration of exporting businesses. Several EU member States have reported cases of shipments being held up at ports in

China due to erroneous or missing information in China's online system. Problems have also arisen from the fact that the scope of products under import registration keeps expanding, and there is no full clarity on the categories that are covered. There are also cases of establishments in the meat, dairy, and fishery sectors that were notified to GACC before the deadline of 31 December, but which have nevertheless still not been registered.

18.12. The European Union urges China to take the following actions: (i) to allow, for a period of 18 months, registered facilities to export any related product, regardless of whether it is registered for that particular HS code; (ii) to maintain an open dialogue to solve implementation issues in a pragmatic way; (iii) to facilitate new registrations by providing supporting material and guidance documents in English; (iv) to facilitate amendments and corrections to existing registrations; and (v) to provide guidance on how the competent authorities have to verify the establishments that were registered under the fast-track procedure.

18.13. The European Union wishes to thank China for its constructive ongoing dialogue to solve the technical issues relating to Decree No. 248. However, important implementation issues still need to be solved in order to reduce disruptions to trade.

18.14. The delegate of Norway indicated the following:

18.15. Norway thanks Indonesia and the United States for putting this important issue on the Council's agenda. As previously stated in the SPS Committee, Norway gives high priority to Members' regulations relating to trade in seafood products. Norway shares the concerns expressed by other Members regarding Decree No. 248 that was implemented on 1 January 2022. Norway remains concerned that the regulations contained in Decree No. 248 and Decree No. 249 are more trade restrictive than necessary to ensure the safety of imported food products.

18.16. Norway thanks China for the ongoing dialogue on the new requirements in recent months. However, there are still unresolved questions regarding these new requirements and the registration process. Many Norwegian producers of fish and fishery products have not been able to start or complete the registration process due to technical errors in the China Import Food Enterprise Registration (CIFER) system.

18.17. Furthermore, Norway is concerned by the significant bureaucratic impacts the demands in the new regulation, as well as the CIFER system, will have on its competent authority. Insufficient information, lack of information in English, and technical errors in the CIFER system, have added to the burden imposed on Norway's competent authority. So far, Norway has not received any information to clarify the questions posed by its competent authority to the Chinese competent authority about these details.

18.18. Norway therefore urges China to engage in an open dialogue to solve the implementation issues in a swift and pragmatic way. Norway also asks China to make the necessary changes to its CIFER system in order to reduce the burden imposed on foreign competent authorities.

18.19. The delegate of the Republic of Korea indicated the following:

18.20. The Republic of Korea shares the concerns expressed by other Members regarding China's administrative measures for the registration of overseas producers of imported foods. Korea respects China's right to ensure food safety and recognizes its efforts to accommodate the concerns raised by Members before the measures entered into force this year. However, Korea's concerns as conveyed over the course of previous meetings have still not been duly addressed, and therefore remain.

18.21. First, the Republic of Korea requests China to provide its rationale behind the Administrative Measure, in particular, Article 7 of Decree No. 248, which expands its coverage to low-risk products. Moreover, Korea would like to request more information from China concerning its scientific data or risk analysis used to select its 14 categories. Korea believes that food safety is a legitimate objective, in accordance with relevant international trade norms, but its implementation should not be more trade restrictive than necessary.

18.22. Second, the Republic of Korea considers that the competent authorities of exporting Members have already been experiencing a heavy administrative burden, having to review registration applications of overseas producers and keeping an eye on whether those producers remain compliant with China's regulations and standards after their initial registrations. Korea therefore recommends that China work directly with overseas producers on the application process and also requests that China share its relevant focal point. It is Korea's belief that this will save time and resources, not only for China, but also for overseas producers and their authorities.

18.23. The delegate of the United Kingdom indicated the following:

18.24. The United Kingdom wishes to thank Members for again raising this concern in relation to China's administrative measures for registration of overseas manufacturers of imported foods.

18.25. Despite requests from the United Kingdom and other Members to delay the implementation of these new measures to allow sufficient and reasonable time for competent authorities and businesses to prepare, China's Regulation on Registration and Administration of Overseas Manufacturers of Imported Food entered into force on 1 January 2022.

18.26. The United Kingdom has made significant efforts to meet China's administrative requirements so as to limit any disruption to trade. However, the UK continues to maintain that the blanket application of these measures is incommensurate with the risk posed by many food products. In particular, the requirement to audit establishments exporting products that the UK considers to be low risk places a significant and unnecessary administrative burden on authorities and businesses.

18.27. The United Kingdom therefore requests that China review these measures, applying them in a manner that is proportionate with the risks, and not more trade restrictive than necessary to achieve the appropriate level of sanitary and phytosanitary protection in line with its obligations under Article 5.6 of the SPS Agreement.

18.28. The delegate of Chinese Taipei indicated the following:

18.29. My delegation thanks the United States and Indonesia for tabling this agenda item concerning China's administrative measures for registration of overseas producers of imported foods. With a wide range of our food industries being affected by these measures, Chinese Taipei has also raised the same concerns, on multiple occasions, at the meetings of the TBT and SPS Committees. As the measures have already been in force since 1 January 2022, it is becoming even more urgent to highlight the difficulties faced by so many exporters, as well as the serious risks of trade disruption.

18.30. First, Chinese Taipei considers that one of the greatest difficulties as concerns these measures is the lack of information about registration requirements and guidance on how to follow the requirements. This issue is even more critical for those facilities that need to file their applications themselves. Without sufficient guidance they cannot complete their registrations and, as a direct consequence, trade is disrupted. Chinese Taipei therefore urges China to designate and provide an enquiry point that permits facilities to engage with the relevant Chinese authorities directly to deal with their concerns about the online registration system. Also, Chinese Taipei believes that it would be helpful if China could organize an information session at the WTO for its trading partners to learn more about the GACC's implementation of the measure.

18.31. Second, Chinese Taipei holds many concerns over the review and approval procedure for the measures. For example, the standard or anticipated processing periods are unknown, and the same applies to the status of the application stage. In addition, certain of Chinese Taipei's facilities have received the GACC's rejection without any further explanation, while others are just not able to correct their applications on the registration system. Chinese Taipei therefore asks the GACC to comply with the requirements as set out under Article 5.2.2 of the TBT Agreement, which include the transparency point and require the applicant to be informed in a precise and complete manner of all relevant deficiencies, allowing also an opportunity for corrective actions.

18.32. Third, Chinese Taipei also faces the difficulty of the extent of the ambiguity in the HS code categorization and the product scope subject to this measure. Certain of Chinese Taipei's facilities have reported that their products faced customs clearance suspension for no apparent reason.

18.33. Chinese Taipei has been expressing its concerns ever since China's WTO notification in 2020, and has several times sought clarifications from China through bilateral channels. However, no sufficient or detailed response has been received from China so far. Therefore, Chinese Taipei once again urges China to offer sufficient and detailed guidelines and to designate an effective enquiry point. Any measure of this magnitude requires far more time for industry to implement, so Chinese Taipei also urges China to consider offering a longer grace period for implementation in order to avoid yet more serious trade disruption.

18.34. Last but not least, Chinese Taipei suggests that China temporarily allow entry of all products from registered facilities. This additional time will allow facilities to accurately enter or update product information in their online registration.

18.35. The delegate of Canada indicated the following:

18.36. Canada shares the concerns raised by the United States, Indonesia, and others. Canada and other Members continue to raise significant concerns and challenges with regard to China's administrative measures for the registration of overseas manufacturers of imported food.

18.37. Canada notes that the implementation of the online CIFER system has created trade disruptions for foreign companies, including those from Canada, as shipments are being refused entry into China due to issues with the online registration process.

18.38. Canada remains disappointed that China did not engage in open and constructive dialogue with trading partners prior to the implementation of CIFER, and nor did China provide a reasonable transition period for competent authorities and industry stakeholders to adapt to this new system. In this regard, Canada is requesting that China provide, without undue delay, a grace period of 18 months for all commodities to continue to be allowed to enter China without CIFER registration. This grace period would extend until 1 July 2023, and apply to the following: (i) all companies that were eligible to export to China as of 31 December 2021; and (ii) the companies currently registered in the CIFER. Canada stresses that this grace period is needed to afford companies sufficient time to register and/or amend their registrations, and to avoid unnecessary trade disruptions.

18.39. As many questions remain regarding the registration process, Canada also calls upon China to create a single contact or enquiry point in CIFER for both industry and competent authorities, or alternatively, for China at least to work directly with companies to facilitate the completion of their registration. Canada also asks that China add to the CIFER system, without undue delay, all Canadian products and establishments previously approved by China, but currently not on the list of approved Canadian products and facilities eligible to export to China.

18.40. Canada remains deeply concerned about the impact that these measures are currently having on trade and might continue to have on future trade. These measures have resulted in significant human and financial resource pressures for competent authorities and industry due to their overly burdensome nature, along with the lack of details and transparency from China regarding the implementation of Decrees No. 248 and No. 249. As China continues to implement these measures, Canada requests increased attention by China to the CIFER system to minimize disruptions to trade.

18.41. The delegate of Australia indicated the following:

18.42. Australia remains concerned that China's Regulation on Registration and Administration of Overseas Manufacturers of Imported Food, promulgated as Decree No. 248, will unnecessarily disrupt and restrict trade. Furthermore, Australia is also concerned that Members were not given sufficient time and information to register, adjust, and prepare before China's measures entered into force on 1 January 2022.

18.43. Australia has previously raised its concerns in this regard in both the SPS Committee and the TBT Committee.

18.44. Australian exporters are reporting delays in registration and customs clearance that are adversely impacting their trade to China. In particular, Australia has, in good faith, provided information for registration of establishments that has not been accurately reflected in China's

registration system. This is causing significant industry concern, and for some commodities, it has been trade restrictive. Australian food exporters are ready and willing to comply with China's food safety requirements, but businesses and governments need clarity and a reasonable time-frame to make the changes necessary to comply with the new measures.

18.45. In light of the above, Australia requests that China's customs authorities adopt a flexible approach to implementation, until 1 July 2023, during which time they would allow entry of products in line with historical trade, in addition to entry under China's new system of registration, pending completion of outstanding applications, corrections, or updates to the online registrations.

18.46. Australia urges China to address these issues promptly and remains willing to work with China to minimize trade disruptions.

18.47. The delegate of Switzerland indicated the following:

18.48. Switzerland shares and supports the concerns expressed by other Members regarding Decrees No. 248 and No. 249 published by the General Administration of Customs of the People's Republic of China (GACC). Switzerland supports China's objective of ensuring that only safe food is imported. However, Switzerland regrets that the measures still include all food categories, irrespective of their risk profile, and seem to be more trade restrictive than necessary to ensure the safety of imported food products. Switzerland strongly encourages China to allow entry of all products from registered facilities until 1 July 2023. This additional time would enable facilities to accurately enter or update product information in their online registration.

18.49. The delegate of China indicated the following:

18.50. As explained at previous meetings of this Council and other relevant committees, China reiterates that the purpose of its revision of the administrative measures for registration of overseas producers of imported foods is to protect people's health and safety.

18.51. The process of revision of the above-mentioned administrative measures is open, transparent, and consistent with international rules and common practices. China published the draft on 12 April 2021, and the measures came into force on 1 January 2022. In this process, China received many reasonable comments and suggestions from various Members, and these reasonable comments and suggestions have been taken into account and adopted. China also notified the measure and the transitional period to the WTO, in line with the requirements set out in the TBT and SPS Agreements.

18.52. While strengthening food safety supervision, China also actively considered how to facilitate relevant trade, for example, through the modality of "official recommendation registration" being adopted for the overseas production enterprises of 18 food categories, and simplified procedures for overseas production enterprises *outside* those 18 food categories, namely a "self-application by enterprises" modality.

18.53. China has actively engaged with Members on this issue and carried out a lot of preparation work before the implementation of the measure. For example, the GACC has issued the interpretation of the rules, the Guide for Registration Applications, supporting documents and forms for registration applications, and the Operation Manual for the Registration Information System. By the end of 2021, the GACC has held video conferences with 114 Members, conducted training for more than 2,000 overseas enterprises, and answered various questions raised by Members.

18.54. Since the implementation of the measure, and as of 25 February 2022, more than 100 Members have provided the list of enterprises recommended for registration, and a total of 64,036 overseas manufacturers covering 31 food categories have been registered. To date, the measure has been smoothly implemented. China wishes to continue to engage with those Members that are interested in this issue.

18.55. The Council took note of the statements made.

19 INDIA – ORDER RELATED TO REQUIREMENT OF NON-GM CUM GM FREE CERTIFICATE ACCOMPANIED WITH IMPORTED FOOD CONSIGNMENT – REQUEST FROM THE UNITED STATES

19.1. The Chairperson recalled that this item had been included on the agenda at the request of the United States.

19.2. The delegate of the United States indicated the following:

19.3. As noted at the March 2022 meetings of the WTO TBT and SPS Committees, the United States once again reiterates its serious concerns with India's measure mandating "non-GM (genetically modified) origin and GM free certificates" for certain agricultural imports into India, notified on 2 September 2020, as document G/TBT/N/IND/168, and a later notified entry-into-force date of 1 March 2021. The United States again urges India to withdraw this requirement, and to engage with its trading partners to find a science-based and trade-facilitating alternative.

19.4. The United States also notes the trade-limiting nature of the Order. Indeed, since it went into effect in March 2021, the Order has limited the trade of certain processed products that are not listed in Annex-I of the Order, despite language that stipulates that the Order does not apply to processed food products in general.

19.5. The United States also wishes to encourage India to accept its offer for technical cooperation with the Food Safety and Standards Authority of India (FSSAI) to explore alternatives to this measure.

19.6. The delegate of Uruguay indicated the following:

19.7. Uruguay wishes to thank the delegation of the United States for once again including this concern on the Council's agenda. As Uruguay has previously stated, there is international consensus that genetically modified products, approved by exporting countries on the basis of Codex recommendations in relation to the risk assessment methodology, are equivalent to their conventional counterparts.

19.8. Therefore, in Uruguay's view, there does not appear to be any technical justification for the implementation of the certification measure adopted by India, taking into account the legitimate objective, cited in the standard in question, of ensuring the safety and wholesomeness of imported food. Also taking account of this objective, Uruguay wishes to know why the measure has still not been notified to the SPS Committee, as requested by a number of delegations.

19.9. Uruguay wishes to stress the importance of Members establishing measures based on scientific principles and particularly of applying such measures with the objective of minimizing negative trade effects, in line with the provisions of the SPS Agreement.

19.10. Uruguay remains attentive to any comments or questions that the delegation of India may have in response to Members' concerns expressed in both Geneva and New Delhi, including in a joint note submitted by a number of countries, including Uruguay, in January 2021.

19.11. The delegate of Paraguay indicated the following:

19.12. Paraguay thanks the delegation of the United States for including this item on the agenda. Paraguay has submitted a new trade concern on this matter in the SPS and TBT Committees, and has also made bilateral efforts in New Delhi to handle this concern that unfortunately has not yet been resolved. Paraguay hopes that India will address the concerns raised and offer effective replies shortly, as many of these requests have been submitted bilaterally more than a year before, as also noted by the delegation of Uruguay.

19.13. The delegate of Argentina indicated the following:

19.14. Argentina also thanks the United States for the inclusion of this concern on the agenda. With regard to this measure, although Argentina was able to resolve the issue, it does mean that this new requirement is not an obstacle to trade. At the same time, it remains a meaningless measure since,

as other Members have stated repeatedly, including in the meetings of WTO committees, and as supported by Argentina, it has no scientific explanation to support it. Argentina is concerned that accepting this requirement would set a precedent to include, in the future, other products, or even their derivative products, meaning that trade with Argentina would subsequently be affected.

19.15. The delegate of Canada indicated the following:

19.16. Like others, Canada continues to raise specific trade concerns in the WTO TBT and SPS Committees related to India's non-GM Order, which mandates that a non-genetically modified (non-GM) or GM free certificate accompany imported consignments of 24 imported food products. While Canada welcomes India's recent decision to accept Canada's attestation for non-GM certification on bean products, it remains concerned that India's Order disproportionately impacts upon the ability of GM-producing countries to export to India, as well as unnecessarily restricting international trade.

19.17. Canada is concerned with the lack of scientific support for India's measure given the broad scientific consensus that GM products are as safe as their conventional counterparts, as well as the undue burden and negative commercial impact the measure creates on exporting countries through unjustified certification requirements. Canada encourages India to consider the scientific and technical information in its approach to support a transparent, predictable, risk- and science-based trading environment in line with India's WTO commitments.

19.18. Canada once again requests that India suspend the implementation of this measure and allow trade to continue without a GM-free certificate requirement. This would provide an opportunity for India to further engage with Members to discuss and consider alternative, less trade-restrictive approaches that would meet India's objectives and minimize impacts on trade. Canada would be pleased to contribute to these discussions and share its extensive experience in this area.

19.19. The delegate of India indicated the following:

19.20. India thanks the delegations of the United States, Uruguay, Paraguay, Argentina, and Canada for their interest in this issue. India wishes to inform Members that the requirement to regulate import of GM food is based on the already existing provisions of the Environment Protection Act (1986) and is not a new requirement.

19.21. The Food Safety and Standards Authority of India (FSSAI) Order dated 21 August 2020, requiring a non-GM certificate for import of 24 food crops is only an assurance provided by the competent authorities of exporting countries that the food crops that are not approved by the Genetic Engineering Appraisal Committee (GEAC) for genetic modification are not imported into India. It may also be noted that this requirement has already been notified to the WTO, and is not trade restrictive as it is uniformly applicable to imports from all countries.

19.22. India also wishes to clarify that the requirement for a non-GMO certificate is not applicable to imports of processed food and animal feed. Moreover, the non-GM attestation on phytosanitary certificate, which is already issued for every consignment, is also acceptable. India also requests Members to note that several major trading partners are complying with this requirement and furnishing the copy of their non-GMO certificate in the prescribed format for their export consignments. Nevertheless, India is open to discuss this issue further bilaterally with all Members.

19.23. The Council took note of the statements made.

20 KINGDOM OF SAUDI ARABIA – SABER CONFORMITY ASSESSMENT ONLINE PLATFORM / SALEEM PRODUCT SAFETY PROGRAM – REQUEST FROM THE UNITED STATES

20.1. The Chairperson recalled that this item had been included on the agenda at the request of the United States.

20.2. The delegate of the United States indicated the following:

20.3. The United States brings its concerns over the Kingdom of Saudi Arabia's SABER Conformity Assessment Online Platform/SALEEM Product Safety Program to the Council on this occasion to find

a resolution to its concerns regarding the lack of clarity in Saudi Arabia's conformity assessment program covering 40 technical regulations on a wide range of goods. Despite having discussed US concerns over this program at the Council's previous meeting, as well as at previous meetings of the TBT Committee, US concerns, like those of other Members, have gone unresolved.

20.4. SABER is an online system that was introduced by the Saudi Arabia Standards, Metrology, and Quality Organization (SASO), to operate the SALEEM program. SABER is designed to enable exporters, importers, and local manufacturers to electronically submit and obtain the required certificates of conformity. Unfortunately, the design and implementation of the system has posed some significant barriers to trade.

20.5. As a procedural matter, this mandatory conformity assessment program has never been notified to the WTO. Furthermore, the registration and certification process is inordinately complex and time-consuming; HS codes in the system often do not match international HS codes, causing confusion; it is still not clear in the system what information is required to apply for the Gulf mark and registration number; and finally, there is inconsistency and a lack of clarity in the conformity assessment procedures as implemented by the notified bodies.

20.6. The United States asks the Kingdom of Saudi Arabia to notify the measure and looks forward to Saudi Arabia's substantive responses to its concerns.

20.7. The delegate of the European Union indicated the following:

20.8. The European Union wishes to express concerns similar to those of the United States. The implementation of the electronic certification system SALEEM through the web portal SABER remains a concern for the European Union. And while the European Union wishes to thank the Kingdom of Saudi Arabia for engaging constructively in bilateral talks, the difficulties with SABER still have a major negative impact on the imports of several products from the European Union to Saudi Arabia. Although the conformity assessment requirements differ depending on the sector, several European industries coincide, for example, in reporting their overly costly, burdensome, and time-consuming nature. The toys, textiles, and machinery sectors are particularly affected, but the system is being gradually extended also to other products.

20.9. The European Union wishes to invite the Kingdom of Saudi Arabia to ensure efficient and less costly procedures for all products included in the new conformity assessment system. To this end, the EU remains available to continue its bilateral discussions. The EU also requests Saudi Arabia to notify its measure to the WTO.

20.10. The delegate of Switzerland indicated the following:

20.11. Switzerland is concerned over the potential negative impact of the SABER Conformity Assessment Online Platform on bilateral trade with the Kingdom of Saudi Arabia across a range of products. As other WTO Members, Switzerland is also following this matter in the TBT Committee.

20.12. The registration and certification process remains non-transparent, complex, and time-consuming for Switzerland's exporters. The industry continues to report that the CAPs lead to disproportionate fees and in many cases to unnecessary administrative burden, costs, and duplicative requirements. Depending on the sector, strict CAPs apply for products considered in their majority to be low risk products. In particular for companies exporting quality products in small quantities, the registration and certification process leads to disproportionate costs and documentation requirements that are prohibitive to entering the market.

20.13. Switzerland requests the Kingdom of Saudi Arabia to ensure that the registration and certification process is not more strict than necessary to give adequate confidence that products fulfil the applicable requirements. Furthermore, Switzerland encourages the Kingdom of Saudi Arabia to base the documentation and certification requirements on international standards and to ensure that the requirements are applied in an equal and uniform manner. Switzerland thanks the Kingdom of Saudi Arabia for the useful engagement with its stakeholders and looks forward to further cooperation on this matter.

20.14. The delegate of the Kingdom of Saudi Arabia indicated the following:

20.15. The Kingdom of Saudi Arabia thanks the United States, the European Union, and Switzerland for raising their concerns regarding the SABER Conformity Assessment Online Platform / SALEEM Product Safety Program.

20.16. The SALEEM program works through the development of integrated systems of regulations and standards that conform to internationally recognized professional practices by developing a highly efficient system for measuring product safety indicators in the market through mechanisms and procedures that comply with the technical regulations of each product, especially essential requirements for the health of humans and animals, and environmental protection. These integrated systems of regulations and standards ensure the effectiveness of the services provided by legislative and regulatory bodies to achieve safety by the conformity of those products to SASO Standards. Within the framework of SASO, Saudi Arabia aims to develop conformity assessment activities (certification, audit and inspection, and testing activities) that enable it to become one of the tributaries that raises the level of quality in the national industry and the safety of imported goods presented in the Saudi market.

20.17. By accepting the conformity assessment bodies in the various conformity assessment activities, this process aims to ensure the efficiency of the outputs of the accepted conformity assessment bodies operating in the conformity verification activities within the systems and requirements of the technical regulations approved to provide the necessary activities according to the scope of acceptance of these bodies. Therefore, SASO chose to engage a notified third party responsible for granting conformity certificates in accordance with the international standard ISO/IEC 17067 as part of the Kingdom's pre-market approach.

20.18. The main purpose of SABER is to improve the import experience and obtain the certificates of conformity and shipment by using one platform integrated with other entities. In this regard, SABER has reduced the time required to 1 to 7 working days compared to 7 to 15 working days previously.

20.19. SABER is implementing a series of improvements to the user experience of the SABER Platform (UX Project) and the Kingdom of Saudi Arabia is committed to continuing to improve the user experience on the platform. SABER has added the ability to add products in bulk, and to apply for certificates of conformity in bulk quantities. In addition, SABER has now reduced two steps in the platform where, after adding products, users can proceed to apply for a product certificate of conformity (PCOC). The Users' Manual is available in Arabic and English and in text format and video clips to clarify the process to the users on the platform.

20.20. The SABER Platform reflects technical regulations that had been notified to the WTO. In fact, the SABER platform is a tool that helps local importers and local manufacturers to save time and apply for the conformity assessments scheme. It does not add more policies or requirements. In conclusion, the Kingdom of Saudi Arabia remains permanently available to collaborate and engage with all stakeholders and looks forward to further cooperation on this matter.

20.21. The Council took note of the statements made.

21 PANAMA – ONIONS AND POTATOES HARVEST LIFE AND SPROUTING – REQUEST FROM THE UNITED STATES

21.1. The Chairperson recalled that this item had been included on the agenda at the request of the United States.

21.2. The delegate of the United States indicated the following:

21.3. The United States was extremely disappointed to learn that Panama recently finalized and began implementation of its new technical regulations for potatoes. Given extensive attempts by the US to constructively engage with Panama on this issue, including through requests made at multiple TBT Committee meetings, at the previous CTG, and at a recent high-level mission to Panama, the US is concerned with Panama's lack of substantial response, particularly with regard to the scientific justification for these measures.

21.4. The United States continues to maintain that this measure and a similar measure for onions unnecessarily disrupt trade and appear to lack scientific justification. In this regard, the US asks for Panama to ensure consistency with its international and bilateral obligations, and maintains its availability and commitment to work with Panama to refine the measures so that they meet Panama's legitimate objectives while not being unnecessarily restrictive.

21.5. In the interim, the United States reiterates its request that Panama provide the scientific justification for its measures or suspend implementation of both the potato and onion regulations until the US has an opportunity to conduct technical discussions regarding these two measures.

21.6. The delegate of Canada indicated the following:

21.7. Canada would like to thank the United States for once again raising this specific trade concern.

21.8. As a long-standing supplier of fresh potatoes to Panama with year-round exports, Canada continues to share some of the concerns raised by the United States. In its interventions at the three most recent meetings of the TBT Committee, Canada indicated that implementing these new quality requirements could have a direct impact on Canada's ability to export potatoes to Panama.

21.9. Canada recognizes that Panama has twice delayed the implementation of these measures to allow for further consultations with trading partners. Canada also appreciated the bilateral technical meeting that was held to address its elements of concern on this issue. However, in spite of this positive engagement, Canada notes that its concerns – including restrictive time-limits for storage and marketing, as well as a zero tolerance for sprouting – have not been taken into account by Panama in the latest version of its quality requirements.

21.10. Canada also notes that these requirements were implemented with little advance notice, on 17 February 2022, and much earlier than the previously scheduled entry-into-force date of 2 April 2022. Finally, Canada also observes that Panama did not notify the WTO until after these requirements had already entered into force.

21.11. Canada continues to believe that a long-term solution that would provide a more predictable environment for both importers and exporters can be found through further technical dialogue. However, until such a long-term solution can be found on the elements of concern, Canada respectfully requests that Panama indefinitely suspend the enforcement of this new regulation.

21.12. The delegate of Panama indicated the following:

21.13. Panama thanks the United States and Canada for their comments. Capital continues to work bilaterally in order to respond to this trade concern and hopes to find mutually satisfactory solutions. As mentioned by Canada, Panama has been responding to its trading partners' concerns, as evidenced by the delayed implementation of its measures regarding potatoes. Panama will share with the Council any progress reached through bilateral discussions.

21.14. The Council took note of the statements made.

22 KINGDOM OF SAUDI ARABIA, KINGDOM OF BAHRAIN, UNITED ARAB EMIRATES, THE STATE OF KUWAIT, OMAN, AND QATAR – SELECTIVE TAX ON CERTAIN IMPORTED PRODUCTS – REQUEST FROM SWITZERLAND AND THE UNITED STATES

22.1. The Chairperson recalled that this item had been included on the agenda at the request of Switzerland and the United States.

22.2. The delegate of the United States indicated the following:

22.3. The United States, along with the European Union, Japan, and Switzerland, circulated questions in March 2021 to GCC member State governments regarding the selective tax on beverages.

22.4. While the United States appreciates the information provided during the last CTG meeting in November, it notes that it has still to receive written responses to those questions and asks the

Members concerned to provide an update as to when such responses will be provided. As previously conveyed, the United States also requests a substantive update on revisions to the GCC excise tax model and its implementation plan under the GCC Unified Excise Tax Agreement, and notes the importance of timely engagement with interested parties regarding this issue.

22.5. The delegate of Switzerland indicated the following:

22.6. Switzerland refers to its past statements in this Council¹³, as well as in the Committee on Market Access, where it repeatedly raised its serious concerns with regard to several aspects of the selective tax. Switzerland is disappointed that there has been no progress for a certain time on this issue. In particular, like the United States, Switzerland seeks a clarification on the state of play relating to the current domestic consultation procedures on the tax reform, and whether a target date to complete the consultation procedures is foreseen.

22.7. The GCC member States indicated several times that they would modify the current *ad valorem* tax into a tiered volumetric tax. Switzerland requests more details on this issue, and to know whether the tax will be based on the quantity of sugar or the volume of the beverages. For many years the beverage industry has been negatively impacted and Switzerland calls upon the GCC not to wait any longer and to harmonize the tax rate at 50% for all sugar-containing beverages and to exempt all zero sugar beverages from the tax.

22.8. Switzerland wishes to underline the importance of a timely engagement from the GCC and hopes that this trade irritant will be resolved in the near future.

22.9. The delegate of the European Union indicated the following:

22.10. As previously conveyed in meetings of the CTG and the CMA, the European Union wishes to reiterate its request for a substantive update on revisions to the GCC excise tax model and its implementation plan under the GCC Unified Excise Tax Agreement, while noting the importance of timely engagement with interested parties regarding this issue. In its consultations with capital and Geneva-based representatives of October 2021, the GCC agreed to convene a meeting in January 2022 to review progress. The European Union stands ready to hold such a meeting with the competent GCC authorities without delay.

22.11. The European Union wishes to recall that it seeks GCC confirmation that, in the revised tax system, energy drinks will fall within the scope of a sweetened beverage tax, and be taxed according to the same criteria as applied to other sweetened beverages, meaning solely on the basis of their sugar content.

22.12. The European Union also wishes to underline its call to provide immediate industry relief until the ongoing GCC excise taxation revision takes effect by exempting all zero sugar beverages from the tax and harmonizing the tax rate at 50% for energy drinks and all other categories of sugar-sweetened beverages subject to the tax.

22.13. The European Union stands ready to continue engaging with the GCC on this important issue.

22.14. The delegate of the Kingdom of Saudi Arabia indicated the following:

22.15. On behalf of the United Arab Emirates, the Kingdom of Bahrain, the Kingdom of Saudi Arabia, the Sultanate of Oman, the State of Qatar, and the State of Kuwait, Saudi Arabia wishes to thank the delegations of the United States, Switzerland, and the European Union for the interest they attach to the GCC excise tax regime and for their communication on the application of the excise tax on carbonated soft drinks, malt beverages, energy drinks, sport drinks, and other sweetened beverages.

22.16. As for the timeline of the ongoing process of the new GCC excise tax model and its implementation, the Kingdom of Saudi Arabia recalls, once again, that the revision of the excise tax on beverages is a complex exercise that requires great effort, extensive coordination, and comprehensive studies. To this end, the GCC Working Group on Tax Issues is sparing no effort to

¹³ Document G/C/M/141, paragraphs 23.5-23.7.

complete this exercise in order to submit to the GCC member States appropriate results and a high standard excise tax model. In addition, an appropriate procedures and timeline will be adopted by the GCC member States for the revision of their excise tax regime. Once the process is completed, the related information will be immediately shared with WTO Members. Finally, Saudi Arabia invites Switzerland, the European Union, and the United States to engage in a bilateral meeting in May for further discussion of this matter with the competent authorities in the GCC member States.

22.17. The Council took note of the statements made.

23 INDIA – IMPORT RESTRICTION ON AIR CONDITIONERS – REQUEST FROM JAPAN AND THAILAND

23.1. The Chairperson recalled that this item had been included on the agenda at the request of Japan and Thailand.

23.2. The delegate of Japan indicated the following:

23.3. Japan continues to express its concerns that India's import ban on air conditioners, including refrigerants, introduced in October 2021 through Notification No. 41/2015-2020, is a measure that unreasonably imposes the restructuring of corporate supply chains. Japan is seriously concerned that this measure is likely to constitute an import ban that is inconsistent with Article XI:1 of the GATT as well as Article 2.1 of the TRIMs Agreement.

23.4. India responded at its TPR, and at past meetings of the CTG, that the measure was consistent with its obligations under the Montreal Protocol. However, Japan considers India's import ban to be superfluous and irrational in that it covers a wide range of air conditioners that use refrigerants. Furthermore, these air conditioners are not subject to India's reduction and elimination obligation under the Montreal Protocol, or the regulation for freon gas causing ozone layer depletion under India's domestic regulation.

23.5. In this respect, after considering the previous answers received, Japan submitted written questions to the TRIMs Committee meeting in September 2021 to request more detailed elaborations from India. In this regard, Japan expects India to provide prompt answers to its questions. India has said that it is open to discussing the matter with Japan bilaterally. However, in order to have a constructive discussion, it is important for India to respond in good faith to Japan's written questions.

23.6. In addition, and as mentioned in the CMA recently, with regard to air conditioners, the scheduled date for the IS Mark certification system based on the Quality Control Orders for air conditioners and their parts to come into effect has been postponed from January 2022 to January 2023. Japan appreciates that India has postponed the date on which the order will come into force. However, in order to prevent delays in the certification procedure for imported products, Japan requests that the Bureau of Indian Standards (BIS) conduct smooth overseas factory inspections, or if it is difficult to travel overseas, Japan requests India to consider alternative procedures for certification other than overseas factory inspection.

23.7. The delegate of Thailand indicated the following:

23.8. Thailand joins Japan in reiterating its concern, raised several times, regarding India's import prohibition on air conditioners with refrigerant. Thailand considers that India's measure may be inconsistent with the WTO principle of national treatment, since domestic producers are allowed to inject refrigerant into domestically manufactured air conditioners, but importing producers are not. Therefore, Thailand requests that India amend its measure to ensure that it is in compliance with its commitments under the WTO.

23.9. The delegate of India indicated the following:

23.10. India thanks the delegations of Japan and Thailand for their continued interest in this issue. This issue was also discussed earlier in the CTG, in November 2021, and in the CMA meetings of October 2021 and March 2022, and India believes that it had clarified the questions on those occasions.

23.11. India wishes to draw attention to the notification it made to the Committee on Import Licensing under Article 5.1-5.4 notifications.¹⁴ This notification clearly spells out the details of the banned substances, which are relevant to this agenda.

23.12. Having addressed this in earlier meetings, India reiterates that its measure has been taken to reduce risk to human, animal and plant life and health. As per the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2014, import of air conditioners containing Group VI substances (hydrochlorofluorocarbons) is prohibited since 1 July 2015. India also notes that the measure was necessary for the application of standards and regulations in line with India's commitment to the Kigali Amendment to the Montreal Protocol.

23.13. The Council took note of the statements made.

24 NEPAL – IMPORT BAN ON ENERGY DRINKS – REQUEST FROM THAILAND

24.1. The Chairperson recalled that this item had been included on the agenda at the request of Thailand.

24.2. The delegate of Thailand indicated the following:

24.3. Thailand wishes to reiterate that it is deeply concerned by the Nepali government's measure prohibiting imports of caffeinated mixed energy drinks and flavoured synthetic drinks from Thailand to Nepal since 2019.

24.4. Thailand also wishes to recall Nepal's statements where it justified its action regarding its import prohibition measure on energy drinks on the grounds that it was a balance of payment and foreign exchange reserves matter. Moreover, Nepal had informed the Council that it would provide an official notification to further clarify the precise WTO legal basis to justify its temporary adoption of such a measure, as well as discussing the matter with the relevant organizations to consider the measure's implementation. In this regard, Thailand requests Nepal to update the Council regarding its progress as concerns its official WTO notification, as well as its consideration to eliminate the said measure.

24.5. Finally, Thailand notes that it would welcome bilateral consultations with Nepal with a view to finding a mutually acceptable solution to this issue.

24.6. The delegate of Nepal indicated the following:

24.7. Nepal thanks Thailand for its statement and its continued interest in Nepal's trade policy measures. Nepal notes that this concern has also been raised at the CMA. By way of response to the concern raised today, Nepal refers to its statements delivered at the meeting of the CMA held in March 2022. If Nepal receives any update from capital, it will be shared with Thailand.

24.8. The Council took note of the statements made.

25 SRI LANKA – IMPORT BAN ON VARIOUS PRODUCTS – REQUEST FROM AUSTRALIA AND THAILAND

25.1. The Chairperson recalled that this item had been included on the agenda at the request of Australia and Thailand.

25.2. The delegate of Thailand indicated the following:

25.3. As stated in previous meetings, Thailand wishes once again to express its concern over Sri Lanka's import measures, including its temporary suspension of imports, its imports on a credit basis, and its import control licences. In this regard, Thailand urges Sri Lanka to notify the above-mentioned measures to the WTO.

¹⁴ Document G/LIC/N/2/IND/21.

25.4. These measures have greatly impacted Thailand's exports to Sri Lanka, especially its exports of small passenger vehicles. In this connection, Thailand considers that the measures may be more restrictive than necessary. However, Thailand understands that Sri Lanka has been facing significant challenges arising from problems relating to its balance of payments. Therefore, Thailand requests Sri Lanka to update Members on the impact that the measures in question have had on relieving Sri Lanka's foreign exchange reserve shortage.

25.5. The delegate of Australia indicated the following:

25.6. Australia welcomed the updates provided by Sri Lanka on its series of import restrictions at previous meetings of the CTG and CMA, including its most recent update at the March meeting of the CMA.

25.7. Despite these updates, Australia wishes to reiterate its concerns with respect to the range of import measures currently being implemented and their cumulative impact. These measures appear to be overly trade-restrictive and do not have a clear end-date. Specifically, Australia notes the Sri Lankan Ministry of Finance's Gazette Notice 2270/18 of 9 March 2022, announcing import licensing arrangements on a range of products, including essential food products.

25.8. Australia acknowledges the extremely challenging circumstances that Sri Lanka is under as a result of the impacts of COVID-19, including on its economy and trade. Nevertheless, a well-functioning, transparent, predictable, and stable global trading system remains fundamental to global economic stability. Australia welcomes Sri Lanka working with the Secretariat to ensure these measures are adequately notified to the WTO.

25.9. Australia also requests Sri Lanka to reassure Members that the measures are justified and implemented in a manner consistent with its WTO obligations. Australia remains open to engaging further with Sri Lanka on this issue, including through the suggested briefing with interested Geneva delegations.

25.10. The delegate of Argentina indicated the following:

25.11. Argentina wishes to express its support for the concern raised by Australia and Thailand, and reiterates that Argentina's main export to Sri Lanka, mung beans, has been affected by the measure.

25.12. The delegate of the European Union indicated the following:

25.13. The European Union wishes to express its support for the concerns expressed by Australia and Thailand, noting that the measures have already been in place for two years. The European Union is also aware of the serious economic and foreign debt crisis that Sri Lanka is currently facing and stands ready to continue working together with Sri Lanka in a constructive manner. The European Union hopes to receive information on a restructuring plan soon, according to which these import restrictions can be lifted.

25.14. The delegate of the United Kingdom indicated the following:

25.15. The United Kingdom thanks Australia and Thailand for tabling this item, and echoes the concerns raised by Argentina and the European Union. Sri Lanka's current import restrictions are significantly impacting the UK's trade to Sri Lanka. The UK appreciates the challenges regarding Sri Lanka's current domestic situation. However, the UK wishes to reiterate the necessity for every Member to show transparency in order to facilitate a well-functioning multilateral trading system.

25.16. As the United Kingdom set out at the CMA, Sri Lanka has had almost two years to notify these import measures, consult with fellow WTO Members, and provide an explanation for their WTO basis. The UK therefore asks Sri Lanka again for an update on when these measures will be formally notified to the WTO. The UK would also ask Sri Lanka to clarify its plans to enter consultations with other WTO Members regarding the measures adopted. Finally, the UK would ask Sri Lanka to provide an update regarding the time schedule for when they see an end date for these temporary measures.

25.17. The delegate of Japan indicated the following:

25.18. Japan shares the concerns expressed by other Members. Indeed, Japan believes that these measures may be an import ban that does not comply with Article XI:1 of the GATT, even if Japan understands that Sri Lanka considers these measures necessary due to difficulties with its balance of payments (BOP). At the same time, such an import restriction should not be introduced lightly and needs to be carried out with the utmost caution and due consideration for the substantive and procedural requirements set out in the WTO Agreements.

25.19. In addition, Japan has noted Sri Lanka's explanation in the previous CTG that it has not "introduced any measures besides some on automobiles, plastic products, and chemicals since June 2020." Furthermore, in the most recent meeting of the CMA, Sri Lanka also explained that "regarding certain automobiles and chemicals, these measures were taken with consideration for the impact on the domestic environment."

25.20. In this regard, Japan wishes to ask Sri Lanka to explain the following: (i) what the specific target items are for which import restrictions are being implemented; (ii) what aspects of which system correspond to measures that take into consideration the impact on the domestic environment; and (iii) which domestic laws and regulations stipulate the content of these measures. Sri Lanka has repeatedly explained that these measures are temporary measures due to difficulties with its BOP caused by COVID-19. Accordingly, Japan requests the early withdrawal of these measures in light of improvements in the COVID-19 situation.

25.21. The delegate of Sri Lanka indicated the following:

25.22. Sri Lanka thanks the delegations of Australia, Thailand, Argentina, the European Union, the United Kingdom, and Japan for their continuous interest in Sri Lanka's trade policy measures introduced to curb the adverse impact of the COVID-19 pandemic on its economy.

25.23. As Sri Lanka has already stated at meetings of various committees, including at previous meetings of the CTG, several steps have been taken by Sri Lanka to relax most of those import measures in a progressive manner that were introduced since April 2020 to curb the impact of the COVID-19 pandemic. Most recently, at the CMA held on 30 March 2022, Sri Lanka made a detailed statement on the current status of its import measures and the steps taken by the Government to relax them from time to time. Therefore, Sri Lanka does not wish to make a lengthy statement on this occasion.

25.24. Having said that, Sri Lanka wishes to provide the following clarifications of a few concerns recently expressed by Members regarding Sri Lanka's import measures: (i) on the concerns regarding the newly introduced 369 items to the list of items requiring import licence, the Government of Sri Lanka, through its Regulation No. 2270/18, dated 9 March 2022, introduced 369 new items to the list of items requiring import licence. Importation of these items is not suspended or banned. Any importer, after obtaining a licence from the Department of Import and Export Control, can import these items into Sri Lanka; (ii) on the concerns regarding temporary suspension of automobiles and parts, and as Sri Lanka previously explained at various committee meetings, importation of automobiles into Sri Lanka is highly dependent on the duty-free car permits issued to Government officials from time to time. However, Sri Lanka is not in a position to release much needed foreign currency to import automobiles, which are classified as non-essential items, due to the current economic crisis in the country. Currently, Sri Lanka gives priority to the importation of essential items such as medicine, fuel, and food items with its limited foreign currency available. Once the economy recovers from the current crisis, non-essential items such as automobiles and the spare parts thereof will be permitted to be imported as usual; and (iii) on the concerns regarding the notification of its import measures to the WTO, Sri Lanka has already made its capital-based officials aware of the concerns expressed by Members regarding the delay. Sri Lanka will soon take action in this regard.

25.25. Sri Lanka has taken note of the statements made by delegations on this occasion and will provide its responses soon. Finally, Sri Lanka wishes to inform Members that it has officially begun negotiations with the International Monetary Fund to request its assistance in addressing Sri Lanka's economic crisis, including the BOP issues that the country is currently encountering.

25.26. The Council took note of the statements made.

26 INDONESIA – IMPORT SUBSTITUTION PROGRAMME – REQUEST FROM THE EUROPEAN UNION

26.1. The Chairperson recalled that this item had been included on the agenda at the request of the European Union. He also noted that India's intervention under Agenda Item 16 had also covered this agenda item.¹⁵

26.2. The delegate of the European Union indicated the following:

26.3. Indonesia's import-restrictive policies and practices are a long-standing item in several WTO committees. The European Union is deeply concerned by the fact that the number and scope of Indonesia's restrictions seem to have further expanded over time, with negative impacts on trade flows, which take on an even larger magnitude at a time when growth and economic integration are under major stress due to the pandemic. Against this background, the European Union considers it necessary once again to bring to the attention of the Council some worrisome recent developments regarding Indonesia's increased focus on import substitution.

26.4. Notably, the European Union has serious concerns on reported plans by the Indonesian Ministry of Industry to achieve, by the end of the year, a reduction of imports equivalent to 35% of the value of its 2019 import potential through a range of measures that include expanding local content requirements and the mandatory use of national "SNI" standards, as well as the further promulgation of cumbersome import licensing procedures.

26.5. Implementation of this approach appears to be already under way, for example with the adoption of import restrictions on medical devices through the "freezing" of several foreign devices in the Indonesian e-catalogue for public procurement, preventing their purchase by government health institutions.

26.6. EU operators across a variety of sectors are already negatively affected by the many import-restrictive measures implemented by Indonesia, which will also hamper Indonesia's post-pandemic economic recovery, which cannot be achieved through export promotion alone.

26.7. Accordingly, the European Union requests Indonesia's clarification of its reported plans for an import substitution programme and its underlying rationale, the introduction of the "commodity balance" system as the basis for issuing import (and export) approvals, the implementing measures that it intends to undertake, and how it would ensure that such practices will be compliant with its WTO obligations.

26.8. The delegate of Switzerland indicated the following:

26.9. Switzerland shares the concern that has just been raised by the European Union, in particular Indonesia's plans regarding an import substitution programme aimed at reducing, by end-2022, the import value by 35% compared to its 2019 levels. Switzerland also requests Indonesia's clarifications in this regard.

26.10. The delegate of Japan indicated the following:

26.11. In 2018, Japan noted that Indonesia had implemented its P3DN programme, which stipulates that the purchase and use of domestic products should be prioritized. Japan has also noted the Minister of Industry's statement in February 2022 of its intention to accelerate this programme. Japan shares the concerns that the European Union has raised regarding such import substitution programmes.

26.12. Japan has repeatedly expressed its concerns about the fact that Indonesia has introduced and maintained local content requirements in various fields. Japan has also expressed its concern

¹⁵ Paragraphs 16.25-16.33.

that Indonesia's import licence-related measures have been a *de facto* restriction of import quantity. Japan is concerned that this situation will be exacerbated by the P3DN programme.

26.13. Japan requests Indonesia's clarification of how it intends to implement the P3DN programme. Japan also requests Indonesia to explain how it aims to ensure WTO consistency with the measures that it is working to implement in order to realize its plan.

26.14. The delegate of the United States indicated the following:

26.15. The United States continues to share the European Union's concerns regarding the Indonesian government's statements that it will suppress imports with the goal of "substituting 35% of imported products" in 2022.

26.16. The United States asks if Indonesia has any updates on this item, if it is proceeding with an import substitution programme, and if it will make the draft measures that it is developing publicly available and hold a notice and comment period to ensure that affected parties have the opportunity to provide their input.

26.17. At the most recent meeting of the CMA, Indonesia stated that its policy was not intended to hinder imports from other WTO Members. However, the United States considers that it is difficult to see how this could be possible, and requests Indonesia to provide further clarity on the intent and scope of its import substitution programme.

26.18. In conclusion, the United States again strongly urges Indonesia to rethink its counter-productive and trade-disruptive goal.

26.19. The delegate of Indonesia indicated the following:

26.20. Indonesia wishes to express its appreciation to the European Union, Switzerland, Japan, and the United States for their continued interest in the issue of its import substitution programme.

26.21. Indonesia reiterates its statements delivered at previous CTG and CMA meetings, namely that the import substitution programme is not intended to hinder imports from other Members; rather, its intention is to increase competitiveness by enhancing productivity and endorsing adoption of new technology. In addition, the import substitution programme has no element of protectionism, since protectionism might instead reduce the competitiveness of Indonesia's domestic industry.

26.22. Indonesia once again emphasizes that the issuance of import licences and the Indonesian National Standard (SNI) technical regulation in principle are not related to the import substitution programme. Likewise, the purpose of Indonesian National Standard (SNI) regulations are to ensure that related products fulfil the safety, security, and health aspects necessary to protect consumers in Indonesia. With regard to the SNI, Indonesia reminds the Members concerned that the policy is applied indiscriminately and to both domestic and imported products alike. Therefore, Indonesia concludes that its import substitution programme is already aligned with WTO regulations.

26.23. Finally, Indonesia always strives to comply with the principle of transparency by reporting every single implementation of mandatory SNI and other technical regulations to the WTO.

26.24. The Council took note of the statements made.

27 UNITED STATES – IMPORT RESTRICTIONS ON APPLES AND PEARS – REQUEST FROM THE EUROPEAN UNION

27.1. The Chairperson recalled that this item had been included on the agenda at the request of the European Union.

27.2. The delegate of the European Union indicated the following:

27.3. The European Union regrets to report that the United States has still not resolved this long-standing issue and continues to refuse to take the final and purely administrative step necessary to complete the approval of imports of apples and pears from the EU under a so-called

"systems approach" to replace the current costly pre-clearance system imposed by the United States.

27.4. The initial application from the European Union dates from 2008. All the necessary scientific groundwork has been carried out and the United States finalized its assessment in a satisfactory manner already several years ago. The outcome of this scientific work demonstrated that apples and pears from the EU are safe for import into the United States under the systems approach. However, the United States continues to delay the publication of a Final Notice to allow trade to start.

27.5. While it is true that the US market is already open for apples originating from several EU member States, in practice trade is nearly inexistent due to the overly high costs linked to the current pre-clearance approach imposed by the United States. The European Union regrets that, despite continued bilateral contacts on the matter, the publication of the Final Notice authorizing the systems approach for imports of apples and pears is still pending without any scientific or other motivation being provided. In consequence, the European Union considers that the United States does not respect its obligations under the WTO SPS Agreement.

27.6. The European Union urges the United States to base its import conditions on science, to resolve this important matter without further delay, and to play its part in supporting a constructive and mutually beneficial cooperation.

27.7. The delegate of the United States indicated the following:

27.8. The United States thanks the European Union for its continued interest in the status of the request from eight EU member States to export apples and pears under a systems approach to the United States. The US Department of Agriculture continues to work through its administrative procedures on this request. The US again notes that the EU is able to export apples and pears to the United States under the existing preclearance program.

27.9. The Council took note of the statements made.

28 NIGERIA – RESTRICTIVE POLICIES ON AGRICULTURAL PRODUCTS – REQUEST FROM BRAZIL

28.1. The Chairperson recalled that this item had been included on the agenda at the request of Brazil.

28.2. The delegate of Brazil indicated the following:

28.3. In recent years, Nigeria has been increasingly adopting a series of tariff and non-tariff measures in order to restrict the access of imported agricultural products to its domestic market. These measures range from providing no answer to sanitary certification proposals to maintaining unjustified import bans. Brazil invites Nigeria to provide answers to the questions posed by Brazil during the 98th, 99th, and 100th meetings of the Committee on Agriculture. Brazil also requests to receive answers to the sanitary certification proposals that it had already sent, and which Brazil had mentioned during the 80th meeting of the SPS Committee.

28.4. Nigeria's position on these issues lacks transparency and is not in accordance with the principles of the SPS Agreement, especially Articles 2, 5, 8, and its Annex C, as well as Article 4 of the Agreement on Agriculture. Brazil expects Nigeria to provide answers so that progress on these matters can be made.

28.5. The delegate of Nigeria indicated the following:

28.6. Nigeria wishes to thank Brazil for placing this issue on the Council's agenda. As with other WTO Members, Nigeria's agriculture policies comprise several elements. It would have been helpful if Brazil had placed a specific element of Nigeria's agricultural policies of concern on the agenda of this meeting to enable Nigeria to clarify the measure at issue. To the best of Nigeria's knowledge, Brazil has not raised an SPS-related trade concern with Nigeria. What Nigeria does have with Brazil is a proposal for Nigeria and Brazil to negotiate a bilateral arrangement, and Nigeria does not know

at what point a proposal to negotiate became a trade concern. Therefore, Nigeria requests Brazil to clarify its concern so that Nigeria can respond accordingly.

28.7. Nigeria's agricultural policies are consistent with its WTO commitments under the GATT and the Agreement on Agriculture. Notwithstanding, Nigeria has had to implement some temporary measures pursuant to Article XII of the GATT 1994 to address the economic shocks that have negatively impacted Nigeria's external reserve and exerted unprecedented pressure on its currency, the Naira. These shocks have also significantly weakened Nigeria's ability to finance its imports, have undermined its BOP position, and have increased Nigeria's chances of defaulting on its sovereign debt if timely and appropriate measures are not taken. These temporary measures are also being implemented pursuant to Article XVIII:4(a) of the GATT 1994 to address Nigeria's livelihood and extreme poverty difficulties. Nigeria's extreme poverty and livelihood security difficulties, as well as its high rate of youth unemployment (35% as of December 2021), have also triggered an exponential increase in social ills and vices that have further worsened Nigeria's national security situation. These temporary measures are also geared towards addressing Nigeria's national security difficulties pursuant to Article XXI of the GATT. Its current difficulties notwithstanding, Nigeria's government is working assiduously to address its economic and national security difficulties with a view to phasing out these measures as soon as possible.

28.8. Nigeria notes that it looks forward to receiving specific details from Brazil. In addition, regarding Brazil's same concern, as possibly raised in the Committee on Agriculture, Nigeria will provide a response in due course in line with its statement just delivered.

28.9. Nigeria thanks Brazil for its interest in Nigeria's agricultural policies and will continue to engage constructively with Brazil towards strengthening their thriving bilateral ties.

28.10. The delegate of Brazil indicated the following:

28.11. Brazil thanks Nigeria for its constructive engagement on these matters. As a point of clarification, Brazil is still waiting for Nigeria's written responses to Brazil's questions presented in the Committee on Agriculture. Brazil has presented its questions at three different meetings of the Committee on Agriculture (CoA) and is yet to receive any answers from Nigeria. Accordingly, Brazil requests Nigeria to submit its written answers to the questions from Brazil that Nigeria has received.

28.12. The delegate of Nigeria indicated the following:

28.13. Nigeria is working on its responses to the questions that Brazil has raised through the Information Management System (IMS), and will submit a response before the next meeting of the CoA. Nigeria will also reach out to Brazil bilaterally to see how it can touch upon issues of interest to Brazil, with whom they have strong and close ties.

28.14. The Council took note of the statements made.

29 CHINA – EXPORT CONTROL LAW – REQUEST FROM JAPAN

29.1. The Chairperson recalled that this item had been included on the agenda at the request of Japan.

29.2. The delegate of Japan indicated the following:

29.3. Japan continues to have concerns over China's Export Control Law, which entered into force in December 2020. The details of China's export-controlled items, and the details of the law's regulations and operations, are still unclear.

29.4. As it has stated in past Council meetings, and considering that the objective of the law is to safeguard national interests, Japan wishes to reiterate its concerns over three points in particular. First, Japan is concerned that the scope of products subject to export controls may possibly be excessive. Second, Japan is concerned that there may be cases requiring unnecessary disclosure of technological information during classification and end-user or usage investigations. Third, Japan is also concerned that the provisions on countermeasures for discriminatory export regulation by other countries are maintained in the law.

29.5. Japan believes that the aforementioned export restrictions stipulated in this law may constitute an overly stringent export regulation or be unnecessary in light of the international export control regime. Therefore, they may equate to export restrictions prohibited under Article XI of the GATT and consequently be inconsistent with the WTO Agreement.

29.6. In this regard, Japan wishes to reiterate the following two points, as highlighted in previous meetings of the Council. First, Japan is concerned that the draft regulations on rare earths published in January 2021 mentioned a plan to set out strategic reserves. Japan believes that this plan could mean that China may introduce controls on exports of rare earths and related products in accordance with the aforementioned Export Control Law. Second, regarding the "Unreliable Entities List" and export prohibition list based on the external trade law, Japan is concerned by the lack of clarity in the relationship between the entities list in the Export Control Law and the items covered in the law and the technology list. In particular, with regard to the "Untrusted Entity List" measures, Japan is concerned about whether the fairness and transparency of the certification application of foreign entities to be listed and the content of measures taken against foreign entities would be ensured. Since it could be said that the predictability of the operation is extremely low, this could be seen as being inconsistent with Article X of the GATT.

29.7. Japan understands that China explained at the Council's previous meeting that it was still drafting the supporting regulations and control lists of the Export Control Law, and also that it would maintain communications with relevant Members and provide updates in due course. Accordingly, Japan will continue to observe the details of the regulations on implementing the law and hopes that its concerns will be resolved in the final draft of the regulations. In addition, Japan is of the view that the countermeasure provisions should be removed from the law.

29.8. Japan requests China to provide information on the detailed regulations and their timeline in full transparency, while also providing ample time for their consideration.

29.9. The delegate of the European Union indicated the following:

29.10. As stated at the CTG's previous meeting, the European Union is closely following developments on China's new Export Control Law, which took effect on 1 December 2020.

29.11. The European Union acknowledges the publication of the Export Control White Paper in December 2021. However, the EU is concerned that the White Paper is more about safeguarding China's national interests than contributing to international peace and security. For example, the White Paper seems to imply that existing international export control regimes jeopardize the stability of global value chains and the rights of developing countries.

29.12. While recognizing that the Chinese Export Control Law consolidates China's non-proliferation commitments and export controls, the European Union still wishes to recall its five major concerns regarding this measure, namely: (i) the extra-territorial application of the law; (ii) the rules on deemed exports and re-exports; (iii) the scope of controls; (iv) the retaliation clause; and, finally, (v) the European Union wishes to request China to explain the relationship between the technologies that are subject to the restrictions under the Export Control Law (for example, the lists formulated under the implementing administrative laws and regulations) and the list of technologies that are prohibited or restricted to be exported under the Catalogue of Technologies Restricted or Forbidden for Export.

29.13. The European Union notes that, at the November CTG meeting, China referred to its answers in the context of the TPR exercise. In the TPR, China replied that "[T]he Catalogue of Technologies Restricted or Forbidden for Export does not lie in the applicable scope of the Export Control Law. [...] The former was made according to the Export Control Law, while the latter was under the Regulations on [the] Unreliable Entity List". However, the Export Control Law explicitly stipulates that the purpose of the legislation is to safeguard national security interests, while the Catalogue of Technologies Restricted or Forbidden for Export also aims to regulate management over technological exports and maintain national economic security. The EU requests China to further clarify the differences in this regard, in particular in terms of the consequences for EU companies

and operators in China. The EU refers to its previous CTG statement for full details of these five concerns.¹⁶

29.14. In addition, the European Union requests China to clarify whether the lists originate from multilateral non-proliferation efforts or if they are based rather on national considerations, and if so, which. Finally, the EU also requests China to clarify whether the corresponding references to the lists of multilateral export control regimes will be published in order to provide legal clarity.

29.15. The delegate of Canada indicated the following:

29.16. Taking note of the Export Control White Paper issued by the State Council Information Office in December 2021, Canada requests further clarity regarding the scope and application of China's Export Control Law (ECL). For example, Canada understands that the ECL includes a concept of "national interests" that goes well beyond the scope of international export control regimes that are based on national security and international non-proliferation considerations. Canada requests more information on how China defines "national interests" in this context, and how its definition could affect the breadth of export controls that could be considered under the ECL. Canada asks if, for instance, its definition would allow China to adopt any export controls intended to promote economic development and industrial policy objectives.

29.17. Canada also understands that the ECL includes a provision stipulating that China could take reciprocal measures against foreign countries or regions that "abuse" its export control measures. Canada would appreciate further clarity on how "abuse" of export control measures by foreign countries is defined, particularly "abuse" deemed to be endangering China's "national interests."

29.18. Canada notes the importance of transparency in the application of the ECL to ensure that legitimate commercial activities are not impeded and welcomes any clarifications China could provide in this regard.

29.19. The delegate of Australia indicated the following:

29.20. Australia notes the statements by Japan, the European Union, and Canada, in relation to China's Export Control Law (ECL).

29.21. As set out in its submission to China's consultation with interested parties ahead of the adoption of this law in December 2020, Australia welcomed efforts to codify the regulatory framework for defence export controls. Australia also welcomes China's efforts to clarify aspects of its export control regime through the publication of a White Paper in December 2021.

29.22. However, Australia still has concerns about the broad scope of the ECL. Australia encourages China to continue to provide greater clarity in relation to key elements of the law, including its jurisdiction, the scope of its administrator powers, and confirmation that the law is consistent with China's international commitments, including under the WTO's rules and the China-Australia Free Trade Agreement (ChAFTA).

29.23. Australia continues to urge China to take account of the concerns of foreign businesses and Members in the implementation of this law and the development of future measures.

29.24. The delegate of China indicated the following:

29.25. China wishes to thank Japan, the European Union, Canada, and Australia for their continuous interest in China's Export Control Law.

29.26. China wishes to provide the following clarifications:

29.27. First, China has accelerated the formulation and amendment of the supporting laws and regulations to its Export Control Law in order to provide clearer and more specific guidance for all parties to help them implement and abide by the Export Control Law. China encourages Members to

¹⁶ Document G/C/M/141, paragraphs 28.9-28.16.

continue their engagement with China in this regard, including through submitting their comments and suggestions during the public consultation period for supporting laws and regulations.

29.28. Second, China wishes to reiterate that China's Export Control Law is not intended to impose general restrictions on the general trade between Chinese and foreign enterprises.

29.29. Third, on the relationship between the technologies that are subject to the restrictions under the Export Control Law and the list of technologies that are prohibited/restricted to be exported under the Foreign Trade Law, China notes that any technologies that are civil-military dual-use technologies shall be subject to the Export Control Law.

29.30. Fourth, on Article 48 of the Export Control Law, China's aim in including this provision is to target abuse of export control measures by foreign countries. China considers that including such a provision conforms to the basic norms governing international relations, WTO rules, and internationally recognized practice.

29.31. Fifth, on the restriction list under Article 18 of the Export Control Law and the Unreliable Entity List, these are based on different legal systems. The restriction list under Article 18 targets importers and end-users that "have violated the requirements for end users or end use management" or "may endanger national security and interests" or "have used the Controlled Items for terrorist purposes".

29.32. Finally, China wishes to continue its engagement with those Members that are interested in this important issue.

29.33. The Council took note of the statements made.

30 UNITED STATES – DISCRIMINATORY QUANTITATIVE RESTRICTION ON STEEL AND/OR ALUMINIUM IMPORTS – REQUEST FROM CHINA

30.1. The Chairperson recalled that this item had been included on the agenda at the request of China.

30.2. The delegate of China indicated the following:

30.3. China raised this concern at the March meeting of the CMA. China thanks the United States for responding to its concern. However, China's key concerns remain. China took note of the most recent development regarding the US Section 232 tariffs, where the US will adopt tariff-rate quotas for products previously covered by Section 232 tariffs from the European Union, Japan, and the United Kingdom.

30.4. China's first question is whether, and when, the United States intends to notify the CMA of these measures. Its second question is what the legal basis is for these measures under the WTO rules. China took note that the US had clarified its national legal basis for the measures in the March meeting of the CMA, but nevertheless wishes to know how the US national legal basis for these measures is consistent with WTO rules. On top of that, China wishes to raise the concerns indicated below.

30.5. First, any measures that bring in new quotas, maintain tariffs above the ceiling binding, or discriminate between WTO Members, seem difficult to reconcile with the WTO rules, including Article I, Article XI, and Article XIII of the GATT. Indeed, one Member that had just concluded such an arrangement with the United States issued a statement calling "these duties incompatible with World Trade Organization rules".

30.6. Second, China does not know how to name the approach of raising tariffs first and then reducing them for selected trading partners, but it does constitute a dangerous precedent. China believes that this kind of arbitrary and discriminatory trade policy is contrary to both the letter and the spirit of the WTO rules, as well as the history of the multilateral trading system.

30.7. Last but not least, what deeply worries China is that the parties that signed these trade-restrictive and discriminatory arrangements are major WTO Members. As part of the

arrangement, one Member has even suspended the ongoing WTO dispute regarding this measure. China believes that this kind of practice will significantly undermine the rules-based multilateral trading system.

30.8. It has been almost four years since the United States implemented its Section 232 tariffs on aluminium and steel. Steel prices remained elevated, and trade was disrupted. Instead of selectively removing tariffs on certain partners, the US should correct its course by removing these tariffs and quotas altogether, as required by the letter and the spirit of the WTO Agreements.

30.9. The delegate of Türkiye indicated the following:

30.10. Additional duties by the United States on imports of steel and aluminium products, also known as Section 232 tariffs, have been in force since 2018. Türkiye has been one of the countries subject to these additional duties, which in Türkiye's view violate the WTO Agreement on Safeguards as well as the GATT 1994. These additional duties are also being challenged in the panel proceeding WT/DS564.

30.11. What Türkiye has been witnessing from the very beginning is that an increasing number of Members are being exempted from the additional duties on the basis of certain bilateral agreements with the United States. Although within certain quantitative limits, these Members are now receiving favourable treatment when entering the US market, without paying any additional duty at all. The market share of the Members that received or are about to receive a favourable treatment amounts to 78% of the US market as of 2021.

30.12. Türkiye is of the view that there is no convincing reason for lifting these measures for certain Members while excluding others, in a manner undermining the very basis of the multilateral trading system. Indeed, these quantitative restrictions, and the discriminatory manner in which they are now being applied, appears to be in violation of the core WTO provisions, in particular the non-discrimination principle in Article I, Article II:1(a), and Article II:1(b) of the GATT 1994. These measures are also contrary to the obligations of the United States under Article XI:1 of the GATT 1994, on the elimination of quantitative restrictions.

30.13. Therefore, Türkiye reiterates its request for the total elimination of all additional duties and quantitative restrictions, thus removing any further impediments to global trade in these products.

30.14. The delegate of the United States indicated the following:

30.15. The United States takes note of the comments and questions raised by China regarding the WTO consistency of the Section 232 measures. The United States has invoked Article XXI(b) of the GATT 1994 and its actions are therefore wholly consistent with the WTO.

30.16. Regarding questions relating to the operation of the Section 232 quotas, the United States refers Members to the proclamations issued by the President under Section 232, and to the quota implementation information published on the website of US Customs and Border Protection.

30.17. The Council took note of the statements made.

31 UNITED STATES – EXPORT CONTROL MEASURES FOR ICT PRODUCTS – REQUEST FROM CHINA

31.1. The Chairperson recalled that this item had been included on the agenda at the request of China.

31.2. The delegate of China indicated the following:

31.3. China considers that it is a pity to have to raise this issue again. In February 2022, the United States added another 33 Chinese entities to its so-called unverified list to restrict their ability to receive shipments from US exporters. In recent years, the US has been using export controls as a tool of economic bullying, constantly taking unilateral measures to crack down on Chinese enterprises, institutions, and individuals. China firmly opposes this practice, which disregards basic WTO rules, undermines the market principle and the principle of fair competition, and endangers the

security of global supply chains. China urges the US to abide by the WTO rules and immediately to stop these unjust and unfair practices.

31.4. The delegate of the United States indicated the following:

31.5. As stated previously, the United States does not believe that the WTO Council for Trade in Goods is the appropriate forum to discuss issues related to national security.

31.6. The Council took note of the statements made.

32 UNITED STATES – MEASURES REGARDING MARKET ACCESS PROHIBITION FOR ICT PRODUCTS – REQUEST FROM CHINA

32.1. The Chairperson recalled that this item had been included on the agenda at the request of China.

32.2. The delegate of China indicated the following:

32.3. It is unfortunate that China has to raise this issue again, as two more Chinese companies were banned in March 2022 from providing telecommunications services on the US market. China wishes to reiterate its serious concerns over the relevant measures taken by the United States restricting China's companies from providing telecommunications products and services in the US. China urges the US to abide by the WTO's rules and immediately to stop these unjust and unfair practices.

32.4. The delegate of the United States indicated the following:

32.5. As stated previously, the United States does not believe that the WTO Council for Trade in Goods is the appropriate forum to discuss issues related to national security.

32.6. The Council took note of the statements made.

33 AUSTRALIA – DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT – REQUEST FROM CHINA

33.1. The Chairperson recalled that this item had been included on the agenda at the request of China.

33.2. The delegate of China indicated the following:

33.3. China regrets to have to raise this issue again as no progress has yet been made on it. The key questions that China sent to Australia have still not yet been directly answered. China also has serious concerns that the market restriction and prohibition measures targeting certain Chinese telecommunications companies have been extended to both 5G and existing 4G networks. China urges Australia to review its regulatory policies and to provide fair market access for Chinese companies to participate in its telecommunications sector, and to bring its action into line with WTO rules.

33.4. The delegate of Australia indicated the following:

33.5. Australia again notes China's statement. China first raised this issue in the WTO in late 2018. Since then, Australia has engaged constructively with China to explain the rationale for its position on 5G networks. As previously stated, Australia's position on 5G networks is country agnostic, transparent, risk-based, non-discriminatory, and fully WTO consistent.

33.6. The Council took note of the statements made.

34 EUROPEAN UNION – SWEDEN'S DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT – REQUEST FROM CHINA

34.1. The Chairperson recalled that this item had been included on the agenda at the request of China.

34.2. The delegate of China indicated the following:

34.3. China regrets to have to raise this issue again. Despite its repeated requests, to date, China has not seen any evidence provided by the Swedish Post and Telecom Authority (PTS) showing that Chinese companies' products pose any security risks to Sweden. China requests Sweden immediately to withdraw its non-transparent and discriminatory measure, to provide fair market access to Chinese companies to operate in Sweden, and to bring its action into line with WTO rules.

34.4. The delegate of the European Union indicated the following:

34.5. The European Union notes that the matter raised by China in relation to the recent Swedish 5G spectrum auction is still under legal proceedings in Sweden. In light of these ongoing proceedings, the EU will not enter into details on this issue in the Council on this occasion.

34.6. The Council took note of the statements made.

35 EUROPEAN UNION – BELGIUM'S DRAFT LAW INTRODUCING ADDITIONAL SECURITY MEASURES FOR THE PROVISION OF MOBILE 5G SERVICES – REQUEST FROM CHINA

35.1. The Chairperson recalled that this item had been included on the agenda at the request of China.

35.2. The delegate of China indicated the following:

35.3. China raised this concern regarding Belgium's "Draft Law Introducing Additional Security Measures for the Provision of Mobile 5G Services" on several occasions in meetings of the TBT Committee. In particular, China wishes to refer to its statement made in the TBT Committee meeting held on 11 March 2022. China thanks the European Union for its clarification of the issue at that meeting, while nevertheless noting with regret that the above-mentioned draft law had already been adopted in February 2022, without effectively addressing China's concerns.

35.4. China wishes to reiterate that its major concerns on this issue remain, particularly regarding Article 105, Section 4, of the above-mentioned law. China recognizes that WTO Members are legitimately entitled to protect the security of their 5G network, but the TBT Agreement is very clear that a technical regulation is a document that lays down product characteristics or their related processes and product methods. Moreover, Article 2.8 of the TBT Agreement requires Members to specify technical regulations based on product requirement in terms of performance, whenever appropriate. In this context, China requests Belgium to ensure that its risk assessment on vendors' products be based on objective technical criteria instead of non-technical elements.

35.5. In addition, according to the European Union's response to China's concerns expressed at the March meeting of the TBT Committee, China noticed that, in Belgium's law, the risk assessment criteria are based on the factors set out in the EU's NIS Cooperation Group's 5G Toolbox. It is worth noting that the contents of the Toolbox are quite broad, and its application could create unnecessary barriers to international trade. China suggests to the EU that it notify the law to the WTO while providing a reasonable time for other Members to make their comments on it in writing.

35.6. China also wishes to express its concern on the notification G/TBT/N/BEL/45 in the TBT Committee regarding the Royal Decree and relevant regulations and technical standards. Chapter 2 of the notified Royal Decree prohibits or restricts 5G mobile network operators from using active elements produced by "high-risk equipment manufacturers", but does so without indicating any specific criteria. In this regard, China wishes to point out that there exist international industry standards based on technical criteria. Accordingly, China urges Belgium to comply with Article 2.4 of the TBT Agreement and adopt internationally recognized technical standards that can assess product security objectively.

35.7. Finally, China notes and appreciates the European Union's intervention made at the TBT Committee meeting in March indicating that it would notify to the Committee, with a new commenting period, the revised Royal Decree (G/TBT/N/BEL/45). China looks forward to receiving that notification as soon as possible.

35.8. The delegate of the European Union indicated the following:

35.9. The European Union thanks China for its interest in the "Draft Law Introducing Additional Security Measures for the Provision of Mobile 5G Services" and the draft "Royal Decree for the Secured Rollout of 5G", notified by Belgium to the WTO in documents G/TBT/N/BEL/44 and G/TBT/N/BEL/45.

35.10. During the commenting period for those notifications, for which the initial comment period (60 days) was extended by addendum at China's request, China submitted written comments to which the European Union replied on 8 November 2021. Additionally, in a detailed oral exchange at the TBT Committee meeting in March 2022, the EU responded to further concerns raised by China.

35.11. The notified draft law was adopted on 10 February 2022 and no revision is foreseen in the near future.

35.12. As to the concerns raised by China, the European Union refers to its detailed statement at the TBT Committee, and reasserts notably that, in its view, the adopted law is in line with the TBT Agreement. Risk assessment by the competent authority refers to the most appropriate existing best practices and international standards in accordance with Article 2.4 of the TBT Agreement, as appropriate, where those norms exist.

35.13. On non-technical vulnerabilities, no relevant best practices or international standards currently exist. Therefore, solely referring to existing international standards to evaluate the performance of the product would be an ineffective and inappropriate means by which to fulfil the legitimate objective pursued.

35.14. Additionally, the draft Royal Decree does specify to what degree and in what way high risk vendors are forbidden or restricted. Those restrictions are differentiated according to the various parts of a 5G network to ensure that they do not go beyond what is necessary to achieve the legitimate objective of the measure. Moreover, the adopted law provides for sufficient legal remedies against the decision classifying economic operators as high-risk vendors.

35.15. Finally, the European Union wishes to note that the draft Royal Decree is currently being re-drafted and will be notified in accordance with the TBT Agreement as a revision with a new commenting period in due course.

35.16. The Council took note of the statements made.

36 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM

– STATEMENT BY CHINA

– STATEMENT BY THE RUSSIAN FEDERATION

36.1. The Chairperson recalled that this item had been included on the agenda at the request of China and the Russian Federation.

36.2. The delegate of China indicated the following:

36.3. China notes that, in March 2022, the EU Council agreed a general approach on the Carbon Border Adjustment Mechanism (CBAM). However, China's major concerns remain.

36.4. First, China wishes to know how the European Union will phase out the free allowances allocated to the EU's enterprises under the EU Emission Trading System (ETS). Prior to those free allowances being phased out, China also asks how the CBAM could be considered to be consistent with the WTO principle of national treatment when the EU charges import products under the CBAM.

36.5. Second, China requests the European Union to explain whether it will still treat products that are different only in terms of embedded emissions as like or similar products. If so, China questions how the CBAM could be considered to be consistent with the most-favoured-nation (MFN) principle when the EU charges different carbon prices for these like or similar products.

36.6. Third, if imported products must pay prices for their embedded emissions under the CBAM, and the relevant costs on these imported products exceed the EU's commitment in its Goods Schedule, China questions how the CBAM could be considered to be consistent with Article II of the GATT 1994.

36.7. Fourth, China asks the European Union how it can ensure that the methods of calculation and verification of the embedded emissions of import products and other import procedural requirements will not constitute some new non-tariff barriers for imported products.

36.8. Fifth, China asks if the European Union intends to use the general exception in Article XX of GATT 1994 to ensure the CBAM's WTO compatibility.

36.9. Sixth, China asks if the European Union intends to set up carbon costs refund arrangements for EU exports. If so, China considers that these could amount to prohibited subsidies.

36.10. China believes that effectively to address climate change and promote sustainable development, Members need actively to implement the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, as well as promote trade and investment liberalization in green sectors. UNFCCC Article 3, paragraph 5, clearly stipulates that measures taken to combat climate change, including unilateral measures, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. However, the CBAM, as a unilateral measure, is neither consistent with the basic principles of "common but differentiated responsibilities and respective capabilities" and "nationally determined contributions" under the UNFCCC and the Paris Agreement, nor with the WTO principles and spirit of a free and open multilateral trading system.

36.11. Finally, China hopes that the European Union enhances its transparency in the process of drafting the CBAM by fully taking into account Members' concerns and comments intended to ensure the CBAM's compatibility with WTO rules and that no new trade barriers are created by it.

36.12. The delegate of the Russian Federation indicated the following:

36.13. The Russian Federation reiterates its statements made at previous meetings of the CMA and the CTG and expresses its deep concern with regard to the European Union's proposed CBAM. Russia supports international efforts aimed at combating climate change. Russia also believes that climate change should be tackled only in cooperation between all members of the international community. However, the EU has chosen to act unilaterally by elaborating a trade measure, namely, CBAM, which could result in additional trade restrictions in the EU market.

36.14. The Russian Federation wishes to draw WTO Members' attention to the fact that, according to paragraph 1 of Article 1 of the European Union's draft regulation establishing a CBAM, the goal of the CBAM is "to prevent the risk of carbon leakage". According to the Explanatory Memorandum to this draft regulation, "carbon leakage occurs if, for reasons of different ambitions related to climate policies, businesses in certain industry sectors or subsectors were to transfer production to other countries with less stringent emission constraints or imports from these countries would replace equivalent but less greenhouse gas (GHG) emissions intensive products due to the difference in climate policy".

36.15. The Russian Federation wishes to remind the European Union and all Members that the UNFCCC, as well as the Paris Agreement, allow their Parties to define their own way of achieving climate goals that are most effective for them. According to Article 3 of the UNFCCC, "policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors".

36.16. In addition, Article 5 of the UNFCCC provides for the cooperation of its Parties in order "to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade".

36.17. Despite all these provisions, the European Union has decided to punish all countries that have applied policies different from the EU's own climate policies. Thus, according to the draft Regulation, the CBAM "should apply to goods imported into the customs territory of the Union from third countries, except where their production has already been subject to the EU Emission Trading System (EU ETS), whereby it applies to third countries or territories, or to a carbon pricing system fully linked with the EU ETS". Russia notes that the exclusion of certain Members from the application of the CBAM is unlikely to be justified by WTO rules, or provisions of the international climate agreements.

36.18. In addition to such a discriminatory approach to the application of the CBAM, in March 2022, the EU Council proposed amendments according to which an accredited verifier under the CBAM may be a person accredited in accordance with Commission Implementing Regulation (EU) No. 2018/2067, in other words, the European Union's own people. It makes mutual recognition of verification between the EU and its trading partners, even in theory, impossible. Russia also notes that the EU Council's proposals also expand the scope of products subject to the CBAM.

36.19. For the sake of time, the Russian Federation will not spell out all the CBAM provisions that restrict trade. Russia has circulated its written questions to the European Union in documents G/MA/W/172 and G/C/W/800. However, the EU has failed to provide answers. Russia urges the EU to consider its questions and provide their responses. Russia also expects that the EU will fully respect current trade rules and international climate agreements.

36.20. The delegate of the Kingdom of Saudi Arabia indicated the following:

36.21. The Kingdom of Saudi Arabia thanks the proponents for raising the matter of the CBAM. From Saudi Arabia's perspective, while the European Union stated that the proposed mechanism would be in conformity with WTO rules and other international obligations, the EU is yet to provide explanations of how it aims to achieve this. While the EU is intending to address the risk of investment leakage from the EU to other countries, the main objective is in fact to maintain the competitiveness of EU industries. Saudi Arabia's very preliminary review indicates that the proposed mechanism raises very serious concerns due to its potential medium and long-term negative implications on global trade.

36.22. The Kingdom of Saudi Arabia considers the CBAM's consistency with fundamental WTO rules to be questionable. Therefore, the burden of proof to confirm that this mechanism is consistent with the EU's obligations and commitments regarding MFN, national treatment, rules of origin, and non-tariff barriers (NTBs), lies with the EU itself. Furthermore, monitoring and calculating the carbon emissions embedded in the products covered by the CBAM is not a straightforward task and many details of the calculation methodology are not yet clear. For these reasons, Saudi Arabia requests that the EU provide further clarification on this matter.

36.23. The Kingdom of Saudi Arabia kindly requests the European Union to specify articles in the WTO Agreements that allow it to adopt this unnecessarily complicated mechanism. Saudi Arabia also urges the EU to further engage in consultations with Members in order to ensure the CBAM's full compliance with WTO rules and Agreements and to ensure that the proposed mechanism will not create unnecessary barriers to trade, or be used as a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade, or to be applied in a manner that constitutes protection to EU domestic industries. Finally, Saudi Arabia looks forward to receiving further details and reflections from the EU on its proposed mechanism, and the Kingdom stands ready to engage with the EU and interested Members on this matter.

36.24. The delegate of Paraguay indicated the following:

36.25. Paraguay wishes to reiterate its interest in this trade concern and requests that its previous statements be recorded in the meeting's minutes.¹⁷ Accordingly, Paraguay again requests the European Union to provide information on whether it is planning a tariff reduction for imported products with a low carbon footprint and a tariff increase for those with a larger footprint. Paraguay is of the view that incentives are equally as important as penalties where such measures are concerned.

36.26. The delegate of Türkiye indicated the following:

36.27. Türkiye has shared its comments on the proposed Carbon Border Adjustment Mechanism (CBAM) of the European Union on many occasions, including in the CMA and the Committee on Trade and Environment, as well as on bilateral platforms and during the public consultation process carried out by the European Commission.

36.28. Türkiye thanks the European Commission for its transparent approach and constant information-sharing exercises in the Committee meetings on the current design of the CBAM. Türkiye believes that the international community needs to increase its collective action to mitigate the impact of climate change. However, unilateral response measures risk constituting arbitrary or unjustifiable discrimination in favour of domestic producers, and being disguised restrictions on trade. Türkiye hopes that the CBAM will be fully compatible with WTO rules, both in its design and in its implementation.

36.29. Türkiye also considers that the CBAM, as proposed by the European Commission, appears to lack a proper consideration of the different circumstances and historical responsibilities of Members. In this regard, Türkiye considers that the CBAM should be implemented commensurate with the principle of common but differentiated responsibilities and respective capabilities.

36.30. Finally, Türkiye wishes to highlight that it will continue to follow the process closely and from the perspective of WTO rules, as well as the multilaterally accepted principles of the environmental agreements.

36.31. The delegate of the Kingdom of Bahrain indicated the following:

36.32. The Kingdom of Bahrain shares similar concerns to those raised by the item's proponents and wishes to recall, in this regard, its statement made at previous Council meetings.¹⁸

36.33. The delegate of Brazil indicated the following:

36.34. Brazil refers to its previous statements on the topic¹⁹ and continues to urge the European Union to take into due consideration the comments made by Brazil in the process of its drafting and implementing of the measures under its "Green Deal", and hopes that a channel of dialogue will be established between the competent authorities.

36.35. The delegate of India, addressing Agenda Items 36 and 41, indicated the following:

36.36. India's statement applies to this item and the other agenda items on the European Green Deal and the EU Carbon Border Adjustment Mechanism (CBAM).

36.37. India has been raising its concerns on the proposed rules under the EU Green Deal in various WTO forums, and considers that trade and sustainability policy should create a just and inclusive global green economy where all countries, developed as well as developing, have equal competitive opportunities to supply goods and services. Trade and sustainability policy should avoid establishing a two-tier economy where the developed countries have the resources and capacity to transition to a green economy, while the rest of the world is left in a brown economy.

36.38. Environment is the global commons that Members should all be worrying about the most. Indeed, the world is coming together in an unprecedented manner in addressing the challenges of

¹⁷ Document G/C/M/141, paragraphs 39.45-39.49.

¹⁸ Document G/C/M/140, paragraphs 28.11-28.12.

¹⁹ Document G/C/M/141, paragraphs 39.17-39.24.

the environment and climate change. This was demonstrated in COP-26 in Glasgow and more recently in Nairobi at the UNEP summit.

36.39. At Glasgow, which hosted 194 countries, the world kept in reach the goal of limiting global warming to 1.5°C above pre-industrial levels. For its part, India's Prime Minister announced India's NetZero plans by 2070, presented five nectars or Panchamrit, some with near-term 2030 commitments, and stressed the importance of the acronym LIFE – Lifestyle for Environment.

36.40. In Nairobi, 175 countries came together and made possible the adoption of a landmark resolution to Beat Plastic Pollution, which is a major step forward in global efforts to make peace with nature. An agreement to create a legally binding international instrument is an historic achievement.

36.41. These efforts show collective resolve, which is what is required to solve environmental and climate problems. International Trade Law cannot form the unilateral basis for addressing these concerns. The principles enshrined in International Environment Law, discussions on which predate the formation of the WTO by more than two decades, should be fully reflected in the measures proposed under International Trade Law. The cherry-picking of environment law or measures into trade is not the right way to address the biggest challenge currently faced by humankind. Instead, countries should tackle transboundary environmental problems on the basis of international cooperation.

36.42. India continues to study the various provisions of the European Green Deal and, within that, its CBAM. India *prima facie* believes that these measures encroach upon the sovereign policy-making rights of Members. The proposed measures also violate the basic principles of the International Environment Law, namely common but differentiated responsibilities and respective capacities.

36.43. India remains opposed to such externalization of domestic laws as a matter of principle and continues to analyse the substantive aspect of the proposed legislations.

36.44. The delegate of Canada indicated the following:

36.45. Canada is carefully monitoring developments of the CBAM regulation proposal, and will continue its discussions with the European Union to ensure that all of Canada's carbon pricing systems are recognized under the CBAM. Canada also expects that the CBAM implementation will respect the EU's international trade obligations, including under the WTO and the Canada-EU CETA.

36.46. Canada recognizes the importance of trade tools to address carbon leakage as WTO Members take ambitious climate action. Canada, for example, is exploring carbon border adjustments as a potential tool to mitigate carbon leakage.

36.47. Canada looks forward to collaborating with the European Union, as well as other WTO Members, on how carbon border adjustments could fit into a broader strategy to meet climate targets while addressing potential carbon leakage risks.

36.48. The delegate of Japan indicated the following:

36.49. Climate change is one of the most important issues. Members must raise their ambitions and policy efforts to achieve carbon neutrality worldwide by 2050, while at the same time ensuring a level playing field and preventing carbon leakage. Policy coordination is important for the production and introduction of products with low carbon intensity.

36.50. When discussing policy coordination, each Member has been making reduction efforts in the past according to their own circumstances, such as energy source constraints and the industrial environment, and in principle the focus should be on carbon intensity as the "result of such reduction efforts". In other words, if the carbon intensity of a country or sector is low, the country or sector has taken sufficient measures, and it is unlikely that there would be a problem in terms of the level playing field or carbon leakage.

36.51. In this regard, the European Union's CBAM is designed to be charged when targeted products enter the EU's borders, depending on the level of explicit carbon prices as a policy tool at that time.

However, if any products that are equally carbon intensive and that produce no carbon leakage have tax imposed on the grounds of explicit carbon price differences, it presumably will not be justified for environmental purposes.

36.52. In addition to the aforementioned institutional design issues, it is essential that this measure be designed in a manner that is consistent with WTO rules, as has been repeatedly pointed out. Japan considers that it is paramount to discuss this issue in depth and at the international level.

36.53. The delegate of Kazakhstan indicated the following:

36.54. Kazakhstan reiterates its position as expressed at the Council's previous meeting and continues to follow developments around the European Union's CBAM. Kazakhstan urges the EU to fully consider the CBAM's compatibility with WTO rules and regulations and to ensure that any such mechanism does not create obstacles to trade.

36.55. The delegate of the Republic of Korea indicated the following:

36.56. The Republic of Korea appreciates the European Union's leading role and efforts in tackling ongoing climate change. Korea understands that, in an attempt to address the issue of possible carbon leakage, the EU has introduced the framework of a Carbon Border Adjustment Mechanism (CBAM).

36.57. The Republic of Korea wishes to reiterate that trade-related measures, such as the CBAM, should be consistent with WTO rules, while being carefully designed so as not to function as an unnecessary trade barrier or pose an excessive administrative burden. Korea thus believes that it is essential to provide sufficient information and opportunities for Members to submit their opinions to those that will be affected by the measure. Moreover, with a view to reaching a common understanding on this issue among Members, thereby avoiding an unexpected negative result, it is important to have sufficient discussion and to build a common understanding among international communities, including the WTO, before its actual implementation.

36.58. The Republic of Korea hopes that the CBAM will be implemented in a manner that fulfils the WTO's objectives of ensuring sustainable development and facilitating free trade. Korea will continue to look closely at the process of introducing the CBAM.

36.59. The delegate of the European Union indicated the following:

36.60. The European Union will deliver its statement on the CBAM under Agenda Item 41.

36.61. The Council took note of the statements made.

37 INDIA – PLAIN COPIER PAPER QUALITY ORDER 2020 – REQUEST FROM INDONESIA

37.1. The Chairperson recalled that this item had been included on the agenda at the request of Indonesia.

37.2. The delegate of Indonesia indicated the following:

37.3. Indonesia expresses its gratitude to India regarding progress achieved in their efforts towards resolving the issue of Indonesian paper exports barriers to India, which has previously resulted in considerable losses for Indonesian exporters since the implementation of Plain Copier Paper (Quality Order) 2020.

37.4. Indonesia wishes to inform India that there has been a relaxation of the mandatory quarantine policy, such that the factory visit to Indonesia can now be carried out more feasibly. In this regard, Indonesia seeks information from India regarding the readiness and schedule of inspection of the Bureau of Indian Standards (BIS) auditors to conduct on-site factory inspections in Indonesia.

37.5. Furthermore, Indonesia requests India to accept testing results from accredited conformity assessment bodies in Indonesia as a means of facilitating conformity assessment procedures.

Accordingly, a Mutual Recognition Arrangement could be put in place to ensure the acceptance and recognition of Indonesia's conformity assessment bodies by BIS.

37.6. The delegate of India indicated the following:

37.7. The Bureau of Indian Standards operates its product certification activities as per Scheme-I of the BIS (Conformity Assessment) Regulations, 2018. Under the Scheme, factory inspection is a mandatory requirement for the purpose of granting licences.

37.8. The licence to use the Standard Mark on a product is granted after assessment of the manufacturing and testing capabilities of the applicant manufacturer through factory inspection of the manufacturing premises. During that visit, a sample of the product is drawn and tested at a third-party testing laboratory, or in-house, or through a combination of both for establishing conformity of the product to the requirements of the relevant Indian Standard. At present, there is no provision in the BIS (Conformity Assessment) Regulations, 2018 to undertake remote (virtual) inspection for the purposes of conformity assessment activities.

37.9. Factory inspections were earlier on hold due to the restrictions on international travel because of the COVID-19 pandemic. This position was not discriminatory against any individual Member. Currently, the BIS has started physical inspections for applications received from foreign manufacturers, where the country to be visited is facilitating the visit of fully vaccinated BIS officers who are carrying a negative RT-PCR test report, without the requirement of quarantine or quarantine of up to three days for which the applicant has to bear the charges incurred due to any quarantine.

37.10. The updated rules, as mentioned by the delegate of Indonesia, would be communicated to capital.

37.11. The Council took note of the statements made.

38 PHILIPPINES – SPECIAL SAFEGUARD ON INSTANT COFFEE – REQUEST FROM INDONESIA

38.1. The Chairperson recalled that this item had been included on the agenda at the request of Indonesia.

38.2. The delegate of Indonesia indicated the following:

38.3. Indonesia wishes to thank the Philippines for responding to its concern at recent meetings of the CoA and CMA. However, the Philippines has still not provided information on whether or not it will stop the imposition of the special safeguard (SSG) measure for instant coffee from Indonesia. The SSG measure has been applied by the Philippines for four years, since 2018. Since then, the Philippines has received a staggering amount of USD 92.5 million from Indonesia. Therefore, Indonesia seeks further clarification on the implementation duration of the measure.

38.4. Indonesia believes that the application of an SSG should be temporary or otherwise it would undermine tariff commitments made by the Philippines and the legitimate expectations of other Members concerning tariff liberalization. At the same time, the applied tariff imposed as a result of the application of the SSG mentioned above might also be seen as being inconsistent with the tariff commitments of the Philippines enshrined under Article II of the GATT 1994. Indonesia also urges the Philippines to comply with the WTO principle of transparency and WTO regulations, especially Article 5 of the Agreement on Agriculture, by updating its notification of the operation of its SSG measure. Finally, Indonesia sincerely hopes that the Philippines will review, and immediately stop, the application of its SSG to Indonesian instant coffee products.

38.5. The delegate of the Philippines indicated the following:

38.6. The Philippines thanks Indonesia for its statement on the Philippines' Special Safeguard on Instant Coffee. The Philippines notes that Indonesia had also raised this matter in the Committee on Agriculture, to which the Philippines had provided its preliminary responses. In accordance with Article 5.1 of the Agreement on Agriculture, an SSG may be invoked on an SSG-eligible product if its c.i.f. import price falls below the trigger price. The trigger price for instant coffee was among

those provided in the Philippines' up-front notification in document G/AG/N/PHL/27, in 2002, which is the basis for the imposition of a price-based SSG. The prices of most imports of coffee entering the country during the period were lower than the trigger price, which warranted the application of the price-based SSG.

38.7. The price-based SSG on instant coffee was imposed in August 2018 and its imposition continues since a majority of imports into the Philippines is still coming in at prices below the trigger price and the share of imported brands still dominates the local market. The Philippines lifted the application of its SSG on coffee beans (HS 09.01) in 2018, but the SSG for instant coffee (HS 21.01) remained, as reflected in the Philippines' MA:5 notifications for 2019 and 2020. The Philippines will submit its MA:5 Annual Summary of SSG Action for 2021 notification in due course.

38.8. The Philippines continues to coordinate on this matter with Manila, and looks forward to receiving a copy of Indonesia's statement in writing so that it may be conveyed to capital. The Philippines stands ready to further discuss the issue with Indonesia and remains committed to addressing the matter in the appropriate forum.

38.9. The Council took note of the statements made.

39 UNITED KINGDOM – ENVIRONMENTAL ACT: FORESTRY COMMODITIES – REQUEST FROM INDONESIA

39.1. The Chairperson recalled that this item had been included on the agenda at the request of Indonesia.

39.2. The delegate of Indonesia indicated the following:

39.3. Indonesia recognizes the importance of preserving the environment and combating illegal deforestation, as well as WTO Members' rights to do so. Nevertheless, Indonesia is of the view that such action should be in accordance with the WTO rules and main principles. In this regard, Indonesia wishes to seek clarification from the United Kingdom regarding the mechanism and certain imported forestry products or commodities that would be covered by the provisions in the UK Environmental Act, especially in the Due Diligence on Forest Risk Commodities policy.

39.4. Accordingly, Indonesia requests the United Kingdom for more information on the possibility of a Mutual Recognition Agreement (MRA), regarding the recognition of Indonesian standards in the UK's Due Diligence policy. Finally, Indonesia requests the UK to provide an update on the development of its internal discussions regarding the secondary legislation derived from the UK Environmental Act.

39.5. The delegate of Argentina indicated the following:

39.6. Argentina wishes to express its support for this concern. On this point, Argentina believes that the measure could be discriminatory and overly burdensome, that it could impose significant social costs on developing countries, and that it could prove counterproductive to the United Kingdom's environmental objectives. The additional costs would fall on both overseas agricultural producers and on companies based in the UK that use the products concerned, which would, in all likelihood, lead to diversions of trade, to the detriment of farmers in developing countries who abide by strict domestic environmental regulations.

39.7. The delegate of Brazil indicated the following:

39.8. Brazil supports the adoption of policies that seek to pursue legitimate environmental objectives, but is concerned about the possible adoption of unilateral environmental measures that result in unnecessary negative impacts on international trade. Brazil believes that it is essential that environmental measures related to trade adopted by the United Kingdom are fully compatible with WTO rules, including the principles of most favoured nation and national treatment, in order to avoid potential protectionist bias or the adoption of discriminatory measures.

39.9. Brazil recalls that sustainability cannot be addressed without due attention to its social and economic pillars. In this context, Brazil notes that both the UK and EU proposals on due diligence

requirements for commodities related to deforestation are based on a flawed assumption that reducing demand for commodities that could be related to deforestation would lead people involved in such activities to magically start dedicating themselves to legal and sustainable activities. This clearly overlooks the many challenges that developing countries face, and disregards the principles of the 2030 Agenda. Besides, there are many studies that indicate that, without proper cooperation initiatives, similar diligence policies do not achieve their alleged environmental goals.

39.10. Finally, Brazil urges the United Kingdom to take into full consideration its concerns as expressed by Brazil's Embassy in London.

39.11. The delegate of the United Kingdom indicated the following:

39.12. The United Kingdom thanks Indonesia for its continued interest in the "Implementing Due Diligence on Forest Risk Commodities Consultation Document", as well as Argentina and Brazil for their interventions. As the UK stated at the Committee on Agriculture, and uploaded to Ag-IMS on 15 March, the consultation period closed on 11 March 2022, and the UK aims to publish a report summarizing the feedback within 12 weeks of this closing date. The UK would be happy to have further bilateral discussion with Indonesia and other Members on the UK's due diligence, if helpful.

39.13. The Council took note of the statements made.

40 EUROPEAN UNION – COUNTERVAILING DUTIES (CVD) ON STAINLESS STEEL COLD-ROLLED FLAT (SSCR) – REQUEST FROM INDONESIA

40.1. The Chairperson recalled that this item had been included on the agenda at the request of Indonesia.

40.2. The delegate of Indonesia indicated the following:

40.3. Indonesia wishes to raise its serious concerns over the imposition of trade remedy measures by the European Union on Stainless Steel Cold-Rolled (SSCR) products from Indonesia, in particular, the CVD. On 15 March 2022, the European Commission issued Implementing Regulation No. 2022/433 regarding the imposition of CVD on SSCR products imported from Indonesia. Previously, in July 2021, the EU had imposed Safeguards Duties on Indonesian SSCR products, as well as Anti-Dumping Duties in November 2021. Therefore, Indonesia seeks the EU's clarifications as to its reasons and justification for imposing three different trade remedy instruments at once, on SSCR products from Indonesia.

40.4. The simultaneous imposition of these trade remedies has practically closed access for Indonesian SSCR products to the European Union and does not accord with the WTO spirit of free and open trade. Specifically for the CVD, Indonesia is of the view that export restraints and transnational subsidies, as used by the EU as the basis for its measures, could still not justify the imposition of such a CVD on Indonesia's SSCR products. Thus, Indonesia believes that the imposition made by the EU in implementing the CVD is based on reasons that cannot be justified and a biased and misleading interpretation of the WTO Agreements. For these reasons, Indonesia seeks the EU's further clarifications regarding this matter.

40.5. The delegate of China indicated the following:

40.6. China wishes to thank Indonesia for including this agenda item. China is highly concerned about the European Union's so-called cross-country subsidy investigation practice in this case. China believes that the investigation practice is in violation of both Article 1 and Article 2 of the SCM Agreement and the EU Basic Regulation (EU 2016/1037). The EU also incorrectly interpreted and applied the Articles on Responsibility of States for Internationally Wrongful Acts adopted by the International Law Commission of the United Nations.

40.7. China notes that similar investigation practices had been carried out in other cases and relevant enterprises had filed lawsuits against this kind of investigation practice. China is of the view that the EU's investigation practice in this case abuses the SCM Agreement, undermines the legitimate rights of relevant enterprises, and negatively affects normal economic cooperation and

cross-border investment. China firmly opposes this investigation practice and requests the EU to rectify it as soon as possible.

40.8. The delegate of the European Union indicated the following:

40.9. The European Union appreciates and respects Indonesia's right to develop its steel industry and exploit its considerable nickel reserves. However, this legitimate industrial policy aim should be carried out in line with WTO rules. The EU recalls that it lodged a WTO complaint against Indonesia's export ban on nickel ore. This EU countervailing duty case targets two key subsidies that undermine many competitive EU industries in the emerging new landscape of unfair trade: first, subsidized raw materials critical for industrial value chains; and second, cross-border subsidies deriving from China that Indonesia accepted as its own based on the numerous documents found.

40.10. Two further features need also to be highlighted: first, the Indonesian authorities only partially cooperated in many aspects of the investigation so that the European Union had to rely in part on so-called "facts available"; and second, this case has revealed a large number of agreements between the authorities of Indonesia and China for channelling cross-border subsidies.

40.11. The European Union has acted in full compliance with the WTO rules. The EU did not countervail subsidies granted outside the national jurisdiction of the exporting country. In fact, the Chinese subsidies are clearly attributable to the Indonesian government, as evidenced by Indonesia's dense web of agreements with the Chinese government in the framework of a close cooperation.

40.12. In sum, the European Union's investigation revealed that, by providing subsidies to exporting producers established in Indonesia with the express acceptance and acknowledgment of the Indonesian authorities, China is creating additional capacity and opening new channels in order to export subsidized products to the EU, thereby causing injury to EU producers.

40.13. As long as distortive, WTO-countervailable subsidies continue damaging the EU steel industry and jeopardizing tens of thousands of jobs, the European Union will have no choice but to exercise its legitimate WTO rights to their fullest extent.

40.14. The Council took note of the statements made.

41 EUROPEAN UNION – EUROPEAN GREEN DEAL (CARBON BORDER ADJUSTMENT MECHANISM AND DEFORESTATION FREE COMMODITIES) – REQUEST FROM INDONESIA

41.1. The Chairperson recalled that this item had been included on the agenda at the request of Indonesia. He also noted that India's intervention under Agenda Item 36 had also covered this agenda item.²⁰

41.2. The delegate of Indonesia indicated the following:

41.3. Indonesia wishes to reiterate its interest in this proposal and to request further information from the European Union regarding the European Green Deal policy, particularly as concerns the EU's proposals for its Carbon Border Adjustment Mechanism (CBAM) and Deforestation Free Commodities (DFC). This is an issue that is also of interest to Indonesia, based on benchmark setting and mutual acceptance of certifications.

41.4. Indonesia is of the view that these policies have the potential to create different treatment between products produced in the European Union and imported products, especially for products covered by the CBAM and DFC, including iron and steel products, aluminium, electronic products, and wood products. It is also feared that this situation could lead to an increase in the price of imported products, making these products uncompetitive on the European market. Furthermore, Indonesia also intends to request clarification from the EU regarding the certification mechanism and international standards used in the EU Green Deal policy.

41.5. More specifically, regarding the DFC, Indonesia requests the European Union for clarification regarding the reasons for setting benchmarking per country. Meanwhile, regarding the CBAM,

²⁰ Paragraphs 36.35-36.43.

Indonesia requests clarification regarding the development of discussions on the issue of Mutual Acceptance Verification (MAV).

41.6. Indonesia is of the view that the issue of climate change cannot be used as an excuse to hinder trade, especially for agricultural products, as stipulated in Article XX of the GATT 1994. In addition, any policies relating to sustainability must also pay attention to the needs and capacities of developing countries without disrupting the multilateral trading system; nor should they be used as a means of transferring the obligations of certain developed countries to developing countries.

41.7. Therefore, Indonesia also intends to clarify whether there has been a review of the planned EU Green Deal programme in terms of its conformity with the main principles and regulations of the WTO, in particular the principles of MFN and national treatment.

41.8. The delegate of Paraguay indicated the following:

41.9. Paraguay wishes to thank the delegation of Indonesia for including this concern. Paraguay submitted its questions on the deforestation strategy to the European Union in the Committee on Agriculture, the responses to which it considers have been less than satisfactory.

41.10. The proposed mechanism contains certain trade requirements that would have an impact on trade in goods, which could represent an inconsistency with a number of Articles of the GATT 1994. The measures cover only certain types of product, including some that are produced thanks to massive subsidies in the European Union, such as meat products and soya. There are no criteria set out for the selection of these products, and no evidence is provided to justify their link to deforestation in the countries of origin. A forest is defined as land spanning 0.5 hectares with trees, which is extremely restrictive in terms of what would not be considered a forest. The deforestation-related measures seem solely to cover forests that are no longer found in places such as the EU, and to penalize Members that, for centuries, have contributed to the planet's well-being through ecosystem services, and continue to do so. They fail to take into account a basic principle of international environmental law, namely, common but differentiated responsibilities. They also fail to take into consideration the economic and social aspects of sustainability, which are key for developing countries.

41.11. The due diligence requirements entail a major cost for small and medium-sized producers and Micro, Small and Medium-Sized Enterprises (MSMEs) in developing countries, and it is unclear from the draft measure what type of requirements, in terms of the information adequacy and verifiability criteria, will exist in practice when the measure is implemented. It is also unclear which criteria will be used for the risk assessment methodology and the compliance management obligation, how the European Union will classify countries in its risk assessment system for countries of origin, and when these countries would be notified of their classification.

41.12. Paraguay requests the European Union to inform Members of these elements and to submit their corresponding clarifications.

41.13. The delegate of Uruguay indicated the following:

41.14. Uruguay wishes to thank the delegation of Indonesia for including this item on the agenda. Uruguay remains interested in learning more about the concrete implementation on the ground of the general policy objectives outlined in the European Green Deal, taking into account their potential impact on international trade and production beyond the borders of the European Union. Uruguay shares the objectives of combating climate change and protecting the environment, as reflected in the commitments that it has made under the multilateral agreements on the matter, including the Paris Agreement, and the policies adopted to comply with those agreements.

41.15. However, Uruguay is concerned at attempts to impose the view that a single model of production and sustainable development should be emulated worldwide, without taking into account the specific characteristics and conditions of different countries and regions, the situation of their production systems, and their relative contributions to the problems to be addressed. Another source of concern is the restrictive effects that several of the strategies and policies announced in the European Green Deal may have on international trade.

41.16. The CBAM, regarding which a proposal for a Regulation was presented by the European Commission on 14 July 2021, and which is being considered by the EU co-legislators, is a policy for which the process of development, adoption, and implementation is still being closely followed by Uruguay. In this regard, Uruguay wishes, once again, to stress the importance of ensuring that this measure and other measures to be adopted under the European Green Deal are compatible with the European Union's commitments under the WTO Agreements. In addition, Uruguay remains interested to know how any inconsistencies resulting from the possible simultaneous application of the CBAM for imported products and the "free allowances" for domestic products would be avoided. Uruguay also wishes to know how, in the respective calculations, carbon reduction policies will be taken into account separately from the carbon pricing applied by different countries. Lastly, Uruguay wishes to ask how the European Commission addressed the principle of "common but differentiated responsibilities", enshrined in the Paris Agreement, when preparing the proposal.

41.17. The delegate of Argentina indicated the following:

41.18. Argentina supports the trade concern raised by Indonesia and reiterates its own concern over these measures, which are a matter of growing concern among Members generally. All Members have a duty to combat climate change, but the actions that they take, and the instruments that they use, must be in compliance with their international commitments. Those actions and instruments must neither be more trade-restrictive than necessary to fulfil a Member's legitimate objectives, nor constitute a disguised restriction on international trade. Against this backdrop, Argentina notes with concern the European Union's intention to impose the same level of ambition globally, without taking into consideration the principle of common but differentiated responsibilities. Argentina wishes to stress the importance of avoiding unilateral actions, and considers that such initiatives have the potential to create a major disruption to international trade by discriminating against imported products in an arbitrary and unjustified manner.

41.19. The delegate of the Russian Federation indicated the following:

41.20. The Russian Federation shares Indonesia's concerns on the proposal by the European Commission in its draft Regulation on making available on the EU market, as well as in exports from the EU, certain commodities and products associated with deforestation and forest degradation. In Russia's view, it is another example of unilateral trade-related climate measures under the European Green Deal.

41.21. The measure is supposed to cover six groups of products, namely, coffee, cacao, beef, palm oil, soy, and wood, as well as their derived products. The measure implies due diligence rules in order to prove that the manufacturing of a product has not caused deforestation and forest degradation, and that its production has complied with the national legislation of the country of origin. However, it is unclear not only how the European Union intends to assess the deforestation or forest degradation caused by the production of a particular product, but also on what basis the EU will consider compliance of the production of the product with the legislation of country of origin. Nevertheless, in those cases where the European Commission decides that the manufacturing process has damaged forests, imports of the products covered by the regulation shall be prohibited. In sum, this measure may disrupt traditional trade flows, hamper supply chains, and seems to be in contradiction with the WTO rules.

41.22. The Russian Federation expects that the European Union's environmental policies will not result in an imposition of unnecessary restrictions on international trade, but will be in compliance with WTO rules.

41.23. The delegate of Brazil, addressing Agenda Items 41 and 42, indicated the following:

41.24. Brazil wishes to thank both Indonesia and the Russian Federation for raising these issues. Brazil supports the adoption of policies with legitimate environmental objectives, but is concerned about the adoption of unilateral measures that result in unnecessary negative impacts on international trade, contrary to commitments made by Members in other forums. As countries discuss the interdependence between trade, climate change, and environmental sustainability, it is important that they do so based on the terms, commitments, and principles that are enshrined in the 2030 Agenda for Sustainable Development, the UNFCCC, and in international environmental law more broadly. Most importantly, Brazil recalls the principle of "common but differentiated

responsibilities and respective capacities", which stems from the different historical responsibilities in relation to the global problem of climate change.

41.25. Against this backdrop, Brazil believes that the EU Green Deal, and CBAM, and their due diligence requirements in particular, must comply not only with core WTO rules, but also with the fundamental principles established in international environmental law. In both the UNFCCC and the Paris Agreement, the European Union has agreed to take into account historical responsibilities and respective capabilities, thus committing itself not to seek to impose its standards on other countries. These core principles have then, and continue to be, fundamental to the environmental framework developed over the past 50 years. It is hence very worrying that the EU is constantly engaged in watering down any reference to its responsibilities. At the same time, it does not fulfil its commitments with regards to finance for climate change and technology transfer, and continuously adopts unilateral measures that weaken the environmental regime. This is certainly not the constructive role the world needs and expects from a major actor such as the EU.

41.26. Hence, Brazil believes that the claim that the EU Green Deal, and CBAM in particular, is an ambitious measure is a claim that should be taken with a few grains of salt. First, historical responsibilities mean that countries that industrialized first, benefiting from cheap and more polluting energy sources, should bear a larger brunt of the costs of emissions reductions. Members should also take into account how European companies have benefited from polluting activities all over the world, and that the fiscal capacity the EU currently has to finance and subsidize its transition towards a low carbon economy, derives, to a large extent from centuries of practices that have been far from sustainable, to put it mildly.

41.27. Second, access to finance is a fundamental aspect. A country with a debt to GDP ratio of more than 100% that can borrow at very low cost is not necessarily more ambitious in its investments or policies than a country with a much lower debt to GDP ratio but facing the many challenges highlighted in the recent reports by the International Monetary Fund (IMF) and the World Bank. Fiscal capacities are certainly different. Therefore, although the European Union seeks to advance in several forums that a model based on thousands of euros of subsidies per farmer should be a benchmark for sustainability, its model is simply not replicable in developing countries with limited fiscal capacity. Therefore, the CBAM is not sustainable, is not in agreement with EU commitments in multilateral environmental agreements, and overlooks the social and economic pillars of sustainability.

41.28. Third, if each Member were to use criteria more advantageous to itself, Brazil could impose taxes on countries that did not match its "ambition" of having an energy grid based on 80% of renewable energy sources. Or to use another example, Brazil notes that it is not only concerned about the environment in the Amazon, but also about the livelihood of 25 million people and growing violence in the region. Or should Members perhaps label countries according to how their demand for drugs or illegally sourced timber or minerals are fuelling violence in the region, and tax their products accordingly? This would certainly be a legitimate concern, and other Members could similarly choose other concerns, but unless Members respect the core principles and norms of the WTO, they are further weakening the multilateral trading system.

41.29. Thus, in order to avoid potential protectionist bias or the adoption of discriminatory measures, Brazil urges the European Union to take into due consideration the comments made by Brazil in the process of drafting and implementing the measures under its "Green Deal", and hopes that a channel of dialogue will be established between the competent authorities on these topics.

41.30. Brazil observes that many stakeholders have called for trade negotiators to work closely with environmental experts, as these topics cannot be addressed in silos. In this context, Brazil believes that the best way to move forward in discussions on sustainable development at the WTO is through full respect not only for the WTO rules, but also for those concepts, principles, and commitments that have been agreed in other forums and that reflect the balanced outcomes achieved there.

41.31. Unfortunately, taken together, measures such as the CBAM, "due diligence requirements", and NTBs in dissonance with SPS requirements and others, suggest a very concerning pattern, where the European Union acts unilaterally and in clear opposition to the core principles and norms of both the trade and environmental regimes, thus impairing the capacity of those regimes to provide global

solutions to global problems. Brazil is very proud of the very constructive role it has played in both regimes and urges the EU to reconsider the systemic impact of its unilateral actions.

41.32. The delegate of the European Union indicated the following:

41.33. The European Union appreciates the interest of Indonesia, Paraguay, Uruguay, Argentina, Brazil, and India in this important issue. Recently, in March 2022, WTO Members had the opportunity to exchange with the EU's representative, who explained the state of the CBAM proposal and provided clarifications regarding the mechanism's scope. There is an urgency to tackle climate change and Members can only do it by scaling up global ambition. Indeed, only by taking ambitious actions will it be possible to halt global warming and keep the 1.5°C Paris Agreement goal in reach, while lessening the economic, social, and environmental impacts of climate change. Keeping temperature increases below 1.5°C is still within reach if countries scale up their global ambition. The EU has stepped up its own climate ambition, fully translating the implementation of the Paris Agreement into legislation, and invites its partners to share a comparable level of ambition.

41.34. The introduction of a CBAM to address the risk of carbon leakage is an integral part of the EU's implementation and ambition, as reflected in the European Green Deal, to avoid that EU climate action is undermined. The CBAM is only one of many components of the European Green Deal, which sets out a path towards achieving the EU's climate targets. It aims to provide market incentives to the private sector to green their production. The CBAM is a purely climate-oriented environmental policy tool, which will be applied in a non-discriminatory and even-handed manner, in full compliance with WTO rules and other international obligations. The proposal is based on the actual carbon content of a product. And by mirroring the existing EU Emissions Trading System (ETS), it ensures that foreign and domestic producers are treated equally.

41.35. The CBAM does not target third countries but is addressed to companies as it applies to goods of certain carbon-intensive sectors and takes into consideration the application of carbon pricing systems by third countries (opening possibilities for reduction or non-payment of the CBAM charge) and the carbon footprint of individual producers (the CBAM will be charged according to the actual emissions of imported goods).

41.36. Under the proposal, and with a view to providing third countries with legal certainty and stability, a monitoring and reporting system would apply from 2023 and finish at the end of 2025, giving time for the final system to be put in place. This transitional period will give trading partners time to prepare. The system will be subject to a review in 2025.

41.37. The impact of the CBAM will be limited on third countries. The European Union has been in dialogue with the most affected companies and governments.

41.38. The proposed CBAM would begin to be applied, with revenue collection, only in 2026. As of 2026, the CBAM will gradually begin to be applied to the products covered in direct proportion to the reduction of free allowances allocated under the EU ETS for those sectors. Over time, the CBAM will replace the free allocation of allowances.

41.39. The Fit for 55 package of proposals, including the CBAM, is currently undergoing legislative procedure before the EU co-legislators. In March 2022, the EU Council adopted a common approach on the CBAM proposal, which is currently being debated in the European Parliament. The co-legislators will analyse the package in depth and come to a joint agreement in order to adopt the different proposals. The EU stands ready to engage with trade partners and international organizations to inform, and where possible, to assist with the implementation of the measure.

41.40. As regards the proposal for a regulation on deforestation-free products, the European Union would like to underline that the measure aims at enhancing trade in products from "deforestation-free" supply chains. This proposal aims at creating more sustainable supply chains and takes action against deforestation and forest degradation. The draft measure would impose obligations on operators and traders aiming to place the commodities and products in its scope on the EU market.

41.41. The draft measure is based on the following principles: first, transparency, accountability, and a sound scientific and methodological basis; second, consistency with agreed international

commitments, notably halting deforestation at the levels of December 2020, in line with SDG 15; and third, non-discrimination, as it treats domestic and imported commodities and products equally, and covers both imports and exports.

41.42. The draft measure is part of a broader set of policies. It will be implemented hand-in-hand with other measures including, where appropriate and feasible, support to producing countries, dialogue with other large consumer countries, and cooperation at international level, especially in the relevant multilateral forums. The European Union is open to engage with producer countries concerned by the draft measure to jointly address deforestation and forest degradation and facilitate adaptation to the incoming new EU rules on deforestation.

41.43. The Council took note of the statements made.

42 EUROPEAN UNION – THE EUROPEAN GREEN DEAL – REQUEST FROM THE RUSSIAN FEDERATION

42.1. The Chairperson recalled that this item had been included on the agenda at the request of the Russian Federation. He also noted that Brazil's intervention under Agenda Item 41 had also covered this agenda item.²¹

42.2. The delegate of the Russian Federation indicated the following:

42.3. The Russian Federation reiterates its statements made during the previous meetings of the CTG and expresses its deep concern in respect of the European Green Deal and its implementation. Russia wishes to note that these measures cover all sectors of the economy. Russia also notes that WTO Members are currently raising specific trade concerns with regard to certain elements of the Green Deal in the meetings of different WTO working bodies.

42.4. Unfortunately, the Russian Federation can already see that certain of the European Union's "green" measures may impede trade and be used as a means of "green protectionism", including as an instrument of import substitution policy. Russia will provide only a few examples. Earlier in the meeting, Members discussed the Carbon Border Adjustment Mechanism (CBAM). It is no secret that the imposition of this mechanism is closely related to the desire of the EU to substitute imported energy products by their own energy sources. Such substitution has already caused a rise in production costs on the EU market and the transfer of production from the EU to other countries, also called "carbon leakage".

42.5. Another EU proposal under the Green Deal umbrella is the reduction in the use of fertilizers by 20%, and pesticides by 50%, by 2030. These initiatives are fixed in the Farm to Fork strategy and the strategy on biodiversity. These requirements, upon their implementation, will inevitably lead to a rise in food production costs, which will lead to a need to impose new restrictions on imported products. In fact, Members already see proposals aimed at restricting trade in agricultural products. For example, under the previous agenda item, Members discussed the European Union's regulation on deforestation-free commodities. However, Members cannot exclude the expansion of restrictive measures in the future.

42.6. Another measure that causes deep concern is the draft EU Batteries Regulation notified in document G/TBT/N/EU/775. This measure sets out product requirements for new batteries as a condition for access to the EU market, as well as material recovery targets for waste batteries. This regulation specifically sets requirements on the maximum level of carbon footprint over the life cycle of batteries and the minimum level of recycled materials, such as cobalt, lithium, lead, and nickel. Apparently, the requirement for the minimum level of recycled materials in batteries is aimed at reducing the use of primary metals in the EU, which are in most cases imported. The requirements in this draft Regulation are not based on science, nor on international standards or guidelines that specify the content of recycled materials in batteries, material recovery targets, and the levels and methodologies for the calculation of carbon footprint over the life cycle of this product.

42.7. Of course, the European Green Deal is not limited to the listed measures. It also provides for the promotion of EU energy standards and technologies at the global level, the diversification of

²¹ Paragraphs 41.23-41.31.

energy sources of supply, the adoption of new technical regulations, the revision of competition rules, and so on. Most of the respective projects are, or will be, heavily subsidized, and their implementation would lead to the replacement of traditional foreign supplies from the EU market.

42.8. Members already see the compensation of costs for reduction of indirect emissions in accordance with the EU ETS State Aid Guidelines. In this context, the Russian Federation was surprised by the European Union's launch of a dispute against the UK's measures related to renewable energy. Russia will closely monitor the development of this dispute.

42.9. Summing up, the Russian Federation draws Members' attention to the fact that, whatever activity WTO Members plan within the framework of environment and climate change, it should be carried out in accordance with fundamental WTO principles and rules and should not result in any kind of discrimination or disguised restrictions on trade. Russia expects that current trade rules will be fully respected.

42.10. The Council took note of the statement made.

43 AUSTRALIA, CANADA, EUROPEAN UNION, JAPAN, NEW ZEALAND, SWITZERLAND, UNITED KINGDOM, AND THE UNITED STATES – UNILATERAL TRADE RESTRICTIVE MEASURES AGAINST RUSSIA – REQUEST FROM THE RUSSIAN FEDERATION

43.1. The Chairperson recalled that this item had been included on the agenda at the request of the Russian Federation.

43.2. The delegate of the Russian Federation indicated the following:

43.3. The Russian Federation wishes to draw Members' attention and express its deep concern in respect of unilateral trade restrictive measures imposed by, *inter alia*, Australia, Canada, the European Union, Japan, New Zealand, Switzerland, the United Kingdom, and the United States, in trade with Russia.

43.4. The measures affecting international trade with Russia that have been introduced recently amount to the tune of several thousands. The most relevant measures for the mandate of the CTG – introduced or announced – include, among others, the following: Australia's import ban on Russian oil, oil products, coal, gas, an additional tariff of 35% for all imports from Russia, prohibition on export of aluminium ores and concentrates, corundum, and aluminium oxide hydroxide; Canada's import ban on petroleum originating from Russia, an additional tariff of 35% for all imports from Russia, and an export ban on goods used for oil exploration and production; the European Union's import ban on certain Russian energy products, coal, iron and steel, sea products, cement, chemicals, wood products, paper, furniture, gas turbines, vessels, quantitative restrictions on import of fertilizers, export ban on goods and technology used in the energy sector, including in oil refinery and gas production, vessels, marine engines, maritime navigating systems, aircrafts and parts thereof, semiconductors, and noting that the EU's import and export ban embrace hundreds of product categories; Japan's import ban on certain alcohol products, wood and wood products, electric machines, increase in import duties for certain sea and wood products, export ban on semiconductors, integral circuits, analog-to-digital converters, solar cells, resistors, marine and aviation safety equipment, diesel engines, computers and their parts, oil refining equipment, navigation equipment, and others; New Zealand's announced application of 35% tariffs to all imports from Russia, export prohibition on industrial products such as ICT equipment and engines; Switzerland's import ban on Russian iron and steel, coal, wood and wood products, cement, seafood, alcohol products, export ban on goods for oil refinery, tubes and other products used in oil and liquefied gas production, navigation equipment, industrial robots, and certain chemicals; the United Kingdom's additional import duty of 35% for certain products originating from Russia, such as fertilizers, wood, pneumatic tyres, cement, beverages, spirits, glass and glassware, cereals, paper and paperboard, machinery, ships, boats and floating structures, an import ban on iron and steel, quantitative restrictions and prohibitions on export of critical-industry goods and technology, aviation and space products and technology, and energy-related goods; the United States' prohibition on imports from Russia of all energy products, coal, fish and fish products, alcohol beverages, non-industrial diamonds and any products that may be defined by the Minister of Finance, permanent normal trade relations status revoked, export prohibition or restrictions on equipment used for the extraction and refinery of oil and gas, microelectronics, telecommunication

equipment, navigation equipment, aviation parts and components, this export ban also covering products supplied by third countries that are made with the use of US software and technology.

43.5. In most cases the import and export restrictions introduced against Russia are not notified to the WTO, which makes it more difficult to track them. And the above listing was just a fraction of the measures adopted or announced by the aforementioned WTO Members. For the sake of time, Russia is not specifying all of the measures. However, the above-listed measures that are directly applied to trade in goods are just the tip of the iceberg as there are also measures resulting in an immense impact on trade in goods introduced by the aforementioned WTO Members against Russia's largest banks, insurance agencies, transportation companies, export support agencies, industrial companies, seaports, legal and natural persons, including top management, and the owners of Russia's largest companies that operate in such sectors as oil and gas, energy, fertilizer production, finance, transportation, and many, many others. The unilateral measures introduced also involve the closure of airspace for Russian aircraft and bans on the use of foreign seaports. Measures against companies and individuals include the freezing of assets and a prohibition to deal with such persons. International transportation and trading companies are also coerced to refuse to work with Russian exporters, including those from the food, energy, and fertilizer sectors. Foreign governments are also coerced to cease dealing with Russia, including buying its energy resources.

43.6. All these measures not only contradict the WTO rules but also massively disrupt international trade flows, break global supply chains, and lead to increasing energy costs and spikes in food prices globally. Russia is the third largest oil and second largest natural gas producer in the world, and the world's largest oil and gas exporter. Unilateral measures against Russia's oil and gas producers, financial sector, as well as pressure on international transportation, trading companies, and foreign governments, not to work with Russia's oil and gas sector have led to the increased oil and gas prices.

43.7. High energy prices translate into higher consumer prices across the full board of products, including food, fuelling inflation expectations and slowing economic growth. The UN Report, issued on 13 April 2022, indicates that "spot freight rates continue at historically very high levels, although they have been declining over the last weeks (...) mostly due to seasonal reasons. Rates to charter container ships are at historical highs." There are press reports saying that to undercut fuel prices the US Administration has announced increased sales of biodiesel which results in even higher agricultural commodity prices.

43.8. Higher gas prices also lead to higher manufacturing costs for fertilizers that are produced from natural gas. Russia and Belarus account for over 20% of world exports of fertilizers, with 15.4% accounted for by Russia and the rest by Belarus. Moreover, Russian fertilizer producers are multinational corporations with production facilities across the world. Unilateral measures have led to significant disruptions in their operation and in some cases have resulted in the suspension of production processes in facilities located not just in Russia but also abroad, including in the European Union, due to the lack of raw materials from Russia and Belarus.

43.9. Fertilizer deficit could result in a substantial decrease in the harvest yielded in 2022, and consequently food shortages around the world. The risk of a global food crisis relates not only to supply disruptions, but also to supply chains and logistical interruptions caused by the unlawful unilateral measures of the aforementioned WTO Members. According to the UN Food and Agriculture Organization, "supply chains and logistical disruptions on Russian grain and oilseed production will have significant food security repercussions", especially for the 50 countries that depend on Russia for wheat supply. Many of these countries are least developed or low-income, food-deficit countries in Northern Africa, Asia, and the Middle East.

43.10. Considering the situation on the wheat market, which is a particularly important crop for developing and least developed countries, the WTO, in its Secretariat paper entitled "The Crisis in Ukraine", issued on 11 April 2022, underlines that the direct effect of the special military operation in Ukraine has a limited impact on global wheat prices, whereas unilateral measures against Russia are projected to have a larger impact on global consumer prices of wheat. According to this paper, 66% of the projected increase in the consumer price of wheat globally will be due to the unilateral measures. Vulnerable populations in developing and least-developed countries are particularly exposed to these price swings as they dedicate a larger share of their income to food and energy.

43.11. The UN Report, issued on 13 April 2022, indicates that global inflation rose to a decade high of 5.2% in 2021, forcing many central banks to signal sooner-than-expected increases in interest rates, leading to higher debt servicing costs for the developing world; given further increases in energy and food prices driven by unilateral trade restricting measures, this scenario will become even more prominent.

43.12. The same UN Report continues by stating that "[r]ate hikes alongside financial disorder would be a double blow for developing economies, of 'taper-tantrum-like' effects through interest rate rises and greater volatility in commodity futures and bond markets, leading to increased risk premiums on top of exchange rate pressures." Given the uneven access to financial resources in developing countries, they also have fewer means to address the consequences. Members are already witnessing the effects of the trade restrictive policies in certain developing countries, where high prices on energy and food products have already caused social unrest and political crisis.

43.13. As rightly stated in the WTO Secretariat paper issued on 11 April 2022, "[I]n the 1930s, the division of the world economy (...) led neither to prosperity nor peace. That experience is at the foundation of the rules-based multilateral trading system." Abundant unilateral trade restrictive measures tearing the world economy into pieces is the last thing that the world needs now. Such a vast and outright violation of WTO rules is a massive blow to the WTO system. It undermines the role of the WTO as a guarantor of international trade rules and shows that no Member is safe from such vast, unjustified, and unlawful measures in future.

43.14. The Russian Federation expresses its concern over the attempt to replace the system of global economic governance with unilateral restrictive measures of extraterritorial scope. Despite different pretexts for such destructive policies, they in fact put at serious risk the prospects for global economic growth and disproportionately hit developing countries. Being of a complex nature, these unilateral restrictive measures already have systemic negative implications on global value chains, international markets, and price stability. In this context, the Russian Federation calls upon its partners to restore the smooth functioning of the international economic institutions and their legal frameworks in an open and non-discriminatory manner.

43.15. The Russian Federation urges the WTO Members in question to immediately lift their unilateral trade restrictive measures, including those with extraterritorial implications, and to stop their coercive actions intended to force other WTO Members to follow suit.

43.16. The delegate of the United Kingdom indicated the following:

43.17. This item would not be on this meeting's agenda if it were not for Russia's illegal invasion of Ukraine. As already laid out under Item 2, Russia's actions are an egregious violation of international law. Indeed, it is Putin's aggression – and not the measures Russia refers to – that lies behind the most recent rises in global food, energy, and other commodity prices. The crises are the responsibility of one WTO Member only: the Russian Federation. And the solution lies with one WTO Member: Russia must withdraw its troops.

43.18. The United Kingdom recognizes the huge strain that the impact of Russia's invasion is putting on trade in goods for many countries, particularly those dependent on wheat and fuel imports. Members have heard from Ukraine that they are losing USD 1.5 billion in grain exports per month. According to Ukrainian officials, Ukraine is unable to export 13 million tonnes of corn and 3.8 million tonnes of wheat. Current estimates suggest that approximately 1.25 million tonnes of grains and oilseeds are sitting in ships blocked in Ukrainian seaports due to Russia's invasion and occupation. Their cargo may deteriorate in the near future, and alternative transport options are limited. Again, the UK implores Russia to withdraw its troops so that Ukraine can plant, harvest, produce, and export the food needed to feed the world.

43.19. Not only is Russia's illegal invasion reducing Ukrainian exports but, when the UK looks at Russia's own controls, it notes that Russia has put in place restrictions on, for example, fertilizer exports. And the Russian Federation has also put in place restrictions on wheat, and on many other grains, including meslin, rye, barley, corn, sunflower seeds, and rapeseed seeds. The Russian Federation has also put in place restrictions on exports of sugar as well as sunflower oil.

43.20. The United Kingdom, by contrast, does not have any restrictions on the export of essential foods. Instead, the UK recognizes that such restrictions would cause further harm for the most vulnerable countries and people suffering from Russia's attack and its global repercussions. The UK understands that this is not just a short-term hit, and that some of the impacts will be sustained due to the longer-term implications of Russia's illegal war. For example, Ukrainian farmers and manufacturers cannot plant, harvest, or produce because of Russian tanks in Ukrainian fields. Therefore, at least this year's crop in Ukraine is being disrupted, and the scope for other producers to respond is limited until next year. The UK also recognizes that the fall-out from Russia's illegal invasion is exacerbating trends already in place as a result of the COVID-19 disruptions, and that, from tight supply chains to fiscal pressures, developing countries are still dealing with the fallout of the COVID-19 pandemic. Russia's invasion is impacting an already fragile situation. Working with its international partners, the UK is therefore determined to support countries to mitigate the impact on their economies and their people.

43.21. To conclude, the United Kingdom will continue to take any actions that it considers necessary to protect its essential security interests in accordance with Article XXI of the GATT, including measures or actions to suspend concessions or other obligations with respect to the Russian Federation. As it does so, the UK will remain transparent in its measures, as appropriate, including through the WTO in the CTG and its subsidiary bodies.

43.22. The delegate of the United States indicated the following:

43.23. The intervention by the sponsor of this agenda item does not deserve a specific response. The United States condemns Russia's premeditated and unprovoked invasion of Ukraine. US measures addressing the threat to the national security and foreign policy of the United States are fully consistent with its WTO rights and obligations. The United States wishes to express strong support for Ukraine during this difficult time. The United States is deeply impressed with the quiet heroism of the Ukrainian people and the courage of their armed forces and their leaders.

43.24. Russia's premeditated and unjustified war has brought catastrophic loss of life and human suffering in Ukraine. Russia is solely responsible for this death and destruction. The human cost of Russia's unjustified war of aggression increasingly extends beyond Ukraine's borders. Russia's invasion has spurred a refugee crisis. It has driven energy prices higher, which leaves poor families across the world with less money to buy food and medicine. And Russia's invasion has damaged Ukraine's production and transportation infrastructure necessary to produce and export goods to the world. According to press reports and information from Ukraine's government, Russia, as of late March, had destroyed 92 factories and warehouses, 12 airports, 7 thermal and hydroelectric power plants, 1 nuclear plant, 8,300 km of roads, 260 bridges, 2 ports and their facilities, and Ukraine's single functioning oil refinery.

43.25. Moreover, Russia's invasion and resulting destruction is stoking fear of serious supply disruptions in agriculture that will magnify inflation and hunger, particularly in developing countries in Africa and the Middle East, pushing millions, including children, from daily hunger into near starvation. Seventy percent of Ukraine is farmland, and Ukraine is a major agricultural producer and exporter. Ukraine is one of the world's largest exporters of wheat and corn, and the largest exporter of sunflower oil. Russia has turned Ukraine's farms into battlefields. Russian forces have mined farmland, blown up farming equipment and machines, destroyed fuel reserves, shelled warehouses, destroyed granaries and their crops, and killed livestock. This has paralyzed harvests and damaged prospects for spring planting. A recent survey by the Ukrainian government found that Ukrainian farmers have 20% of the fuel they need for the planting season. Then there is the direct human toll of Russia's aggression, including farm workers wounded and killed, while others have left the fields to defend their country, replaced by women and children.

43.26. At the same time, Russia's war has severely damaged Ukraine's ability to export. Russia has blocked access to the Black Sea, the primary export route for Ukrainian agricultural goods. Cargo trains face many logistical hurdles, including damaged and destroyed rail lines and bridges, and truck transit has been stymied because men aged 18 to 60 cannot leave the country because their country has been invaded. During the first five weeks of the war alone, Ukraine had already lost USD 1.5 billion in grain exports, and was unable to export 13 million tonnes of corn and 3.8 million tonnes of wheat, according to a press report quoting a Ukrainian official in late March.

43.27. Continued uncertainty caused by Russia's invasion of Ukraine is exacerbating already higher commodity prices that occurred during 2020 and 2021. Prices of some agricultural commodities may be global, but these shocks are inequitable. They hurt the poor the most. In one African LDC, where more than 4% of GDP is spent on importing a year's worth of wheat, wheat imports have dropped 60% and the price of bread has nearly doubled since Russia's invasion, according to a press report in early April. The International Committee of the Red Cross assesses that one quarter of the population on the African continent is facing a food security crisis, as the hardship wrought by Russia's invasion compounds already high prices.

43.28. Who is to blame for the misery and suffering in Ukraine and in many other countries? The answer is simple. Full responsibility rests with the Russian Federation. The most effective way to stop this misery is for Russia to cease its attacks on Ukraine, immediately withdraw its forces, and fully respect Ukraine's sovereignty. The United States will continue to work with its allies and partners to impose a severe economic and diplomatic price on Russia for its premeditated and illegal war of aggression, and on Belarus for its complicity in that war.

43.29. The delegate of the European Union indicated the following:

43.30. It has been the European Union's policy not to respond to the statements of the Russian Federation since the beginning of their unprovoked and premeditated war of aggression in Ukraine, as it is not possible to continue business as usual in the face of such grave attacks to the rules-based international order, including violations of international law relating to atrocities against civilians. However, the Russian Federation has now embarked on a further campaign of disinformation in the context of the WTO. In the face of this, the EU, alongside its partners, deems it important to set the record straight for the benefit of the Membership.

43.31. In a transparent manner, the European Union and partners have issued a Joint Statement in relation to the trade measures that the EU and other Members are adopting against Russia. Following the horrific images in the wake of Russia's withdrawal from the North of Ukraine, we have taken further measures to help Ukraine, on the one hand, and to sanction the Russian Federation on the other. The EU is greatly concerned about the trade impact of the illegal, unprovoked, unjustifiable aggression against Ukraine of the Russian Federation, in particular as regards the supply of a number of commodities, notably agricultural products and fertilizers.

43.32. The European Union strongly condemns Russia's actions targeting Ukraine's food supply and production. It has been highlighted by credible reports that Russian forces are attacking grain silos in Ukraine as well as damaging and removing Ukrainian farm equipment. Furthermore, the closure of the Black Sea by Russian armed forces effectively blocks the exports of grains via Ukrainian sea ports. The food security situation is already dramatic for those directly involved in Ukraine. The impact of the Russian aggression is, however, not just restricted to Ukraine and its citizens but is also seriously challenging food availability in some vulnerable net food-importing countries in particular. The Russian government has also placed restrictions on exports of cereals. This puts Russian wheat, even if available, out of reach for many import-dependent Members. Russia's statement to (possibly) export food only to "friendly" countries could further worsen the situation, putting under pressure the agriculture and food security of many countries.

43.33. The European Union would like to underline that the EU's sanctions do not target the agricultural sector of the Russian Federation. For example, while the EU's latest sanctions stop Russian ships from entering EU ports, ships with agricultural commodities and food products are exempted. The same approach, based on exemptions for agricultural and food products, is applied to freight road operators, where exemptions cover agricultural and food products. The sanctions are primarily directed at the Russian Government, the financial sector, and the economic elites. They target the ability to finance the Russian aggression against Ukraine and its people.

43.34. Therefore, the European Union, alongside its partners, strongly condemns Russia's attempts at putting the blame on international sanctions for the global food security crisis that is directly caused by Russia's aggression against Ukraine and its people. The EU will continue to provide humanitarian aid to alleviate the suffering of Ukrainian civilians by securing their access to basic goods and services, notably food. The EU will also help Ukrainian farmers to continue planting and growing cereals and oilseeds, much needed for themselves and for the world, and to facilitate their exports.

43.35. Russia's war of aggression in Ukraine is jeopardizing the food supply to some of the most vulnerable parts of the world, threatening the food security of millions of people. Food prices are already increasing and projections by the FAO and the WTO Secretariat suggest that further increases can be expected. The European Union again invites Russia immediately to stop its military aggression in Ukraine, which is the only way to stop the humanitarian and food security crisis.

43.36. The delegate of Canada indicated the following:

43.37. Canada strongly condemns Russia's unjustifiable and unprovoked invasion of Ukraine. This invasion is causing devastating humanitarian consequences and the senseless deaths of innocent people. The consequences of Russia's actions have already extended well beyond Ukraine's borders, making it a direct concern to every Member represented here. Russia's hostile act is not just an attack on Ukraine and its people, or a reckless decision taken at a fragile moment in the global economic recovery from COVID-19. It is a blatant violation of international law and the rules-based international order.

43.38. The global trade consequences of the Russian invasion are real and catastrophic: the price of essential commodities, including oil and gas, staple foods, and critical minerals has indeed skyrocketed. According to the FAO, in the previous month, the cost of the most commonly traded food commodities has risen 12.6%, accounting for more than a third of the price increase in the last year. All of us feel the effects of this turmoil, but it is the poorest among us who suffer the most. Canada is deeply concerned that this most acutely threatens the food security of developing countries.

43.39. To be clear: Russia is solely responsible for this crisis. Russia has destroyed Ukraine's ability to supply the world with food, and Russia has cut itself off from the global trading system. Canada rejects any suggestion that measures applied by it to Russia prevent any other Member, including Russia, from exporting or importing agricultural products or fertilizers.

43.40. What Russia has done cannot, and will not, be normalized. Holding Russian leadership to account, calling on it to abandon this path of war and to return to good-faith diplomacy, represents the best means of addressing what is not only an urgent humanitarian emergency in Ukraine, but also a growing global food security challenge, and a threat, which Russia alone has created, to the very core of the rules-based institutions.

43.41. Canada is acting to protect its essential security interests, which are inextricably linked to that rules-based international environment. In addition, Canada will continue to work closely with like-minded partners to promote peace and security for all states and their citizens.

43.42. The delegate of Japan indicated the following:

43.43. Russia's invasion of Ukraine clearly infringes upon Ukraine's sovereignty and territorial integrity and constitutes a grave breach of the United Nations Charter, which prohibits the use of force. Furthermore, this is a unilateral attempt to change the status quo by force that shakes the foundation of the international order, and is totally unacceptable. It is an extremely serious situation that has rocked the international order to its very core, not only in Europe, but also in Asia. In this regard, Japan condemns Russia's actions in the strongest terms.

43.44. In addition, it has come to light that a series of cruel and inhumane acts by Russia have taken place not only in Bucha, near Kyiv, but also in various parts of Ukraine. The killing of a large number of innocent civilians is a serious violation of international humanitarian law and constitutes an absolutely unforgivable war crime. Russia must be held accountable for such inhumane acts.

43.45. From the beginning, Russia's invasion of Ukraine, which is a sovereign state, has been a unilateral attempt to change the status quo by force, and is an act that shakes the foundation of the international order. This is a clear violation of international law and is totally unacceptable, which Japan condemns in the strongest terms. It is to be expected that the international community, including Japan, imposes sanctions on Russia for its invasion of Ukraine.

43.46. As stated in the G7 Leaders' Statement, Russia's invasion of Ukraine is causing global economic turmoil. The impact on Ukraine's internationally important agricultural sector places a

serious burden on global food security, for which Russia is responsible. Japan continues to work with its partners, including international organizations, to proactively address the impact of Russia's invasion of Ukraine on areas such as energy and food, among others, across many countries.

43.47. Japan and other countries have been carefully addressing the situation by imposing sanctions in a manner that does not hinder the provision of humanitarian assistance or the operation of global agricultural trade.

43.48. The delegate of New Zealand indicated the following:

43.49. Other Members have outlined the harrowing realities of Russia's invasion of Ukraine. To be very clear, it is Russia's illegal war in Ukraine that is exacerbating current global food supply disruptions and food insecurity. It is also Russia's illegal war in Ukraine that has caused widespread humanitarian consequences and resulted in the senseless deaths of innocent people. It is also Russia's illegal war in Ukraine that is undermining the global trading system. The international community must respond to this crisis together and take active steps now to promote open and transparent trade.

43.50. New Zealand has joined the international community in applying sanctions as a means to limit the Putin regime's ability to continue the war in Ukraine and to influence people with power in Russia to break their support for the invasion. From 25 April 2022, New Zealand will apply a 35% tariff on imports from Russia and will prohibit the exports of certain products to Russia and Belarus that are closely connected to strategic Russian industries. This targeted action is a direct response to Russia's illegal and unprovoked war in Ukraine and is intended to limit Russia's ability to finance and equip the war. In keeping with the principle of transparency, information on New Zealand's tariff and export prohibitions in response to Russia's actions in Ukraine is publicly available, including online.

43.51. The delegate of Switzerland indicated the following:

43.52. Switzerland condemns Russia's military aggression against Ukraine in the strongest terms and calls on Russia to take military de-escalation measures, to end hostilities, and immediately to withdraw its troops from Ukrainian territory. Switzerland considers that this military attack blatantly violates international law, most notably the prohibition on the use of force and the principle of the territorial integrity of States.

43.53. In response to the Russian military aggression, Switzerland has taken a number of economic measures. These measures are exceptional in nature and have been taken on account of this violation of international law by Russia. The measures taken by Switzerland are in accordance with international law, including WTO law.

43.54. The delegate of Australia indicated the following:

43.55. Russia's unprovoked, unjust, and illegal invasion of Ukraine is a gross violation of international law, including the Charter of the United Nations. Russia's war on Ukraine is exacting a catastrophic humanitarian toll and a food crisis. Australia supports the collective action by the international community and has imposed far-reaching sanctions to inflict heavy costs on Russia and those responsible. Australia has implemented trade measures, including the following: the ban on imports of Russian oil, refined petroleum products, coal and gas, effective 25 April; the ban on exports of alumina and bauxite to Russia, effective 20 March; the ban on the export of luxury goods to Russia, effective 7 April; and Australia will deny Russia access to most-favoured-nation tariff treatment and will impose an additional tariff of 35% on goods originating from Russia, effective 25 April.

43.56. These measures are commensurate and justified given Russia's unprecedented attack. They are justified under WTO rules, including Article XXI of the GATT. Russia's actions violate Ukraine's sovereignty and territorial integrity and undermine the rules-based international order. Australia is committed to upholding these principles, which are essential to international, regional, and domestic stability and security. The notion that sanctions are to be blamed for the trade disruptions and food crisis is untenable, and Members need to look at the root cause of these disruptions, namely Russia's unprovoked, unjust, and illegal invasion of Ukraine.

43.57. Ukraine is a major staple food and feed grain producer and exporter, supplying numerous vulnerable and import-dependent countries in Africa, Asia, and the Middle East. The invasion by Russia and its destruction of agricultural resources and infrastructure have disrupted global food supplies by not only impeding exports of wheat, barley, corn and sunflower oil, but also by compromising the planting of the upcoming season's crop, effectively prolonging the food crisis.

43.58. Russia's withdrawal from Ukraine is the best means of restoring Ukraine's ability to participate in the global trading system, and in so doing help alleviate the related food crisis and trade disruptions. Moreover, the response to global food crises such as this should not be to resort to trade restrictive measures on food trade or the stockpiling of foods. Such policies only exacerbate food shortage issues by denying access to vulnerable and net food-importing countries. Long-term food security is best assured through open and efficient markets, which is why Members must maintain a broader focus on an agricultural outcome at MC12.

43.59. The delegate of Norway indicated the following:

43.60. Norway has not been explicitly mentioned by Russia under this agenda item. However, Norway implements the same sanctions as the European Union. The measures taken by Norway as a reaction to Russia's unprovoked military actions are fully consistent with its WTO rights and obligations.

43.61. Russia's military attack on Ukraine is an unprovoked and illegal attack on a peaceful neighbour. Russia's military attack has caused death and destruction, as well as human suffering on a horrendous scale, with millions of refugees and internally displaced people. Norway condemns Russia's military attack on Ukraine in the strongest possible terms. Russia's aggressive military actions are a clear violation of Ukraine's independence, sovereignty, and territorial integrity. We must defend our world order, where relationships between States are determined not on the basis of power, but by international law. Norway condemns Russia's false narrative on its invasion of Ukraine and its effects, including the effects of sanctions implemented by other countries as a reaction to Russia's military invasion.

43.62. The effects of Russia's military invasion can increasingly be felt beyond Ukraine's borders, causing a refugee crisis, and rises in the prices for food, energy, and other commodities. Ukraine is a major agriculture producer and exporter. The Russian government is directly responsible for the shock impact on global food systems, with consequences that are felt worldwide, especially by the world's poorest and most vulnerable.

43.63. With its military invasion, Russia has shown its complete disregard for the multilateral system and forfeited the right to use the system for its own purposes. It is of the utmost importance that we all understand these realities, and counter the Russian attempts to create false narratives, here at the WTO CTG, and in all other relevant forums.

43.64. The delegate of the Republic of Korea indicated the following:

43.65. The Republic of Korea has been strongly condemning Russia's armed invasion against Ukraine. Regarding the current topic, Korea believes that it is essential to focus on the very origin of the sharply aggravating situation on global supply chains in many areas, which is posing a significant threat to the rules-based global trade order under the WTO. The way to end all this is obvious, that is, for Russia to cease its military action in Ukraine.

43.66. The delegate of Ukraine indicated the following:

43.67. From the outset, Ukraine wishes to express its gratitude to the Members that are helping Ukraine, including for their leadership and unwavering support at the hardest possible time. According to the Preamble of the Marrakesh Agreement, Members should work together to improve the welfare of people around the world, to raise living standards, create jobs, and improve people's lives by "entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations", and to "develop an integrated, more viable and durable multilateral trading system". Sadly, these noble goals and principles of our work were horrendously destroyed on 24 February 2022 by the Russian aggression.

43.68. This day marks the 57th day of the full-scale, unprovoked, and unjustified war launched by Russia against Ukraine. For two months, the Ukrainian nation has defended the unity and independence of its country, its democratic values, economic and trade rights, and the possibility of prosperity and development for us all. The Ukrainian government estimates that overall direct economic losses in Ukraine caused by Russia's military aggression have already reached USD 565 billion. The IMF has already valued the fall in Ukraine's GDP at 35% in 2022, and forecasts that the impact of the war will contribute to downgrades for 143 economies this year, accounting for 86% of global GDP.

43.69. Every day, Russian troops kill, kidnap, torture, and rape civilians in Ukraine, destroy civil infrastructure, living buildings, health facilities and schools, transport, energy and industrial infrastructure, which have been built by generations of Ukrainians. They wage war not just with Ukraine, but with all of us, it just has different faces. Many companies have suspended their operations either because of a military threat or because of blocked access to the markets or raw materials. According to preliminary estimates, about 30% of companies have completely stopped their activities, while 45% have reduced their production.

43.70. The fighting is taking place in an area that accounts for almost three-quarters of Ukraine's GDP and employs about 10 million people before the war, which amounts to almost 64% of the employed population. Russia is destroying Ukrainian agricultural enterprises, food distribution centres, agricultural equipment and petroleum depots in Ukraine, as well as planting landmines in the fields. Why do they do this? Because they also see starvation as their weapon, a weapon against ordinary people in the world, and as a tool to dominate the world.

43.71. Russia's aggression has caused economic losses not only for Ukraine; without exaggeration, this aggression will have consequences for the whole world. Members are already witnessing the destabilization of the world markets, another surge in inflation, the shutdown of enterprises due to the loss of supply chains, one of the biggest migration crises since World War II, and worsening expectations of economic agents. Many countries are now on the edge of a food crisis as Russia has blocked all of Ukraine's seaports along with ships that were already loaded with agricultural products for export. According to experts, 400 million people in the world depend on Ukrainian grain supplies. The longer Russia's aggression continues in Ukraine, the greater the economic consequences for the world.

43.72. Ukraine is very grateful to all Members that have stood with it in these terrifying times, and that have adopted, or are in the process of adopting, strong economic sanctions against the Russian Federation in pursuance of the obligations under the United Nations Charter for the maintenance of international peace and security. At the same time, Ukraine believes that those measures are disproportionate to the scale of the Russian aggression and not enough to stop "feeding the military engine" of the aggressor. There is no grey zone, there is no alternative solution or compromise, but only a fair and strict position. Ukraine calls upon WTO Members to stand in solidarity with Ukraine on this issue.

43.73. The Council took note of the statements made.

44 EUROPEAN UNION – REGULATION EC NO. 1272/2008 (CLP REGULATION) – REQUEST FROM THE RUSSIAN FEDERATION

44.1. The Chairperson recalled that this item had been included on the agenda at the request of the Russian Federation.

44.2. The delegate of the Russian Federation indicated the following:

44.3. The Russian Federation reiterates its statements made during previous meetings of the relevant WTO bodies with regard to the cobalt classification as a carcinogen 1b for all routes of exposure. Russia appreciates the efforts of the European Union on the adoption of the gastric bioelution protocol at the EU and OECD levels. In this regard, Russia requests an update on the developments in this area.

44.4. The Council took note of the statement made.

45 EUROPEAN UNION – REGULATION (EU) 2017/2321 AND REGULATION (EU) 2018/825 – REQUEST FROM THE RUSSIAN FEDERATION

45.1. The Chairperson recalled that this item had been included on the agenda at the request of the Russian Federation.

45.2. The delegate of the Russian Federation indicated the following:

45.3. The Russian Federation reiterates its concerns regarding the amendments to the EU basic regulation on protection against dumped imports introduced by Regulation (EU) No. 2017/2321 and Regulation (EU) No. 2018/825. At previous CTG meetings, Russia pointed out the discriminatory nature of the amendments, which can be illustrated by the following: (i) the European Commission may punish the exporters twice for the same situation labelled by the amendments as "significant distortions" and "raw material distortions"; and (ii) the European Commission has issued only two "reports" on so-called "significant distortions" in two particular exporting countries, which clearly shows the discriminatory nature of the EU's approach regarding the application of anti-dumping measures.

45.4. Without going into further detail, Russia wishes to reiterate its systemic concern over the WTO-inconsistency of the amendments. Russia urges the European Union to abstain from the application of discriminatory provisions and not to violate its WTO obligations.

45.5. The Council took note of the statement made.

46 OTHER BUSINESS

46.1 Functioning of the CTG and its Subsidiary Bodies – Information from the Chair

46.1. The Chairperson drew Members' attention to room document RD/CTG/15, which contained the latest version of the Annual Plan of Meetings for the CTG and its subsidiary bodies for the year 2022 and the currently available information for the year 2023. The document had been prepared in close coordination between the Secretary of the Goods Council and the Secretaries of the CTG subsidiary bodies, with the aim to avoid overlaps and to ensure an optimal scheduling of meetings. He had also requested the Secretariat to prepare an update of this Annual Plan for each CTG meeting to facilitate identifying any potential issues at an early stage, while at the same time allowing the Membership to plan for meetings accordingly.

46.2 Date of the Next Meeting

46.2. The Chairperson noted that the next meeting of the Council was scheduled to take place on 7 and 8 July 2022. Those dates would be confirmed in due course.

47 ELECTION OF CHAIRPERSON OF THE COUNCIL FOR TRADE IN GOODS

47.1. The Chairperson recalled that the Chair of the General Council had carried out consultations on a slate of names for Chairpersons to the different WTO standing bodies in accordance with the established Guidelines for the Appointment of Officers. These proposed nominations had been approved by the General Council at its most recent meeting. In line with the nominations, he proposed that the CTG elect Mr Etienne Oudot de Dainville from France as Chairperson of the Council by acclamation.

47.2. The Council so agreed.

47.3. The outgoing Chairperson congratulated Mr Oudot de Dainville for his election and expressed his appreciation to delegations, and to the Secretariat, for their unwavering efforts and dedication to carrying out the work of the CTG. Deputy Director-General Xiancheng Zhang and the incoming Chairperson thanked Ambassador Purevsuren for his work.

47.4. The incoming Chairperson recalled that, as agreed under Agenda Item 3, the election of officers of the subsidiary bodies of the Council had been suspended, and that Ambassador Didier Chambovey, Chairperson of the General Council, would take up and continue those consultations.

Once there was an agreed slate of names, the CTG Chair would reconvene the CTG to deal exclusively with that agenda item.

47.5. The meeting was closed.
