RESTRICTED

G/C/M/143

6 October 2022

(22-7539) Page: 1/99

Council for Trade in Goods

MINUTES OF THE MEETING OF THE COUNCIL FOR TRADE IN GOODS 7 AND 8 JULY 2022

CHAIRPERSON: MR ETIENNE OUDOT DE DAINVILLE

The meeting of the Council for Trade in Goods (CTG, or the Council) was convened by Airgram WTO/AIR/CTG/22 and WTO/AIR/CTG/22/Rev.1; the proposed agenda for the meeting was circulated in document G/C/W/811.

The delegate of Australia requested to be included as a co-sponsor of Agenda Item 11, "India – Restrictions on Imports of Certain Pulses". The meeting proceeded on the basis of the following agenda:

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.

Finally, the Chairperson informed delegations that, under agenda item "Other Business", he would report on the Annual Plan of Meetings (document RD/CTG/16), on the functioning of the CTG and its subsidiary bodies, in particular regarding his preliminary reflections concerning the

implementation of the MC12 mandate and the possible work that may need to be undertaken by the Council and, finally, 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 Mechanism[1], the CTG was to be kept informed of Members' notifications of new regional trade agreements (RTAs). He informed the Council that two RTAs had been notified to the CRTA, as followed:

- Comprehensive Economic Partnership Agreement Between the EFTA States and Indonesia, Goods (WT/REG464/N/1); and

- Free Trade Agreement Between Nicaragua and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, Goods – Notification of Suspension (WT/REG267/N/2/Rev.1).

1.2. The Council took note of the information provided.

2 WITHDRAWAL OF THE UNITED KINGDOM FROM THE EUROPEAN UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 – COMMUNICATION FROM THE EUROPEAN UNION (G/L/1385/ADD.2)

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

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

2.3. The European Union recalls that on 22 December 2020 it submitted communication G/SECRET/42/Add.3, which relates to the ongoing process under Article XXVIII of GATT 1994 on the apportionment of the EU's tariff-rate quota concessions following the withdrawal of the United Kingdom from the European Union. The communication highlighted that the EU strives for the rapid and successful conclusion of the negotiations and consultations that are still ongoing.

2.4. The European Union is pleased to report good progress. Agreements were formally signed with six partners and negotiations were finalized and are going through domestic validation procedures with five other partners. In addition, there are very good prospects of closing negotiations with several negotiating and consultation partners with whom the EU is advancing towards initialling a draft agreement.

2.5. Against that background, in line with established practice in the framework of Article XXVIII negotiations (also under Article XXIV:6), the European Union believes that it is desirable to extend the timelines of Article XXVIII:3 of GATT 1994 by six months, that is, until 1 January 2023. As always, this is of course without prejudice to the question of whether there are any rights to withdraw concessions pursuant to Article XXVIII:3(a) and (b). On this basis, the EU and other Members currently engaged in these Article XXVIII procedures can continue to focus on bringing these negotiations and consultations to a successful conclusion as soon as possible.

2.6. The European Union remains fully committed to constructively and successfully conducting these negotiations and consultations so as to arrive at mutual agreement. It hopes to achieve this within this extended deadline. Therefore, the European Union proposes that the Council for Trade in Goods take note of this communication and of the extension of the deadline as indicated in communication G/L/1385/Add.2, until 1 January 2023.

2.7. The Council took note of the communication and statement made.

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

3 UNITED KINGDOM'S WITHDRAWAL FROM THE EUROPEAN UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 – COMMUNICATION FROM THE UNITED KINGDOM (G/L/1386/ADD.2)

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

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

3.3. The United Kingdom refers Members to document G/L/1386/Add.2, which was circulated by the Secretariat on 31 May 2022. The document outlines that the UK will be extending the timelines under Article XXVIII:3 of the GATT by six months, until 1 January 2023.

3.4. Members will be aware that the United Kingdom has been in ongoing discussions with partners with respect to obligations within the UK's goods schedule. Those discussions have been predominantly positive and productive. They have resulted in significant progress with the majority of Members in the process.

3.5. The United Kingdom has been consistently clear at this forum and others that it is strongly committed to working closely with WTO Members in discussions on its Goods Schedule with the aim of concluding discussions successfully with its partners. The UK envisages that this extension will facilitate this outcome, so scope for additional extensions beyond this will be limited.

3.6. The United Kingdom continues to have constructive discussions with those Members remaining in the process. Indeed, the UK is pleased to announce that it is in the final agreement phase with the majority. The UK hopes to sustain this progress over the next six months.

3.7. The United Kingdom thanks all Members that have engaged constructively with it during this process. The UK will further update Members following the conclusion of Article XXVIII negotiations, in line with past WTO practice.

3.8. The Council took note of the communication and statement made.

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 – REQUEST 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. The Chairperson understood that the main thrust of this proposal was to allow graduated LDC Members to have a similar treatment to that granted to certain developing countries listed in Annex VII(b) of the Agreement on Subsidies and Countervailing Measures (SCM Agreement). Following a request at the CTG's meeting of July 2021, the Secretariat had updated the GNP calculations for all Members, which had been circulated in November 2021 in document G/SCM/W/585.

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

4.3. Chad, on behalf of the LDC Group, recalls that this proposal dates back to 2018. The intention of the LDC Group with this proposal is to correct a technical mistake in Annex VII, such that non-LDC developing countries can also benefit from a level of flexibility under Article 27.2 of the SCM Agreement in terms of export subsidies where their GNP per capita falls below USD 1,000 in constant 1990 dollars.

4.4. In this regard, Chad considers that the argument is clear for allowing graduated LDCs to benefit, as do Annex VII developing countries, from the same conditions mentioned in Article 10.4 of the Doha Decision on the Implementation-Related Issues and Concerns (WT/MIN(01)/17). [2] In

[2] "Paragraph 10.4 of document WT/MIN(01)/17 reads as follows: "Agrees that if a Member has been excluded from the list in paragraph (b) of Annex VII to the Agreement on Subsidies and Countervailing Measures, it shall be re-included in it when its GNP per capita falls back below US$ 1,000."

this provision, if a Member has been excluded from the list in Annex VII(b) because it has a GNP per capita higher than USD 1,000 in constant 1990 dollars, it can be re-included on that list when its GNP per capita falls below that threshold. Therefore, LDCs losing that status should clearly be allowed to benefit from Article 10.4 of the Doha Decision on Implementation-Related Issues and Concerns.

4.5. The LDC Group requests that, in light of MC12, a decision be taken on this issue. It looks forward to benefiting from the advice of the Council to this end, and encourages Members to focus on this important LDC issue. In the current dynamic of the lead-up to MC12, the LDC Group hopes that its submission can at last be adopted by the General Council.

4.6. In this regard, the LDC Group also counts on WTO Members' understanding of the difficulties faced by LDCs. Again, it is an important issue. It is a purely technical issue. And the LDC Group sees no differences of opinion on the issue because all that it is really proposing is to add countries back onto the list such that graduated LDCs should be considered equal to developing countries in the context of Annex VII of the SCM Agreement.

4.7. The delegate of Bangladesh indicated the following:

4.8. Bangladesh aligns itself with the statement delivered by Chad on behalf of the LDC Group.

4.9. According to Article 27.2(a) of the SCM Agreement, some Members are eligible to enjoy flexibilities. Those Members are specified in Annex VII of 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. The LDC Group's submission proposes that an LDC after graduation, as long as its GNI per capita 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 like the Annex VII(b) listed developing countries.

4.10. Bangladesh thanks the Secretariat for its note contained in document G/SCM/W/585, dated 22 November 2021, with the title "GNP per Capita Calculations for All WTO Members Using the Methodology in G/SCM/38". The Secretariat's calculation confirms the concerns of the LDC Group. It is clear from the note that many LDCs, that is, countries listed in Annex VII(a), may graduate from the LDC category with a GNI per capita below USD 1,000 in constant 1990 US dollars. Naturally, WTO Members collectively need to search for the response to the question of whether these LDCs, having a GNI threshold below USD 1,000 in constant 1990 US dollar terms after graduation, can avail of the flexibility enjoyed by other developing countries with the same threshold. The LDC Group believes that, if WTO Members can find the answer to this question, the concerns of those LDCs can easily be addressed. Bangladesh requests that WTO Members deliberate on this.

4.11. The LDC Group is grateful to all the Members that have been supporting this proposal since its submission in 2018. The LDC Group also thanks the European Union and the United States for opportunities to discuss bilaterally their concerns about data availability and information on export subsidy. The LDC Group is not sure whether these concerns were determinant or the decisive factors for taking a decision on Annex VII. In this context, the LDC Group asks the following: (a) while determining the eligibility criterion for inclusion in the Annex VII(b) list (that is, GNI per capita below USD 1,000 in constant 1990 US dollars), were the developing countries required to provide data; and (b) was there any condition that the flexibility would be applicable to those developing counties that would only provide export subsidies? The LDC Group requests WTO Members to consider these questions while taking a decision on the proposal.

4.12. Bangladesh, along with the LDC Group, will continue working with the delegations of the European Union and the United States and welcomes further suggestions from WTO Members on how to achieve a positive result in this regard.

4.13. The delegate of Nepal indicated the following:

4.14. Nepal associates itself with the statement delivered by Chad on behalf of the LDC Group. Nepal refers to its statements delivered under this agenda item at the Council's meetings of

1 November 2021 and 21 April 2022[3], and would like to reiterate that this provision needs to be applied in a fair manner by extending the facility to WTO Members even after graduation if the graduating LDC Members are eligible as per the provision and spirit of the Agreement. Furthermore, Nepal is of the view that this matter should not be linked to other special and differential treatment provisions. Rather, it is just a matter of ensuring justice to those WTO Members that graduate from LDC status but still have a low level of GNI per capita, thus meeting this criterion. Finally, Nepal considers that this is nothing new but only a minor adjustment in the letter of the SCM Agreement as per the spirit and objective of the provision.

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

4.16. As the United States indicated in April, it thanks the Secretariat for producing the updated calculations in document G/CSCM/W/585. The US has reviewed this document carefully, and unfortunately, the Secretariat's calculations confirm US concerns, namely that there remain gaps in the information that is needed for this proposal to be workable from a technical perspective. Nevertheless, the United States is willing to consider ideas and proposals on how to address those gaps, or otherwise address the issue raised by this proposal.

4.17. The delegate of India indicated the following:

4.18. India thanks the delegation of Chad for the inclusion of this agenda item. India has already supported this proposal in earlier meetings of the Council and its position remains the same.

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

4.20. The European Union thanks Chad, Bangladesh, and Nepal for engaging informally with the EU as well as for the clarifications just provided. Nevertheless, the EU's position remains as expressed at previous meetings. The EU supports constructive initiatives to better integrate LDCs into the multilateral trading system. The EU is also mindful of the challenges that graduating LDCs face. For these reasons, the EU encourages a discussion of this proposal, as any Special and Differential Treatment (SDT) proposal, on the basis of analysis that shows where specific problems lie.

4.21. As the European Union has repeatedly mentioned, in order to inform the examination of this proposal, it would be useful to have an understanding of 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 them. To this end, possibilities for technical assistance via the WTO are available for support regarding notifications or any other form of transparency. In conclusion, the European Union stands ready to engage in informal consultations with the LDC Group on this matter.

4.22. The delegate of Nigeria indicated the following:

4.23. Nigeria wishes to refer to its previous statement on this proposal and reaffirms its support for it.

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

4.25. Chad, on behalf of the LDC Group, takes note of Members' interventions and thanks those WTO Members that have offered their support. In this regard, the LDC Group remains ready to respond to any questions posed to it, and remains open, flexible, and constructive in spirit with the aim of achieving consensus on its proposal.

4.26. The Council took note of the statements made.

[3] Document G/C/M/141, paragraphs 6.26-6.34, and document G/C/M/142, paragraphs 4.21-4.22.

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 wishes to register, once again, its concerns regarding India's licensing regime on the importation of pneumatic tyres under Notification No. 12/2015-2020 on "Amendment in Import Policy on Tyres" of 12 June 2020.

5.4. Members will have noted that Chinese Taipei has brought this case to the attention of the Council many times. Chinese Taipei appreciates that it had a bilateral discussion with the delegation of India in May of this year and thanks India for its written response, which Chinese Taipei received on 6 July. Chinese Taipei will look carefully at India's written response and revert back with its comments in due course. However, Chinese Taipei wishes to emphasize that the measure concerned continues to cause confusion and obstacles for exporters, and is leading to a significant negative impact on bilateral trade. Difficulties in obtaining import licences and lengthy approval processes have already severely reduced the levels of Chinese Taipei's exports to India, which have decreased by 60% in 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 certain kinds 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 hampers access to India's market for Chinese Taipei's tyre products. Furthermore, it may constitute an import ban or restriction on certain tyres, which is clearly incompatible with WTO rules concerning quantitative restrictions.

5.6. Chinese Taipei hereby urges India to ensure that all applications that are in full compliance with the relevant quality standards for tyre products should be granted without hindrance or undue delay. Chinese Taipei calls upon India to review its current practices and to engage with those Members concerned with a view to resolving the issue in a timely and constructive manner.

5.7. The delegate of Indonesia indicated the following:

5.8. Indonesia thanks India for providing information at previous meetings of the CTG and the Committee on Technical Barriers to Trade (TBT Committee) in response to Indonesia's concerns over India's import policy restrictions on tyre products. However, Indonesia is disappointed that India has not yet presented an adequate solution to overcome this issue.

5.9. Indonesia is fully aware that India has imposed import restrictions on tyre products of certain types and size categories corresponding to tyres produced by India's domestic tyre manufacturers. This policy was implemented shortly after India imposed a temporary import ban on tyre products for a period of six months, as stated in notification document No. 12/2015-2020, dated 12 June 2020, regarding "Changes in Tyre Import Policy". This policy's implementation has the potential to hamper Indonesia's tyre exports to India, considering that the range of tyre products that can be exported is very limited. The policy even has the potential to eliminate market access for imported tyre products given the various types and sizes of tyres produced by India, which is one of the world's main producers of tyres.

5.10. Although there are no official provisions governing the restrictions on the import of these tyres, importers are required to make a separate statement via email regarding import restrictions for certain types and size categories of tyres that could be produced domestically in India, where violations of this requirement would result in criminal sanctions based on the FTDR Act 1992. In addition, Indonesia is of the view that the aforementioned policy applies discriminatory treatment in its implementation. Indeed, the policy is applied selectively by targeting certain WTO Members having the potential to become India's competitors, and by hampering market access for domestic tyre products. *De facto*, it also hampers exports of Indonesia's tyre products.

5.11. Moreover, Indonesia also requests further clarification regarding the implementation of marking fees on tyre products that are using the IS mark. Indonesia is of the view that the imposition of the IS marking fee on tyre products has the potential to burden businesses and create unnecessary barriers to international trade. The imposition of such marking fees does not have a valid justification and has no relation to the protection of human health, safety, or prevention of fraudulent practices.

5.12. Indonesia requests that India immediately review its two restrictive import policies on tyres to ensure that the policies in question are in accordance with WTO principles and regulations, in particular regarding the principles of national treatment and non-discrimination, as well as the provisions in Article 2.1 and Article 2.2 of the TBT Agreement.

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

5.14. The European Union reiterates its concerns raised several times regarding India's licensing regime for the importation of pneumatic tyres under Notification No. 12/2015-2020. Despite this issue having been raised on multiple occasions in this Council and in other WTO bodies (including the Market Access and TRIMs Committees), there has been no progress towards a possible resolution. To the contrary, the EU hears from its tyre exporters regarding their concerns about the increasing restrictiveness of the measure. Indeed, the volume of tyres under the import licences granted by the Indian authorities is becoming smaller and smaller, which is to the detriment not only of foreign tyre manufacturers, but also of local customers.

5.15. The European Union continues to be concerned about the effect of this measure given that India's imports of tyres have been decreasing 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, which amounts to a blatant discrimination against EU tyre manufacturers.

5.16. The European Union therefore urges India to reconsider and eliminate any implicit or explicit quantitative or other restrictions (for example, end-use principle) on the import of replacement tyres that are contrary to WTO rules.

5.17. The delegate of Thailand indicated the following:

5.18. Like other Members taking the floor on this issue, Thailand reiterates its concern regarding India's import policies on tyres, which continue to affect Thailand's tyre exports to India considerably. For example, in 2021, Thailand's tyre exports to India declined by 40.23% in value, or 45.23% in terms of volume, when compared to those of 2019, before the measure was implemented. Moreover, for the first four months of 2022, the exports of tyres from Thailand to India fell by 45.21% in value, or 53.36% in terms of volume, compared to the same period in 2019.

5.19. In this connection, while the situation regarding the issuance of import licences for tyres by India's authorities has somewhat ameliorated, Thailand's tyre exporters have nevertheless been seeking more information about how India's authorities determine import quotas for tyres. Therefore, for the sake of transparency, Thailand requests India to share such information at the earliest opportunity.

5.20. The delegate of India indicated the following:

5.21. India thanks the delegations of the European Union, Indonesia, Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and Thailand, for their continued interest in this issue, which has been discussed previously in this Council, as well as in the Committee on Market Access and the Committee on Import Licensing.

5.22. India wishes to reiterate that its non-automatic licensing requirements for tyres are administered in a manner consistent with the rules of the WTO Agreement on Import Licensing Procedures, including with respect to the time-frames for the granting of import licences. Furthermore, the licensing procedure in question is being administered in a fair manner, as reflected in the fact that a number of licences have been granted following their approval by the Exim Facilitation Committee.

5.23. In this regard, the delegation of Chinese Taipei had approached India for a bilateral meeting on its specific questions. India had responded to those questions, including by providing the details of the licences granted to Chinese Taipei's exporters. Specifically, 21 of 28 applications with the origin mark of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu had been approved and only one had been rejected in the previous two years.

5.24. Similarly, in previous meetings, India had answered the questions raised by Indonesia on the marking fee charged by the Bureau of Indian Standards (BIS) in its Product Certification Scheme, as per the BIS (Conformity Assessment) Regulation, 2018 under the BIS Act, 2016. India considers that this process is in conformity with the WTO's regulations, including the granting of national treatment in the way that the certification scheme is administered.

5.25. In addition, India thanks the delegation of Thailand for the specific data that it had requested, the details of which India had received on the previous day. This data would be shared with Capital for their comments.

5.26. India remains committed to addressing these concerns bilaterally.

5.27. The Council took note of the statements made.

6 AUSTRALIA, CANADA, EUROPEAN UNION, JAPAN, LITHUANIA, NEW ZEALAND, SWITZERLAND, UNITED KINGDOM, AND THE UNITED STATES – UNILATERAL TRADE RESTRICTIVE MEASURES AGAINST RUSSIA – REQUEST FROM THE RUSSIAN FEDERATION

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

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

6.3. The Russian Federation had introduced its concerns under this agenda item at length during the Council's previous meeting. On this occasion, Russia nevertheless wishes to reiterate its deep concern regarding the illegal and unjustified trade restrictive measures imposed by certain WTO Members in respect of Russia.

6.4. New unilateral trade restrictive measures have been introduced against Russia since the Council's previous meeting. These measures include but are not limited to the following restrictions on trade in goods: (i) by Canada, an export ban on wadding, gauze, bandages and similar articles impregnated or coated with pharmaceutical substances, bulldozers and angledozers, tractors, mobile drilling derricks, instruments and appliances used in medical, surgical, dental or veterinary sciences, ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus, medical, surgical, dental or veterinary furniture (for example, operating tables, examination tables, hospital beds with mechanical fittings, and dentists' chairs); (ii) by the European Union, an import ban on Russian crude oil and petroleum products, prohibition on transfer or transport to third countries of Russian crude oil and petroleum products obtained from Russian crude oil, or sales to purchasers in third countries, and a prohibition on technical assistance, brokering services or financing or financial assistance, related to the transport to third countries of crude oil or petroleum products which originate in Russia or which have been exported from Russia; (iii) by Japan, an import ban on certain machines and mechanical appliances, machinery, plant or laboratory equipment; (iv) by New Zealand, an export prohibition on aircraft and marine engines, gas turbines, radio navigational aid apparatus, radio-broadcast receivers, electronic integrated circuits, tractors, tankers, refrigerated vessels, vessels for the transport of goods and other vessels for the transport of both persons and goods; (v) by Switzerland, an import ban on lignite and coal, oil and petroleum products, as well as quantitative restrictions on imports of Russian fertilizers, and a prohibition to provide technical assistance, brokering services or financial assistance in connection with the transportation outside Switzerland and the European Union of crude oil or petroleum products originating in or coming from Russia; (vi) by the United Kingdom, a prohibition on export of oil refining goods and technology, iron and steel products; an import ban on cement, wood and articles of wood, mineral or chemical fertilizers, as well as the application of an additional import duty of 35% for cereals, oil seeds, meat, products of the milling industry, and soybean oil; (vii) by the United States, the imposition of an additional import duty of 35% for certain chemical products, wood and wood products, iron and steel, tractors and other products. Lithuania's ban on transit to

the Russian region of Kaliningrad causes a separate bewilderment. This measure, which aims to blockade Kaliningrad, contradicts not only the WTO's rules but also runs counter to the official position of the EU and its legal acts.

6.5. As mentioned during the Council's previous meeting, the above list represents just a fraction of the measures adopted by those WTO Members listed under this agenda item. However, for the sake of time, Russia is not specifying all of the restrictions. Nevertheless, these measures, including the measures mentioned at the Council's previous meeting, have already had an immense impact upon Russia's trade in goods. Moreover, coupled with the restrictions on trade in goods, the restrictive measures imposed on Russia's largest banks, insurance agencies, transportation companies, export support agencies, industrial companies, Russian seaports, and legal and natural persons, including top management and the owners of the largest Russian companies, are provoking global economic, energy, and food crises.

6.6. The Russian Federation notes that it is the third largest oil and second largest natural gas producer in the world; it is also the world's largest oil and gas exporter. Unilateral measures against Russian oil, petroleum products and gas producers, and Russia's financial sector, as well as pressure on international transportation, trading companies, and foreign governments not to work with the Russian oil and gas sector, have led to the increases in oil and gas prices on the international market. In addition, high energy prices translate into higher consumer prices across the full spectrum of products, including food, thus fuelling expectations of inflation and slowing global economic growth.

6.7. As for food crises, the Russian Federation underlines that it is one of the world's major producers and exporters of wheat and fertilizers, thus making a vital contribution to global food security. In this regard, Russia also notes that, according to the FAO's latest estimates, global wheat production is expected to increase in the season of 2021/22 by 6.2% compared to the level of production in the season of 2018/19 (that is, before the COVID-19 pandemic), and by 2.2% in comparison to the level of 2019/20 (during the COVID-19 pandemic). Despite this positive forecast, the supply chain of wheat has been disrupted by the unilateral measures imposed on Russia.

6.8. At the Council's previous meeting, the WTO Members in question stated that all essential goods, including agricultural products and especially wheat, as well as goods for humanitarian purposes, had been excluded from their unilateral trade restrictive measures. However, Russia is already seeing the imposition of measures that directly prohibit Russian exports of pharmaceutical and medical products, as well as tractors to Russia, and measures that restrict imports of Russian wheat and fertilizers.

6.9. In addition to direct restrictive measures, Russian exports and imports of the most essential goods are facing indirect measures, including bans on the use of foreign seaports, and measures against companies and individuals that include the freezing of assets and a prohibition to deal with such persons.

6.10. In view of the current and planned restrictions against Russia, international transportation, trading companies, foreign banks and insurance companies are being coerced into refusing to work with Russian exporters, including those of food, energy, and fertilizers. Foreign governments are also coerced into dropping their dealings with Russia, including in the area of buying energy resources.

6.11. All these measures not only contradict the WTO's rules; they also disrupt international trade flows, break global supply chains, and lead to increasing energy costs and spiking food prices.

6.12. Considering the situation on the wheat market, which is a particularly important crop for developing and least developed countries, the WTO, in its recent WTO Secretariat paper, entitled "The Crisis in Ukraine", underlined that the direct effect of the special military operation in Ukraine was having a limited impact on global wheat prices, whereas unilateral measures against Russia were projected to have a larger impact on global consumer prices of wheat. According to the WTO Secretariat, the unilateral measures accounted for 66% of the projected increase in the consumer price of wheat globally.

6.13. In this regard, Russia recalls that vulnerable populations in developing, and least developed countries are particularly exposed to the challenges caused by the unilateral restrictive measures in

question, and their effect on world markets, as they dedicate a larger share of their income to food and energy.

6.14. In a report published on 28 June, UNCTAD states that: "The Russian Federation is a giant in the global market for fuel and fertilizer, which are key inputs for farmers worldwide. Disruptions in their supply can lead to lower grain yields and higher prices, with serious consequences for global food security, particularly in vulnerable and food-import dependent economies. The Russian Federation is also a leading oil and gas exporter. Confronted with trade restrictions and logistical challenges, the cost of oil and gas has increased as alternative sources of supply, often at more distant locations, are called upon. Higher energy costs have led to higher marine bunker prices, increasing shipping costs for all sectors. By the end of May 2022, the global average price for very low sulphur fuel oil had increased by 64 per cent with respect to the start of the year. Taken altogether, these increased costs imply higher prices for consumers and threaten to widen the poverty gap."

6.15. 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 unjustified and vast unlawful measures in future.

6.16. 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 are in fact putting at serious risk the prospects for global economic growth and disproportionally hitting developing countries. Being of a complex nature, they already have systemic negative implications on global value chains, international markets, and the stability of price levels. In this context, the Russian Federation calls upon the Members concerned to restore a smooth functioning of the WTO, including its dispute settlement system, and urges those same WTO Members immediately to lift their unilateral trade restrictive measures, including those with extraterritorial implications, and to stop their coercive actions aimed at forcing other WTO Members to follow suit.

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

6.18. The European Union condemns Russia's illegal, barbaric, and unprovoked war against Ukraine that has caused and continues to cause immeasurable loss of life and suffering as well as immense economic harm to Ukraine. Its effects are felt around the globe, with 1.7 billion people in over 100 countries now facing severe food, energy, and commodity supply issues and price rises.

6.19. It has been the European Union's policy not to respond to the statements of the Russian Federation since the start of this illegal war. It is the EU's strong belief that it is not possible to continue business as usual in the face of such grave attacks on the rules-based international order. However, the EU cannot stay silent while the Russian Federation continues its campaign of disinformation within the WTO. The EU needs to set the record straight for the benefit of the WTO Membership.

6.20. The European Union is greatly concerned about the trade impact of the illegal, unprovoked, unjustifiable aggression of Ukraine by the Russian Federation, in particular as regards the supply of a number of commodities, notably agricultural products and fertilizers.

6.21. Russia's troops occupy arable lands and block Ukraine's ports. These ports accounted for 90% of exports of grain and oilseeds before the war. Around 20 million tonnes of Ukrainian grains cannot reach global markets. Prices for food and fertilizers have skyrocketed.

6.22. The western border of the European Union is the only access that remains open for trade not only to the EU, but also to other countries, given the blockade of Ukraine's Black Sea ports. The EU has deployed not only significant financial assistance for Ukraine, but has also taken trade liberalization and facilitation measures. The EU is actively looking for ways to help Ukraine to keep its export channels open and find solutions to ease the logistics challenges.

6.23. The European Union notes that the Russian government has also placed restrictions on exports of cereals and fertilizers. This puts Russian wheat, even if available, out of reach for many import-dependent countries.

6.24. The European Union wishes to underline once again that its 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. The sanctions are primarily directed at the Russian government, Russia's financial sector, and Russia's economic élites. They target Russia's ability to finance its aggression against Ukraine and its people.

6.25. In this regard, the European Union recalls that, with its partners, it issued in March 2022 a Joint Statement on Russia's aggression against Ukraine in relation to the trade measures that the EU and other WTO Members have been adopting against Russia, including measures that deny the Russian Federation the benefits that the WTO Agreement provides, such as the benefit of most-favoured-nation treatment. The EU's response measures include export restrictions and import restrictions targeting the Russian Federation's ability to finance its reprehensible war.

6.26. The European Union considers its measures to be fully consistent with EU WTO rights and obligations as actions necessary to protect its essential security interests within the meaning of the applicable security exceptions of the WTO Agreement. The EU's measures have also been taken with due regard to Ukraine's territorial integrity.

6.27. Furthermore, the European Union has taken all its measures in a fully transparent manner. All relevant EU measures are publicly accessible, on a free-of-charge website (EU Sanctions Map, and on a dedicated European Commission website) that also provides information by category of products and services affected by the measures that the EU has adopted.

6.28. All these measures are adopted at EU level. These measures are implemented by the competent authorities of the EU member States. The EU is closely monitoring their implementation in order to ensure that the measures achieve their objective, namely, to hamper the ability of the Russian government and military machine to sustain its illegal war.

6.29. The European Union calls upon Russia immediately to stop its military aggression against Ukraine, which is the only way to stop the humanitarian and food security crisis.

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

6.31. The United States condemns Russia's unjustifiable, unprovoked, and illegal aggression against independent and sovereign Ukraine, and the suffering and loss of life it continues to cause. The US will spare no efforts to hold President Putin and the architects and supporters of this aggression accountable for their actions. The US is appalled by the devastating and indiscriminate attacks on Ukraine's population and civilian infrastructure, including hospitals, schools, and homes. The US underlines its resolve to impose severe economic and financial consequences on Russia.

6.32. Russia has raised its flag to complain about a situation that it has created, and to try and shift the blame for the death and destruction that it has created. But let us be clear. Russia started this premeditated and unprovoked war. Russia continues to prosecute this brutal war. Russia continues to violate Ukraine's sovereignty and territorial integrity, and threatens the security of all peace-loving nations that support the rules-based international order. Russia's bombardments continue to kill and injure Ukrainian civilians and destroy civilian infrastructure, creating a humanitarian nightmare. Russia continues to block Ukraine's seaports, jeopardizing the supply of food to some of the most vulnerable parts of the world. Russia continues to damage Ukraine's transportation infrastructure, severely impeding Ukraine's ability to export key commodities, including agricultural and food products, fertilizers, sunflower oil, and critical minerals. Russia continues to destroy Ukrainian agricultural storage facilities and to steal Ukrainian grain and farm equipment. Russia continues to spread disinformation that sanctions, which exempt Russian agricultural commodities, have worsened global food insecurity while Russia continues to ban the import of food to feed its own people, and to ban the export of certain food products as well as fertilizer to curtail food production in other countries. In short, Russia, with support from Belarus's complicity, is responsible for much of the devastation and disruption being felt around the world.

6.33. The United States will continue to condemn Putin's brutal, unprovoked, and unjustified war against Ukraine. The United States will continue to support Ukraine's courageous efforts to defend

itself, uphold its territorial integrity and protect its population. The United States will continue to work with its partners and allies to sustain and intensify international pressure on President Putin's regime, and its enablers in Belarus, for as long as necessary. The United States, and its partners and allies, will continue to take all appropriate measures in defence of the rules-based international order that Russia has so egregiously violated.

6.34. The delegate of New Zealand indicated the following:

6.35. New Zealand condemns, unequivocally, the unprovoked and unjustified attack by Russia on Ukraine. The actions of President Putin are a grave breach of international rules; and the use of force to change borders is strictly prohibited under international law, as is targeting of civilians. New Zealand is appalled by reports of the devastating and indiscriminate attacks on Ukraine's population by Russian troops, including evidence of crimes against humanity and war crimes, as well as the destruction of civilian infrastructure, including hospitals, schools, and homes. New Zealand supports and will spare no effort in holding those responsible for this aggression to account.

6.36. New Zealand also condemns and refutes the harmful and inaccurate narratives that Putin's regime has been communicating, and the campaign of destructive cyber activity that has disrupted Ukrainian government and private sector networks and systems over 2022. New Zealand has repeatedly called for President Putin to act consistently with Russia's international obligations, to cease Russia's invasion of Ukraine, and to withdraw Russia's troops and return to diplomatic negotiations as a pathway to resolution of the conflict.

6.37. Let us be clear. It is Russia's invasion of Ukraine that has created serious implications for global peace, security, and economic stability. Russia has also placed restrictions on its own exports, such as for grain, adding yet another level of volatility to world food prices.

6.38. New Zealand has joined the international community in applying sanctions in a transparent manner to severely limit the Putin regime's ability to finance and equip the war in Ukraine, as well as to influence people with power in Russia to break their support for the war. Information on the Russia Sanctions Act that was passed by the New Zealand Government on 8 March 2022 is publicly available on the Ministry for Foreign Affairs website. Sanctions under the Act are a direct response to Russia's illegal act of aggression, and are not intended to disrupt trade in essential goods. They include asset freezes and travel bans on individuals from entering New Zealand, tariff increases on imports of Russian origin, as well as prohibition of certain goods intended for use by military or security forces from being exported to Russia and Belarus.

6.39. New Zealand remains united with the international community to maintain pressure on Russia and hold those responsible for violations of humanitarian and international law to account. Imposing sanctions on Russia is a means to bring an end to this war. New Zealand stands in full solidarity with Ukraine and its people and reaffirms its unwavering support for the independence, sovereignty, and territorial integrity of Ukraine.

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

6.41. The United Kingdom wishes to note that it has now been 134 days since Russia's illegal invasion of Ukraine began. In every one of those 134 days Russia's actions have demonstrated their complete contempt for international law. Every day they undermine the fundamental principles of international peace and security, and cause indescribable pain upon the people of Ukraine.

6.42. As the United Kingdom and many other WTO Members have set out, Russia's indiscriminate attacks have repercussions for us all. Infrastructure bombed, fields mined, grain looted. Attacks on Ukraine's civilian infrastructure and blockades of Ukraine's seaports have fallen upon supply chains already under strain. As such, 1.7 billion people in over 100 countries are now paying the price for Putin's actions every time they buy food or fuel.

6.43. The United Kingdom's sanctions are specifically targeted at areas that will have most impact on Putin and those around him, and will limit his ability to fund his war machine and prosecute his aggression in Ukraine. The United Kingdom has not targeted its financial sanctions on the Russian exports of food supplies that are important to global need.

6.44. Instead, the United Kingdom, working with international partners, is determined to support countries to mitigate the impact of Putin's war. The UK has agreed with the World Bank the largest ever commitment to developing countries, USD 170 billion over the next 15 months. Such commitments, alongside others, show how countries must come together to protect the most vulnerable across the globe from the effects of Russia's attack and its repercussions.

6.45. But while the United Kingdom and others work to support the international system, protect those in need and work with countries around the world, Russia's barbaric actions continue. As such, the solution to these crises lies clearly before us: Russia must immediately withdraw its troops and cease its military aggression against Ukraine.

6.46. The delegate of Switzerland indicated the following:

6.47. Switzerland reiterates its condemnation of Russia's military aggression against Ukraine in the strongest terms. Switzerland calls upon Russia to take military de-escalation measures, end hostilities, and immediately withdraw its troops from Ukrainian territory. Switzerland considers that the continuation of 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.

6.48. In response to the Russian military aggression, Switzerland has taken a number of economic measures. These are exceptional measures that have been taken because of Russia's violation of international law and are published on the website of the Swiss State Secretariat for Economic Affairs. Furthermore, Switzerland has taken these measures in accordance with international law, including WTO law.

6.49. The delegate of Norway indicated the following:

6.50. As mentioned at the Council's previous meeting, Norway implements the same restrictive measures as several of the WTO Members mentioned under this agenda item. These measures have been taken as a reaction to Russia's unprovoked actions and are fully consistent with Norway's WTO rights and obligations.

6.51. Norway joins others in again condemning in the strongest possible terms the military aggression of the Russian Federation against Ukraine. Norway also wishes to express its concern for the severe destruction and human suffering this illegal act of military aggression is causing, and the ensuing global food crisis, particularly impacting developing and least developed countries. These are all results of Russia's actions.

6.52. By its unprovoked, unjustified, and premeditated military actions, the Russian Federation is grossly violating international law, on whose core principles the international rules-based order is built, including the fundamental principles of the UN Charter that has prevailed since World War II. They are a clear violation of Ukraine's independence, sovereignty, and territorial integrity.

6.53. In conclusion, Norway reiterates that it stands in solidarity with Ukraine and the Ukrainian people.

6.54. The delegate of Canada indicated the following:

6.55. Canada stands in solidarity with the people of Ukraine and strongly condemns President Putin's unjustifiable invasion of Ukraine. This illegal and unprovoked war has had catastrophic effects on Ukraine, its neighbours, and people across the globe.

6.56. As a recent FAO report warns, Russia's invasion has exacerbated the already steadily rising food and energy prices worldwide, affecting economic stability across all regions. The effects of Russia's indiscriminate attacks on Ukraine's infrastructure, and blockades of Ukraine's seaports will be most severe for those already vulnerable. The Russian government must stop weaponizing food and allow Ukraine to safely ship out its grain so that millions of hungry people can be fed.

6.57. And no amount of misinformation can hide Russia's culpability; it is solely responsible for this crisis, not the sanctions designed to stop Russia's unjust and brutal war in Ukraine. It is Russia that has destroyed Ukraine's ability to supply the world with food, and it is Russia that has cut itself off

from the global trading system. Canada continues to reject any suggestion that measures applied by it to Russia prevent any other Member, including Russia, from exporting or importing agricultural products or fertilizers.

6.58. The solution for this crisis is for the Russian leadership to abandon this path of war, immediately withdraw its troops back to Russia, and live up to its responsibility to restore and maintain international peace and security. Canada will continue to take actions that it considers necessary to protect its essential security interests, and will work closely with like-minded partners to promote peace and security for all states and their citizens.

6.59. Canada's support for Ukraine and its people is unwavering, and Canada will work to find ways to use trade to support Ukraine in rebuilding its economy and its society.

6.60. The delegate of Ukraine indicated the following:

6.61. First of all, Ukraine wishes to express its sincerest gratitude to all WTO Members mentioned in Russia's request and to other Members that support Ukraine in this difficult time of Russia's aggression, which has brought death, destruction, and human suffering to Ukrainian soil. Ukraine appreciates all the support, including sanctions imposed in response to Russia's unilateral invasion of Ukraine.

6.62. Russia's military aggression against Ukraine is a gross violation of international law and the rules-based international order. Russia's war has produced adverse effects far beyond Ukraine's borders. Russia's war has not only seriously undermined Ukraine's ability to participate in global trade and to benefit from the rules-based multilateral trading system, but has also caused trade disruptions and aggravated food insecurity in the world. Russia alone is responsible for the war launched against Ukraine and its repercussions for the world.

6.63. Despite the indisputable facts, Russia continues its disinformation campaign and keeps pushing false narratives in an attempt to shift the blame for the food crisis on countries that have imposed sanctions against it, although these sanctions do not target food. It is Russia's Navy that blocks Ukrainian ports in the Black Sea and prevents exports of Ukrainian agricultural products to international markets. It is Russian troops that continue to destroy Ukraine's agricultural enterprises, food distribution centres, agricultural equipment, and fuel depots. Moreover, Russia is stealing Ukrainian grain and other agricultural products, and is trying to sell the plundered grain to other countries. According to Ukraine's estimates, Russia has already stolen about 500,000 tonnes of grain.

6.64. Ukraine considers it worth noting that, before the war, it exported around 6 million tonnes of agricultural products a month and over 90% of that volume was exported by sea. Despite the war and Russia's blockade of Ukraine's ports, Ukraine is making every effort to fulfil its international obligations and to supply grain and other agricultural products to the global market. In March this year, Ukraine supplied just 350,000 tonnes of agricultural products to the global market. In April, exports grew to 1 million tonnes, and in June, this volume amounted to 2.1 million tonnes as a result of the work done together with Ukraine's partners in order to establish new routes of supply. However, Ukraine still has over 20 million tonnes of agricultural products that can be exported to international markets. Besides, Ukraine estimates this year's harvest to be at around 50 million tonnes of grain, including about 30 million tonnes of grain that are expected to be available for exports.

6.65. But the availability of Ukrainian agricultural products on the global market will depend not only on the efforts of Ukrainian farmers, traders, and government, but also on the whole international community.

6.66. Ukraine reiterates its gratitude to its partners for their valuable support and calls on other WTO Members to make every effort in order to limit Russia's ability to wage war, to kill Ukrainians, and to undermine the rules-based multilateral trading system.

6.67. The delegate of Australia indicated the following:

6.68. As other Members have done before it, Australia again condemns in the strongest possible terms Russia's unilateral, illegal, and immoral invasion of Ukraine. This 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 again calls upon Russia to cease its attacks on Ukraine and withdraw its forces from Ukrainian territory. Russia's war on Ukraine is exacting a catastrophic humanitarian toll in addition to trade disruptions and a food crisis.

6.69. Australia supports the collective action by the international community and has imposed far-reaching sanctions to inflict heavy costs on Russia and those responsible. In addition, Australia has implemented trade measures, including the following: (i) the ban on imports of Russian oil, refined petroleum products, coal and gas (effective from 25 April); (ii) the ban on exports of alumina and bauxite to Russia (effective from 20 March); (iii) the ban on the export of luxury goods to Russia (effective from 7 April); and (iv) denying Russia access to most-favoured-nation tariff treatment and imposing an additional tariff of 35% on goods that are the produce or manufacture of Russia (effective from 25 April). Australia has recently notified these trade measures to the General Council and the Committee on Market Access, consistent with its commitment to WTO transparency. Australia has also just announced that it will join with like-minded partners to prohibit the importation of Russian gold to reduce Russia's ability to fund its war. Further details will be notified in due course. These measures are justified given Russia's unprecedented attack, and are justified under WTO rules, in particular Article XXI of the GATT.

6.70. 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.

6.71. Russia claims that sanctions are largely to blame for rising food prices are an attempt to shift blame away from its illegal invasion of Ukraine. In fact, it is Russia's invasion that is exacerbating global hunger, disrupting food exports, increasing energy prices, and raising fertilizer costs, leaving many millions of people around the world food insecure. 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 these exports of wheat, barley, corn, and sunflower oil, but also by compromising the planting of this season's crop, effectively prolonging the food crisis.

6.72. Russian 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 responses to global food crises such as this should not involve the imposition of trade restrictive measures 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, transparent, and predictable agricultural trade. Australia supports the Ministerial Declaration on the Emergency Response to Food Insecurity adopted at MC12 and will remain a reliable, open supplier of food products to the world.

6.73. The delegate of Japan indicated the following:

6.74. Russia's aggression 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. Japan will never accept this unilateral attempt to change the status quo by force, which is an extremely serious situation that shakes the very foundations of the international order. Japan condemns Russia's actions in the strongest terms. In such a context, it is to be expected that the international community, including Japan, would impose sanctions on Russia in response to its aggression against Ukraine.

6.75. Japan continues to work with its partners, including international organizations, to proactively address the impact of Russia's aggression against Ukraine in areas such as energy and food, among others, across many countries. Japan and other WTO Members 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.

6.76. Together with other WTO Members, Japan insists that the Russian Federation must urgently stop its military aggression against Ukraine and immediately withdraw its troops. Japan is firmly convinced that the Russian Federation must be held accountable and must cease its actions, which undermine peace, security, and international law.

6.77. The delegate of Costa Rica indicated the following:

6.78. On this agenda item, Costa Rica wishes to join in the expressions of support and solidarity with the people of Ukraine, and condemns in the strongest terms Russia's unjustified aggression. The cruel human tragedy that millions of Ukrainian families are suffering is unthinkable for a country like Costa Rica, a democracy without an army and with a pacifist tradition. Costa Rica has been, and will always be, a fervent defender of multilateralism and of an international architecture at the service of peace, security, sustainable development, and the protection of human rights. Costa Rica firmly believes that trade can and should contribute to the stability and peace of nations. In this context, Costa Rica is concerned about the impact that Russia's aggression against Ukraine is having on international trade in agricultural products and inputs critical to global food security. Costa Rica urges Russia to cease hostilities as soon as possible, and to embark on a path that restores international peace and security.

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

6.80. The Republic of Korea has been strongly condemning Russia's armed invasion of Ukraine. On the current topic, Korea believes that it is essential to focus on the very origin of the sharply aggravating situation regarding the global supply chain in many areas, 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 stop its military action in Ukraine.

6.81. The delegate of the Bolivarian Republic of Venezuela indicated the following:

6.82. The Bolivarian Republic of Venezuela wishes to thank the Russian Federation for bringing a highly sensitive issue to this meeting. Venezuela has been warning for years about the proliferation of unilateral coercive measures. Since at least 2015, that is, for seven years, Venezuela has been suffering a multidimensional, financial, trade-related, economic, and patrimonial attack, with multi-million-dollar losses, which have caused the reduction of 99% of Venezuela's income, with a negative impact that has spread to all areas, especially the food, health, transport, communications and technology sectors.

6.83. The Bolivarian Republic of Venezuela has witnessed at first hand the collateral damage that such measures cause, not only to the population of the affected country, but also to other economies, thereby causing disruptions of all kinds, including trade distortions.

6.84. The WTO has proven to be an organization that is guided primarily by economic considerations and sound legal rules. Unilateralism by its very definition entails a violation of its principles and rules. In this regard, the Bolivarian Republic of Venezuela calls for a return to multilateralism as the best way to settle differences and advocate a multilateral trading system that is predictable, transparent, inclusive, and based on rules agreed by consensus.

6.85. The delegate of Chinese Taipei indicated the following:

6.86. The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu condemns the Russian Federation's military attack in Ukraine. It has jeopardized regional and global peace and stability and continues to cause a devastating loss of human life. This is absolutely not acceptable from any perspective. It is a clear violation of human rights and an obvious breach of rules-based international norms. Chinese Taipei calls upon the Russian Federation to end its acts of aggression immediately. Chinese Taipei stands in solidarity with Ukraine and its people.

6.87. The Council took note of the statements made.

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

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

7.2. The delegate of Colombia indicated the following:

7.3. Colombia wishes to thank the European Union and its delegates in Geneva for their willingness to discuss this issue. Colombia finds it regrettable that, since this item was first placed on the agenda, no progress has been made. Colombia wishes to express the frustration of its producers, who continue to face restrictions and the fact that no progress has been made.

7.4. On this occasion, Colombia wishes to refer to the notification, presented on the day prior to this Council meeting, by the EU Commission to the TBT Committee, in document G/TBT/N/EU/908, of a proposed draft Regulation that seeks to reduce to zero the maximum residue limits (MRLs) of clothianidin and thiamethoxam. Colombia reviewed the notification with great concern and, by way of preliminary statement, considers that it may be in violation of the EU's WTO obligations under the covered agreements.

7.5. Colombia remains concerned about the European Union's overall hazard regime, which is evident mainly in the pesticides policy that establishes regulations that are more restrictive than necessary. Colombia has also stated that the measure may be 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. On this occasion, Colombia wishes to reiterate all of these arguments and its previous statements.

7.6. Colombia wishes to express its agreement with the legitimate objective pursued by the European pesticides regime. However, Colombia wishes to ask the European Union the following questions: why not establish longer transition periods for substances that are in the process of approval? Why not avoid regulatory action during production if the pesticide residue does not exceed the authorized level at the time of application? Why not maintain existing MRLs while import tolerance applications are being reviewed and until a full risk assessment has been completed, or why not consider third country data earlier in the EU's process for renewals and approvals? Is it not possible to work together to give Colombia's producers of goods imported into the EU an outlet? Colombia's producers are running out of solutions, and these are avenues that do not involve a change of policy, but offer a way out.

7.7. The delegate of Paraguay indicated the following:

7.8. Once again, Paraguay regrets having to bring this trade concern back onto the agenda of this Council. However, Paraguay has unfortunately failed to make progress to date in resolving the issue despite all the years that have passed since it was first introduced.

7.9. Paraguay regrets that the European Union continues to delay providing replies to its questions, including not only by submitting some of these replies at very short notice to the June meeting of the Committee on Sanitary and Phytosanitary Measures (SPS Committee), despite having received them as early as March, but also by avoiding the substance in the replies. For example, when the Commission states that there are issues that fall within the competence of member States, such as emergency authorizations, and that it therefore cannot provide replies to the questions. Paraguay recalls that all 27 EU member States are members of the European Union in their own right.

7.10. European producers continue to systematically benefit from emergency authorizations and generous subsidies to maintain production methods that are incompatible with different climatic and geographical conditions, like those of Paraguay. The arguments put forward by European farmers in requesting these authorizations for their countries are similar to those that EU trading partners put

forward in this forum, such as the lack of viable alternatives, the potential for resistance generation, safe use in accordance with good agricultural practices, and the certain losses that would arise from not having such a tool for production. The difference is that the complaints of European producers are being heard and a solution is being provided, while those of Paraguay and other countries in its region continue to be ignored. This is not about protecting health, because there is no proven benefit from these policies or any scientific evidence to justify them; rather, it is simply about protectionism.

7.11. In addition to its systemic concern, Paraguay, like Colombia, draws the Council's attention to the recent notification by the European Union, circulated one day prior to this meeting, that seeks to impose European standards on third countries, without taking into account the principles of "shared but differentiated responsibilities", different climatic conditions and production systems, and the enormous financial support that European producers receive to comply with these standards, which is highly problematic. Such an approach also presumes that other Members are incapable of setting their own environmental standards.

7.12. It is ironic that, even in cases where the application of the precautionary principle has led to the renewal and approval of the substance, other relevant factors that have nothing to do with the health of humans, plants or animals are taken into account for the setting of MRLs. Moreover, the intention is to regulate environmental practices in non-EU countries, but without sacrificing the right to emergency authorizations that are reserved for EU member States to continue using products that cannot be used by third countries seeking to trade with the EU, and this with only two productive cycles by way of transition period for a regulation that has not yet been notified.

7.13. Paraguay once again reiterates that the European Union has made commitments to this Organization, and to other international organizations, which must be adhered to and honoured, and that unilateralism is not the way to lead by example. Paraguay again urges the EU to have a constructive dialogue with all the parties involved and interested in order to move forward with a mutually acceptable solution to this very important trade concern for countries exporting agricultural products, especially developing countries with economies and livelihoods that depend primarily on the agricultural sector, like Paraguay.

7.14. The delegate of Ecuador indicated the following:

7.15. Ecuador once again deems it necessary to reiterate its views on this issue, in line with the trade concerns that it has been raising for some years in the SPS and TBT Committees. Ecuador would prefer not to have to do so. However, the persistence of an issue that has an impact on a long list of Members, in addition to Ecuador, obliges it to renew its serious concern before this Council and to regret that Members have fallen into the ongoing and fruitless repetition of complaints that fail to find any effective solution.

7.16. In line with its previous statements in this Council, Ecuador must once again urge the European Union: (i) to avoid adopting restrictive and discriminatory measures without conclusive scientific evidence or contrasting them with other opinions; (ii) to observe, and therefore adhere to, the globally recognized standards on human, plant and animal health protection; (iii) to comply with the requirements established in the SPS Agreement, including the requirement to base any SPS measures on a risk assessment approach, rather than only on the continued application of a precautionary principle; (iv) to consider suspending the entry into force of measures being implemented to reduce maximum residue limits (MRLs) that are beyond the levels recommended by Codex, and which may be the Codex parameters used in regulations to set MRLs; and (v) to grant a reasonable adjustment period to other countries where the measures may give rise to obligations, so that those countries can deal with them effectively in cases where the reduction of MRLs is shown to be essential.

7.17. Specialized bodies such as the Codex Alimentarius offer the appropriate space for discussions on issues such as the definition of MRLs based on scientific arguments. At the same time, in these specialized areas, the effects of the technological and economic asymmetries among Members can be analysed and outlined. Tropical developing countries like Ecuador face different challenges to those faced by producers in temperate or semi-arid climates.

7.18. Ecuador reiterates its commitment to protecting human health and the environment. This is a commitment to making appropriate use of the multilateral instruments governing relations

between nations. It is a commitment seeking to ensure that the principles that we all value are applied in an orderly, reasonable, and coordinated manner in technical multilateral forums, and not simply unilaterally.

7.19. Non-tariff barriers such as MRLs, which are adopted outside international standards without proper technical assessment and without transition periods for the countries affected by the MRLs, not only have a negative impact on other Members in a broad institutional sense, but also at a day-to-day practical level in the impact on farmers, many of whom run small and medium-sized businesses, and in the case of developing countries, are the mainstay of their agricultural export sector. This negative impact reduces market access opportunities and prevents Members from being able to take advantage of the benefits offered by trade liberalization agreements and the WTO multilateral system itself. A significant part of the Ecuadorian economy, for example, relies on income from agricultural exports, from the production of small and medium-sized farmers, and from their competitiveness and efficiency, without the safety net of extensive subsidy programmes.

7.20. Ecuador hopes to continue exchanging information on this issue with other delegations and the European Union. Ecuador also encourages the use of all available channels of dialogue to resolve this long-standing trade concern.

7.21. The delegate of Uruguay indicated the following:

7.22. Uruguay wishes to reiterate its trade and systemic concern regarding the European Union's use of a hazard-based approach in its regulatory decisions linked to SPS matters, rather than full risk assessments. Uruguay would like to make it clear that any determination of maximum residue levels (MRLs), particularly when that determination deviates from internationally accepted standards and harmonization efforts in multilateral forums such as the Codex, 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 creating unnecessary barriers to trade.

7.23. Uruguay agrees with other Members that the issue of derogation regimes, including the emergency authorizations granted by European Union member States to their domestic producers, can lead to tensions regarding the consistency of policies adopted at national level by those States with the aim of protecting health at the Community level, as well as trade-related discriminatory situations *vis-à-vis* third parties in their trade sphere.

7.24. Uruguay is also concerned that provision is not being made for sufficient transition periods (not less than two years, or two harvests) to make the necessary adjustments to production and to ensure that the products concerned comply with the amended MRLs, taking into account harvesting periods and the stages at which plant protection products are applied, as well as the time required to develop and register alternative substances.

7.25. Regarding announcements on the consideration of environmental impacts when setting import tolerances, Uruguay takes note of the EU's notification in document G/TBT/N/EU/908, presented one day prior to the Council's meeting, regarding the MRLs of clothianidin and thiamethoxam.

7.26. Uruguay reiterates its willingness to work with other WTO Members, including the European Union, in mechanisms that help to achieve their legitimate objectives by fully recognizing the ability of the authorities of third countries to adopt such measures as they deem appropriate or necessary in their territory to balance the objective of ensuring food production with other legitimate goals, such as environmental protection and human, animal or plant health. Uruguay also reiterates its call for the EU to take due account of all of its obligations as a WTO Member when considering these measures.

7.27. Lastly, Uruguay once again urges the European Union, as one of the largest agricultural markets, to reconsider the direction of its regulatory approach with a view to avoiding the unjustified proliferation of barriers to international trade in agricultural products, bearing in mind the severe socio-economic consequences that these policies may have for developing and least developed countries whose economies are based on the production of, and trade in, agricultural and agro-industrial products.

7.28. The delegate of Peru indicated the following:

7.29. Peru considers that the European Union's measures are unjustified and affecting agricultural trade. In this regard, the issue has been reiterated on numerous occasions in the framework of the SPS Committee. The EU's hazard-based approach for the evaluation of maximum residue levels (MRLs) for pesticides makes these limits more restrictive than necessary and, in turn, does not take into account the provisions of the SPS Agreement, which establishes the need for measures to be based on a risk analysis. Such a situation could become even more worrying given that the EU will start considering environmental aspects as a factor for upcoming pesticide risk assessments, even though there is no technical basis for such a policy. Indeed, Peru has identified that non-tariff barriers not only refer to maximum pesticide limits given that the EU is also establishing maximum levels of contaminants that deviate from those established by the Codex Alimentarius, and are substantially lower, as in the case of cocoa derivatives.

7.30. Regarding other foods, Peru has also requested the European Union, during bilateral exchanges, to indicate the process for the adoption of maximum limits for contaminants and to provide adequate time-frames for their implementation, since mitigation measures vary and are effective for a prolonged period of time after their application.

7.31. Peru requests the European Union to take into consideration the concerns presented in this Council and in the SPS Committee, so that its policies are aligned with the SPS Agreement.

7.32. The delegate of Brazil indicated the following:

7.33. Brazil regrets that, since this issue was first raised, nearly two years ago, not only has the European Union not provided adequate answers to the many concerns raised by a large number of WTO Members, but it has also continued to adopt non-tariff barriers (NTBs) that lack scientific evidence and further imbalance trade in agricultural goods.

7.34. Brazil therefore makes reference to its previous statements on this topic, as all Brazil's concerns remain valid.[4] Additionally, Brazil wishes to address what has been the European Union's frequent answer on this topic.

7.35. The European Union has claimed that the measures being questioned have not prevented it from being a large importer of agricultural goods. Firstly, WTO Members should note that nowhere in the GATT does it say that being a large importer of agricultural goods enables a WTO Member to adopt discriminatory policies or to go against the basic principles of the SPS Agreement. Secondly, 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 standards through trade are key goals of this Organization, WTO Members have never had a level playing field in the trade in agricultural goods, and the reform mandated by Article 20 of the Agreement on Agriculture (AoA) 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 NTBs.

7.36. However, after nearly 30 years, the European Union has not engaged meaningfully in redressing the imbalance in its favour in the AoA and is constantly imposing prohibitions based on the hazard approach and/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. Reducing the subsidies that make EU agriculture artificially competitive and simply respecting the norms of the SPS Agreement would thus support agriculture in developing countries, yielding benefits in the three pillars of sustainable development, including by reducing the number of migrants to large urban centres and to high-income countries such as those EU members.

7.37. Additionally, Brazil would like to note that it is still waiting for adequate answers regarding the compatibility with WTO law of the publication by the European Union of more than

[4] Document G/C/M/142, paragraphs 6.56-6.60.

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 WTO Members in the SPS and TBT Committees, while others simply do not offer any justification and yet were approved. This identification of such authorizations resulted from the hard work of small delegations, where usually one person covers many topics, in contrast with the large number of delegates, interns and experts that the EU has at its disposal. Therefore, Brazil believes that it is a matter of respect for other delegations and for the good functioning of this Organization that the EU should provide due clarifications on this matter.

7.38. As a final comment, Brazil stresses that the world is facing an acute food security crisis, which will become even more challenging in the next decades as the world's population grows. It is thus imperative to have in place incentives and policies that support agriculture in those areas that, blessed with a favourable climate for agriculture, can increase output in a sustainable manner. Unfortunately, EU policies in this area are not pulling in the direction WTO Members need in order to support the poorest in developing countries and increase food security worldwide.

7.39. The delegate of Australia indicated the following:

7.40. Australia has raised or supported a number of specific trade concerns relating to the EU's implementation of non-tariff barriers on agricultural products, including at the most recent SPS and TBT Committee meetings. Australia remains concerned that the EU's application of its health and environmental standards to imported agriculture and agri-food products is, in many aspects, not conducive to achieving productive and sustainable outcomes in the agriculture sector.

7.41. For imported agricultural products, the EU's regulatory approach to agricultural inputs, production requirements, and specific measures targeted at protecting the environment has impacted the ability of third-country producers to meet EU requirements. These concerns include the EU's recent attempts to set maximum residue levels (MRLs) for certain pesticides in order to achieve environmental outcomes in third countries.

7.42. Australia also remains concerned over the unfair competitive advantage provided to EU producers in applying EU domestic production requirements to imports. EU producers are subsidized to implement the EU production requirements, but if they are unable to maintain productivity and profitability, then only EU producers can access EU exemptions from certain regulatory requirements, such as emergency authorizations for the use of Plant Protection Products (PPPs). This creates a two-tiered system, with imported products subject to more stringent regulatory conditions than domestically-produced products.

7.43. Australia recognizes the right of WTO Members to regulate agricultural imports in a manner that protects animal, plant and human health and the environment. However, 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. In order to ensure the free flow of agricultural trade without unnecessary regulatory burden, Australia maintains its request that the European Union apply international standards and best practice for regulating imported agricultural products.

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

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

7.46. The United States joins Australia, Brazil, Canada, Colombia, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Panama, Paraguay, Peru, and Uruguay in raising concerns regarding the European Union's implementation of non-tariff barriers on agricultural products.

7.47. Increasingly, the European Union is developing rigid polices with extraterritorial implications that have the impact of forcing third countries into making the choice between adopting European production practices or abandoning trade with the EU. The EU continues to lower many maximum residue levels (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. Further, the EU enforces newly reduced

MRLs at the point of production for domestic goods, but 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 long shelf lives.

7.48. The United States remains concerned that it appears as though the European Union is following a similar approach through its new veterinary drug legislation that could prohibit producers from using antimicrobials that are not considered medically important. The US 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 exporting animals and animal products to the European Union.

7.49. 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 within the exporting countries' own domestic context.

7.50. In light of recent calls for coordinated action to ensure predictable trade flow 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 approaches.

7.51. The delegate of Panama indicated the following:

7.52. Panama wishes to reiterate the high importance that it attaches to this issue. Maximum residue levels (MRLs) are being reduced without having sufficient scientific evidence, restricting access to essential substances for agri-food production, particularly for countries with a tropical climate, such as Panama. Panama considers that the European Union's policies and practices as a whole run the risk of nullifying and undermining the legitimate rights of WTO Members under the AoA and the SPS Agreement. Panama shares the EU's objective of supporting the global transition towards more sustainable world agri-food systems, but these must be based on the construction of solutions designed and implemented through the mechanism of dialogue and multilateral cooperation schemes. Panama regrets that no progress has been observed to date. Panama once again urges the EU to listen to the legitimate concerns of a number of WTO Members. In Panama's view, a constructive, serious, and permanent dialogue, together with mutually agreed technical assistance, will lead to solutions that benefit all sides.

7.53. The delegate of Costa Rica indicated the following:

7.54. Costa Rica shares the concerns raised by other Members and notes that these are concerns that have also been raised in the Council on other occasions. Costa Rica continues to co-sponsor and support this item on the Council's agenda, as well as document G/C/W/767/Rev.1. Costa Rica believes that the concerns raised about the regulatory approach of the EU on maximum residue levels (MRLs) continue to be relevant. Indeed, these concerns are urgent, and certainly urgent for exporters and producers in the agri-food sector in tropical countries such as Costa Rica. Therefore, Costa Rica urges the EU to continue its dialogue with stakeholders with the aim of responding to the concerns raised by Members at this Council and other WTO Committees.

7.55. The delegate of Canada indicated the following:

7.56. As noted in its previous interventions on this subject, Canada wishes to reiterate the need for transparency and predictability in international trade, achieved through regulatory frameworks that are based on scientific data and risk analysis and that are discussed in close cooperation with trading partners, where feasible and appropriate, to achieve optimal outcomes while facilitating trade. 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 and favour domestic goods.

7.57. 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 maximum residue

levels (MRLs) for crop protection tools authorized in various jurisdictions, in order to allow for solutions that are appropriate to their particular circumstances and needs and ensure the global food supply. In particular, Canada again wishes to register its concerns regarding the European Union's hazard-based regulation for active substances in Plant Protection Products (PPPs) 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.

7.58. 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 European Union consider maintaining MRLs for substances that do not pose unacceptable dietary risks to European consumers, which would avoid the need for import tolerances in many cases.

7.59. Canada would also appreciate receiving further information in this regard, including who would determine what environmental factors would be considered and how these would relate to the consumer dietary risk assessment, which is the scientific basis for the specification of import tolerances.

7.60. 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.

7.61. Lastly, Canada 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 long shelf lives. 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.

7.62. 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.

7.63. The delegate of India indicated the following:

7.64. India thanks the proponents of this communication and shares the concerns raised over the European Union's application of SPS standards on agriculture products. In implementing its SPS measures, the EU seems to impose 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 European Green Deal-related regulations. India continues to study this evolving issue keenly and remains concerned, as a matter of principle, over the way in which the EU is erecting new non-tariff barriers.

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

7.66. The European Union takes note of and acknowledges the concerns expressed by WTO Members. The EU provided detailed replies to these concerns in previous CTG meetings. Therefore, the EU would like to refer once again to its previous statements as they remain valid in their entirety.[5]

7.67. The European Union is one of the biggest importers of agri-food products in the world. The EU has developed a highly trusted, transparent and predictable system based on its high level of

[5] Document G/C/M/142, paragraphs 6.80-6.86.

consumer health protection, to which some other countries defer in the absence of their national MRLs. The EU 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 trade concern, whose large exports of agricultural products to the EU during these five years have remained stable.

7.68. As announced in the European Green Deal and the Farm to Fork Strategy, the European Union will take environmental aspects into account when deciding about requests for import tolerances for substances no longer approved in the EU, while respecting WTO standards and other international obligations. The EU intends to address this matter on an incremental basis, considering and reviewing the position of each particular active substance on a case-by-case basis, based on the best available scientific evidence and ensuring that its measures are not more trade restrictive than necessary to achieve their objective.

7.69. 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. The EU remains committed to continuing an open dialogue on its policies and measures and stands ready to further engage and explain EU policies to its trading partners.

7.70. Finally, based on the outcome of the UN Food Systems Summit convened in September 2021, the European Union believes that WTO Members have a shared interest in making our food systems sustainable by tackling the issue of toxic active substances and protecting our citizens' health with appropriate measures.

7.71. 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 Australia indicated the following:

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

8.4. 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 individual products.

8.5. Australian exporters are concerned about stringent and inflexible measures under the CSAR framework, particularly regarding testing, registration requirements, and requirements to provide detailed information on production processes and other aspects of their intellectual property. Australia also seeks clarification as to why "Good Manufacturing Practice" certification is deemed necessary for low-risk general cosmetics, and why governments need to provide such certification when commercial providers are equally capable of doing so.

8.6. 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 our respective systems for cosmetics regulation.

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

8.8. It is unfortunate that the United States must continue to reiterate its serious concerns. It is imperative that the US find a resolution to its concerns with China's development of the CSAR and its implementing measures. Despite continued multilateral and bilateral engagement from the US, US industry, and other WTO Members and stakeholders, significant trade concerns remain.

8.9. 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 if 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 questions China's response to the comments of several WTO Members that its GMP requirements for imports and domestic products are equivalent. The US reiterates its request that China consider less trade disruptive means for US importers to meet its animal testing exemption requirements, such as second- and third-party certificates to the ISO GMP cosmetics standard. And 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.

8.10. Second, the United States remains concerned that CSAR and its implementing measures require overly extensive information to assess conformity. 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.

8.11. Third, 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 other CBI. The US asks that China clarify whether it will develop a specific mechanism for companies to indicate to the National Medical Products Administration (NMPA) when information provided should be treated as trade secrets or otherwise as CBI, to protect from unauthorized disclosure. The US requests that NMPA provide a mechanism to ensure that the treatment of trade secrets and other CBI is monitored and legally enforceable within China.

8.12. Fourth, 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. In a related matter, the US is concerned that China continues its reliance on animal testing to assess safety for imported special cosmetics and children's cosmetics products even when companies are able to demonstrate safety via other internationally recognized methods.

8.13. Fifth, the United States continues to have serious concerns over the potential trade impact of the new cosmetics labelling requirements. 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.

8.14. Sixth, the United States is concerned that, given the magnitude of some of the new CSAR requirements, 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.

8.15. 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.

8.16. The delegate of Japan indicated the following:

8.17. Since the meeting of the TBT Committee that took place in March 2019, Japan has continued to express its concerns regarding China's CSARs, as well as the related Implementing Regulations.

8.18. Japan wishes to point out that, in terms of the safety and efficacy evaluation of cosmetics, one problem is that China only approves the results verified by domestic Chinese testing laboratories, and another is that materials proving efficacy are required more than is necessary.

8.19. Furthermore, when a cosmetics manufacturer registers cosmetics with the authorities, it is required to provide information about the manufacturer of the raw materials used in the cosmetics. This practice places a heavy burden on the manufacturers of both the cosmetics and the raw materials. If manufacturers cannot provide the required information, there may be a risk that the cosmetics cannot be sold. In line with international practice, Japan requests that China present information about raw material manufacturers following requests from the relevant authority only after the products have been made commercially available, rather than at the time of registration. In addition, Japan requests that, when imposing new demands on them, manufacturers are provided a sufficient grace period before enforcement so that they may adapt their products in accordance with the new requirements.

8.20. Japan calls upon China to formulate and enforce regulations on cosmetics that are consistent with international practice and are not unnecessarily trade-restrictive.

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

8.22. The European Union wishes to reiterate the concerns it already shared in the Council's meetings of July and November 2021 and April 2022 with regard to the Cosmetic Supervision and Administration Regulation (CSAR) in force since 1 May 2021. The EU's concerns relate in particular to the following: (i) the mandatory disclosure of commercially sensitive information, touching on the intellectual property rights (IPR) of the companies involved, in the registration process. The EU requests China to consider the possibility of requiring continuous access to inspect sensitive information in companies' files but without imposing the obligation to submit that information 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 cosmetic companies in their product application to be exact matching figures, with any mismatch between the information provided by the raw material producer and the cosmetic companies making the latter's application invalid. Given that the exact composition of raw materials is never completely stable but may vary and evolve within certain limits over time, it is almost impossible to guarantee a complete consistency between these sets of figures. Furthermore, access to this 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. In this regard, the EU believes that these requirements are unnecessarily stringent to ensure consumer safety and traceability of the ingredients used in cosmetics, diverging from international practice. This extensive level of information is not required elsewhere in the world for notification and registration purposes, and the safety of consumers is always ensured. Finally, the European Union wishes to reiterate its comment that a differentiated approach is needed between new products and products on the market. This would avoid a situation where product supply could be interrupted for an extended period of time due to insufficient preparation time for both industry and supervision authorities.

8.23. The delegate of New Zealand indicated the following:

8.24. New Zealand welcomes China's endeavours to modernize its regulatory system for cosmetics and appreciates the opportunity to comment on specific elements of China's Regulations. 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.

8.25. New Zealand notes that, under the measures, non-animal tested cosmetics are able to enter China's market only if a government regulatory authority-issued GMP certification is provided. Yet 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.

8.26. New Zealand warmly welcomes the introduction of alternatives to mandatory animal testing for imported cosmetics. Yet New Zealand, like others, is disappointed that the measures do not provide for non-government regulatory authority-issued GMP certification or other trade facilitative mechanisms for providing product assurances, meaning that significant and unnecessary barriers to trade for imported cosmetics products still apply for Members that cannot offer regulator-issued GMP certification.

8.27. New Zealand encourages China to engage directly with affected Members, including New Zealand, to identify a trade-facilitative mechanism to demonstrate GMP conformity, without imposing animal-testing requirements. Specifically, and following China's response to New Zealand's question submitted during its recent WTO Trade Policy Review, New Zealand seeks clarification whether the requirement for a regulatory authority-issued GMP certificate as an alternative to animal testing requirements can be exempted on the basis that: (i) the manufacture of the product fully conforms with the relevant ISO 22716 standard or higher, assuring the safety of the product; or (ii) a product safety risk assessment result is provided from a laboratory accredited by a National Accreditation Body that confirms the safety of the product.

8.28. Additionally, New Zealand requests that China also provide flexibility in respect of product testing requirements. In particular, New Zealand encourages China to accept test reports from laboratories situated outside of China that have been accredited. Otherwise, this is a burdensome and unnecessary trade barrier for exporters that send products to China as well as multiple other markets. Building in such flexibility would be trade facilitative and in accordance with international best practice.

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

8.30. New Zealand appreciates its recent constructive bilateral engagement with China on cosmetics issues and looks forward to engaging further with China on its CSAR measures to address these issues. New Zealand would welcome China's response to the concerns raised by it and other Members in this and other forums.

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

8.32. The Republic of Korea welcomes China's continuous cooperation through bilateral channels, especially on cosmetic regulations. However, taking into consideration that the cosmetic industry is important to both countries, Korea echoes the concerns raised by other WTO Members and would like to request China to swiftly address this issue.

8.33. With regard to China's CSAR, and as expressed in previous TBT Committee meetings, it is the Republic of Korea's view 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 instance, under the regulation, exporters to China are required to specify the sources and quality data of all ingredients in their applications, which the Korea believes is demanding more information than that of any other countries. Such information in fact 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.

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

8.35. The delegate of China indicated the following:

8.36. China refers to its statements made at previous meetings of the TBT Committee and the CTG. Capital-based officials are still working on the technical issues raised by the relevant WTO Members. China will provide its feedback to Members at the following week's meeting of the TBT Committee, beginning on 12 July.

8.37. The Council took note of the statements made.

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

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

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

9.3. As the European Union will also highlight under the next agenda item, Indonesia's import restrictive policies and practices are a long-standing source of concern, as previously raised in several WTO bodies. Recent developments are worrisome considering Indonesia's increased focus on import substitution, including the objective of advancing to 2022 a reduction of imports equivalent to 35% of the value of its 2019 import potential. This objective was originally set for 2035.

9.4. This approach appears to be already at an advanced stage of implementation, with the adoption of a broad range of measures, including expanding local content requirements and the mandatory use of Indonesian National Standards ("SNI" standards), as well as the further promulgation of cumbersome import licensing procedures.

9.5. Despite Indonesia's reassurances in previous meetings of this Council that the import substitution programme did not have protectionist purposes, EU operators across a variety of sectors are already negatively affected by the many import restrictive measures implemented by Indonesia. They include, for example, 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.

9.6. The European Union would also like to stress that imports remain necessary as a part of Indonesia's ambition to develop its domestic industry, also in terms of the country's government procurement process. Raising barriers to trade, in particular on technologically sophisticated products, would hamper the post-pandemic economic recovery of the country, which cannot be achieved through export promotion alone.

9.7. The European Union seeks from Indonesia clarifications as to its underlying rationale for expanding import substitution policies and the introduction of the "commodity balance" system as the basis for issuing import and export approvals. The EU would also welcome Indonesia's explanations as to what implementing measures it intends to take and how Indonesia will ensure that its practices are compliant with its WTO obligations.

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

9.9. 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 percent of imported products" in 2022. The US requests that Indonesia provide an update on this item and the specific policies it is implementing, or intends to implement, to achieve its import substitution goals. If Indonesia is proceeding with an import substitution programme, will it 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 input?

9.10. At the CTG's previous meeting, Indonesia stated that this policy "has no element of protectionism" and "is not intended to hinder imports from other [WTO] Members." It is difficult to see how that is possible. Can Indonesia provide further clarity on the intent and scope of its import

substitution programme? The United States again strongly urges Indonesia to rethink this counter-productive and trade-disruptive goal.

9.11. The delegate of India, addressing Agenda Items 9 and 10, indicated the following:

9.12. India remains concerned about Indonesia's import substitution programme and its import and export policies, which are intended to reduce access to the Indonesian market.

9.13. Indonesia is maintaining a number of restrictions on its imports and these restrictions are affecting Indian businesses in terms both of exports as well as supply chain disruptions, as follows: (i) 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 that have led not only to difficulties, but also to cost increases for Indian exports; (ii) there is a quota system on importation of sugar; (iii) there has been a sudden delay in the issuance of Horticultural Products Import Recommendations (RIPHs) in respect of agricultural products, such as for onions and potatoes, without assigning any reason for the same. There have also been cases of RIPH non-issuance. This is having an impact upon India's exports of the horticultural products concerned; (iv) Indonesia has also put dry red chillies in its horticulture category, thus subjecting their import to RIPH requirements; (v) Indonesia imposes quantitative restrictions on imports of automobile and components thereof. There have also been instances of delays in issuance of TPT import permits for imports of commercial vehicles from India; and (vi) these policies remain a concern for Indian chemicals and pharmaceutical products.

9.14. India has discussed all of these issues bilaterally with Indonesia. However, no clear response from Indonesia has so far been received. India urges Indonesia to constructively and transparently engage on these proposals and not to adopt trade restrictive measures.

9.15. The delegate of Switzerland indicated the following:

9.16. Switzerland shares the concerns raised by the European Union, in particular regarding Indonesia's import substitution programme aimed at reducing the value of imports by 35% compared to its 2019 level by the end of 2022. Switzerland calls upon Indonesia to modify its plans and remains highly interested in receiving Indonesia's clarifications in this regard, especially concerning possible changes.

9.17. The delegate of Japan indicated the following:

9.18. Regarding the so-called P3DN programme, in which Indonesia stipulates that the purchase and use of domestic products should be prioritized on the basis of Decree No. 29/2018, Japan is concerned about the possibility of domestic and foreign discrimination as a means of promoting import substitution with domestic products. Japan also shares the concerns about Indonesia's plan to introduce domestic SNI standards as pointed out by the European Union.

9.19. Japan has repeatedly expressed its concerns about the fact that Indonesia has introduced and maintained Local Content Requirements (LCR) measures in various fields. Japan is concerned that this programme will exacerbate such situations.

9.20. Japan requests Indonesia's clarification of how it implements the P3DN programme if it does not intend to guarantee trade protections. Japan also asks Indonesia to explain how it aims to ensure WTO consistency with these measures that it is working to implement in order to realize its plan.

9.21. The delegate of Indonesia indicated the following:

9.22. Indonesia reiterates its statement delivered at previous meetings of the Committee on Market Access (CMA) and this Council that its import substitution programme was never aimed at impeding imports from other WTO Members. The issuance of import licences and the technical regulations of the Indonesian National Standard (SNI) are, in principle, not related to the import substitution programme. In addition, the provisions of SNIs are intended to ensure that all products distributed on the Indonesian market meet the safety, security, and health standards necessary to protect Indonesian consumers. The provisions themselves are applied in a non-discriminatory manner for both domestic and imported products. In this regard, Indonesia always strives to fulfil the WTO's

transparency principle by notifying every implementation of mandatory SNI and other technical regulations to the WTO.

9.23. The Council took note of the statements made.

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

10.1. 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.

10.2. The delegate of New Zealand indicated the following:

10.3. New Zealand believes that Indonesia's restrictions on agricultural imports continue to undermine core WTO principles. The frequent changes to import requirements reduce commercial certainty, which in turn hampers returns for farmers and can lead to increased costs of production. Moreover, this uncertainty also contributes to the ongoing increase in the cost of food, which can have a particularly negative effect on people on low incomes.

10.4. New Zealand is particularly concerned about the inconsistent issuance of import licences. Delays in import licences lead to commercially significant market access issues for trading partners and can lead to importers having greater difficulty in sourcing food products for local consumers.

10.5. New Zealand requests that Indonesia also provide further information to trading partners on its commodity balance mechanism, including how the mechanism is calculated, the process exporters have to go through to get import licences, and what moves Indonesia is undertaking to make the mechanism more transparent.

10.6. The delegate of Japan indicated the following:

10.7. In past meetings of the CTG and the TRIMs Committee, Japan has continuously expressed its concerns over the consistency with the WTO Agreements of Indonesia's various Local Content Requirement (LCR) measures relating to 4G LTE equipment, TV equipment, and the retail industry.

10.8. Indonesia has repeatedly explained that the LCR measures in general are based on its government procurement policy, but the content of its government procurement policy is unclear. It does not appear that all LCR measures are being implemented as part of government procurement, and nor are they immediately justified because of government procurement policies. As far as Japan understands, a comprehensive review is currently under way. Therefore, Japan requests details of the review schedule and consultations.

10.9. Japan is also concerned about the increase in Indonesia's import restricting measures relating to its import registration and approval system for textile products and air conditioners, including concerns over their consistency with Article XI:1 of the GATT. Japan appreciates that there has been an improvement in the level of permitted quantities; however, Japan hopes that the criteria will be clarified in depth and that operational transparency will be improved.

10.10. Moreover, Japan continues to express its concerns regarding 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. Japan is concerned that, as a measure that has a trade-restricting effect on imports, it may not be consistent with Article XI:1 of the GATT, among others. Indonesia suggests that these are technical standards regarding safety. However, the permit standards are not specified by Indonesia's law. Japan considers that the volume of applications should not be significantly reduced, and that the reasons and criteria for such a reduction in applications should be clarified.

10.11. Furthermore, with regard to textile products, Japan considers that it was truly regrettable that Indonesia's safeguard measure on carpets was introduced on 17 February 2021, even though Japan had been raising this measure in various discussions, including at the Committee on

Safeguards, as well as at the consultations. It is regrettable that no improvement has been seen. In this regard, Japan considers that there are two main problems: one is that the tariff is as high as 150-200% in terms of *ad valorem* tax conversion, and the other is that the tariff has been introduced in a situation in which carpet imports have dropped sharply.

10.12. Japan is concerned about the increasing number of Indonesia's trade restrictive measures, which are thought to be inconsistent with the WTO Agreements. Accordingly, Japan requests a concrete explanation regarding the background of the introduction of these systems and their consistency with the WTO Agreements.

10.13. In particular, Japan notes that, regarding three measures, namely the import regulation on air conditioners, the import licences on steel, and the import regulations for textiles, Japan had submitted written questions to Indonesia in the Import Licensing and TRIMs Committees, to which Japan expects Indonesia's prompt response. Japan hopes that Indonesia's import regulations on air conditioners will be operated so as not to fall under 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.

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

10.15. Under this agenda item, the European Union reiterates more broadly its deep and long-standing concerns over Indonesia's import and export restricting policies and practices as no real progress has been registered. Rather, the number and scope of Indonesian restrictions seems to have further expanded over time. In particular, the EU reiterates its serious preoccupation with Indonesia's burdensome and lengthy SPS import authorization procedures, its complex rules on halal labelling, its mandatory use of and limited possibilities for audits on domestic SNI standards, its wider use of local content requirements, and its restrictive import licensing requirements or other import control measures.

10.16. In this respect, the European Union welcomes that Regulations No. 77/2019 and No. 68/2020 have now been repealed, thereby revoking the *de facto* prohibition to imports into Indonesia of EU finished textile items, notably carpets, and providing new rules to import finished footwear, electronics, and bicycles and tricycles. However, the EU considers that details on Indonesia's current and future import regimes remain unclear, and that new restrictive import measures appear to have been introduced for some of the same products, such as the new regime of import quotas in place since January 2022 for textiles and footwear.

10.17. Therefore, the European Union requests Indonesia's clarification of its current and future import regimes. The EU would also be grateful for further details on the expected timeline and arrangements for the application to different groups of products of the commodity balance system established under Government Regulation No. 5/2021 and Ministry of Trade Regulations No. 19/2021 and No. 20/2021. On the latter, the EU welcomes Indonesia's stated intention of establishing the commodity balance as a tool to streamline the issuing of import/export licences, although the EU is concerned that the commodity balance system might actually result in further unintended restrictions to trade flows.

10.18. The European Union also notes the introduction of a new export regime under Regulation No. 18/2021, which appears to significantly expand the scope of goods subject to export prohibitions (from 39 to 275 tariff posts). This new export regime will further hinder trade flows and the EU has doubts as to its compliance with WTO obligations.

10.19. In conclusion, the European Union reiterates its call to ensure that all of Indonesia's relevant measures are notified to the WTO in order to allow Members to comment on them. The EU urges Indonesia to reduce its high number of trade barriers, which have been affecting EU trade flows for too long, and to refrain from issuing new ones.

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

10.21. The United States wishes to take this opportunity to again underscore its concerns with Indonesia's import and export restricting policies and practices. The US notes the growing number of Members that are intervening on this agenda item, as well as the increasing number of Indonesian

policies that Members are raising as concerns. The US hopes that Indonesia takes heed of this worrying trend. The US has raised concerns with specific Indonesian policies in past meetings of the Council, as well as in the TRIMs, TBT, ITA, and Market Access Committees, and regrets that it must raise them again on this occasion.

10.22. First, the United States notes that, at the Council's previous meeting, Indonesia stated that it had "begun several reviews" of its local content policies and that consultations were ongoing. The US requests that Indonesia provide the Council with an update on these reviews and underscores the importance of ensuring that its consultations allow for broad public input.

10.23. Second, the United States continues to have concerns regarding Indonesia's application of tariffs on certain ICT products that appear to exceed its WTO bound tariff commitments. And while there were some positive developments with the new HS2022 schedule, Indonesia continues to maintain tariffs on 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, without a substantive response to its concerns. The US has been patient and constructive, including by providing concrete examples that clearly illustrate its concerns as well as preparing specific questions that were circulated to the ITA Committee in April 2021. Unfortunately, Indonesia has yet to provide a substantive response to the US' repeated attempts at engagement. At the Council's previous meeting, Indonesia said it was coordinating with relevant Ministries and Agencies. Therefore, the US hopes that Indonesia is in a position to provide an update, especially now that it has finalized its HS2022 schedule, as well as a response to the US questions from April 2021. The US believes these tariffs on certain ICT products 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.

10.24. Third, the United States is 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. By finalizing measures in this manner, Indonesia misses an opportunity to receive valuable feedback from stakeholders regarding the trade impact of its measures. Additionally, the US remains concerned that Indonesia has yet to respond to important questions on its halal measures that the US had circulated at the TBT Committee. Going forward, the United States strongly encourages Indonesia to adopt a more transparent and consultative policymaking process.

10.25. In closing, the United States urges Indonesia: (i) to provide a response to the US' April 2021 questions in the ITA Committee; (ii) to provide a response to questions on Indonesia's halal measures previously submitted to the TBT Committee; and (iii) to provide an update on its ongoing review of its local content policies. The US believes that Indonesia's trade-restricting policies run counter to its broader economic recovery goals as well as the interests of Indonesian consumers, workers, and businesses, and the US strongly encourages Indonesia to reconsider such policies. The United States is hopeful that Indonesia can respond to its concerns and stands ready to engage.

10.26. The delegate of Canada indicated the following:

10.27. Canada considers Indonesia's application of tariffs above its bound rates on ICT products to be inconsistent with Indonesia's WTO commitments and contrary to the objectives of multilateral tariff liberalization. Canada is pleased that Indonesia is working with its relevant Ministries and agencies to bring its application of tariffs on ICT products into compliance with its WTO commitments. Finally, Canada calls upon Indonesia to expedite this work and eliminate tariffs on these ICT products in a timely manner.

10.28. The delegate of Indonesia indicated the following:

10.29. In responding to some of the concerns raised by WTO Members, Indonesia wishes to reiterate its statements delivered at previous meetings of several relevant WTO bodies, as follows.

10.30. With regard to the Domestic Component Level (TKDN), it is intended for policies relating to government procurement, fulfilling the needs to maintain the welfare and needs of the Indonesian people, and concerning the handling of strategic resources managed by the government. A comprehensive review of localization measures has been initiated several times and the process is still ongoing.

10.31. On the import duties for telecommunications products, it is now under technical discussion among the relevant Ministries. Indonesia will continue to strive to comply with all WTO Agreements, including the ITA.

10.32. Regarding the import licensing procedures relating to SPS, Indonesia wishes to reiterate that what has been described as undue delay over the past two years is no longer relevant. Indonesia has made progress, improvements, and introduced transparency in its approvals mechanism. For example, Indonesia has issued Minister of Agriculture Regulation No. 15 of 2021, which regulates business permits in agriculture, including animals and animal products, based on a risk-based analysis. This decision was submitted to the SPS Committee in document G/SPS/N/IDN/143. The stages and time-frame for the approval procedure were communicated to the European Union's SPS Enquiry Point on 14 November 2021. The list of stages for approval of business units for imports into Indonesia must begin with the following: (i) application from WTO Members; (ii) assessment for all required documents; (iii) scheduling for on-site inspection, for which invitation will be issued by the WTO Member's competent authority or from the Embassy; (iv) on-site inspection; and (v) approval.

10.33. Indonesia also intends to suggest to the European Union that the EU SPS National Enquiry Point in Brussels could carry out better internal coordination with the EU representative in Geneva so that the progress that has been conveyed and made in Brussels can be properly conveyed to Geneva. Indonesia understands the EU's request to ensure one entity in the approval procedure mechanism. For WTO Members that have a health protocol for animal products, such as meat, dairy products, poultry, and animal by-products, and that wish to apply for approval to establish another unit for the same product, the on-site inspection may not be required if the results of the review have been completed, approved, and found to be according to the requirements. This procedure is in accordance with Article 5 and Article 6 of the SPS Agreement.

10.34. On safeguards for carpet products, Indonesia wishes to reiterate its statement delivered at the Council's previous meeting, namely that Indonesia has also taken Japan's concerns seriously, as expressed in various bilateral and multilateral meetings. However, after seriously considering all the relevant aspects, and to prevent or remedy the serious harm faced by Indonesia's domestic industry, the Indonesian government decided to impose necessary but temporary measures.

10.35. With regard to halal regulations, Indonesia intends to reaffirm its openness and transparency for international cooperation in the Halal Assurance System in Indonesia, based on the principles of cooperation, recognition, and acceptance, in accordance with international practice and regulations.

10.36. Regarding the Indonesian National Standard (SNI), the purpose of the SNI policy is to ensure that relevant products can meet the safety, security, and health aspects necessary for the protection of Indonesian consumers, and that SNI is applied both for domestic products and imported products.

10.37. In principle, Indonesia has no intention to impede the flow of international trade through its import and export policies, especially those related to the government's procurement policy, which concerns the fulfilment of the needs and welfare of the Indonesian people. Indonesia always pursues simplification, transparency, and efficiency to make its exports and imports easier to implement.

10.38. Indonesia stands ready to engage bilaterally with WTO Members on their concerns.

10.39. The Council took note of the statements made.

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

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

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

11.3. The United States shares the concerns raised by Canada and the European Union regarding India's quantitative restrictions for select varieties of pulses. Similar to its previous statements in the Import Licensing Committee, the Committee on Agriculture, and the Committee on Market Access, the United States repeats its requests for information on how the measures reflect India's WTO commitments, and when and how the measures will be ended. 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.

11.4. The delegate of Canada indicated the following:

11.5. As previously noted in this 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. Canada continues to question India's justifications for these trade restrictive measures and calls upon India to immediately implement alternative trade facilitative measures for the import of pulses.

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

11.7. The European Union fully supports the previous interventions. As mentioned previously, the European Union remains concerned by India's import restrictions for certain pulses and urges India to provide certainty and stability when it comes to its import regime for pulses.

11.8. The delegate of Argentina indicated the following:

11.9. Argentina wishes to thank Canada, the United States, and the European Union for including this item on the agenda. As Argentina has stated on previous occasions, this measure affects two of the main pulses exported from Argentina to India. Argentina, like those that have taken the floor before it, reiterates its concern over the uncertainty that this measure creates for its exporters.

11.10. The delegate of Australia indicated the following:

11.11. Australia appreciates the clarification provided by India at the Council's previous meeting regarding the status of its treatment of pulses. Australia notes India's advice in its response that its process for reviewing its import restrictions on pulses is "agile, dynamic, and continuous". In this context, Australia requests India's advice on whether India intends to use these measures on an ongoing basis. Australia further requests India's advice on its objectives and rationale for using these measures. Is the intent, for example, to manage imports in response to changing domestic circumstances?

11.12. Could India please outline what other less trade-distorting measures could be adopted to address the underlying objectives of India's decision to implement import restrictions on pulses? Did India consider such alternative measures? If so, on what basis were such measures rejected?

11.13. 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 quantitative restrictions, 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, as well as exporters and traders.

11.14. The delegate of India indicated the following:

11.15. As addressed at previous meetings of this Council and the Committee on Market Access, 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. India's Notification No. 63/2015-2020, made by the Directorate General of Foreign Trade on 29 March 2022, states that the free import policy of urad, HS code 0713.31.10, and tur or pigeon peas, HS code 0713.60.00, has been extended until 31 March 2023.

11.16. India's import measure on Moong has already been notified to the Committee on Import Licensing, under Article 5.1-5.4 notifications, in document G/LIC/N/2/IND/22. Therefore, India is fully compliant with the notification obligations for this specific trade concern. In fact, some of the products referred to in this specific trade concern are not restricted for import at all. As such, India urges the proponents of this agenda item specifically to state what problems their exporters are facing and the quantification thereof. In the absence of such information, it would be unfortunate if this specific trade concern continued being carried forward into other meetings of WTO regular bodies.

11.17. The Council took note of the statements made.

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

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

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

12.3. Unfortunately, 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 European Union. Such a step is needed for a so-called "systems approach" to replace the current costly pre-clearance system imposed by the United States.

12.4. The initial application from the European Union dates back to 2008 and all technical work had already been finalized in 2017. But despite raising this issue on multiple occasions with the United States in biannual bilateral dialogues, sending multiple letters to the US and already raising this issue 13 times as a specific trade concern in the SPS Committee, the US continues to fall short of meeting its WTO obligations on this issue. Indeed, the US keeps its markets closed for apples and pears from the EU under a systems approach and without any scientific grounds.

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

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

12.7. 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 United States would again note that the European Union is able to export apples and pears to the US under the existing pre-clearance programme.

12.8. The Council took note of the statements made.

13 EUROPEAN UNION – PROPOSED MODIFICATION OF TRQ COMMITMENTS: SYSTEMIC CONCERNS – REQUEST FROM BRAZIL AND URUGUAY

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

13.2. The delegate of Brazil, addressing Agenda Items 13 and 14, indicated the following:

13.3. Brazil wishes to reiterate its disappointment with the fact that, as a result of Brexit, the European Union and the United Kingdom are reducing Members' access to their markets. And as the Council knows, according to the Agreements, a WTO Member cannot unilaterally reduce their market access concessions without granting compensation. Brazil therefore urges both the EU and the UK to duly take into consideration the concerns that Brazil has expressed in their bilateral discussions.

13.4. The delegate of Uruguay, addressing Agenda Items 13 and 14, indicated the following:

13.5. Uruguay wishes to reiterate its trade and systemic concerns over the unilateral modifications of concessions of the European Union tariff rate quotas under Article XXVIII of the GATT 1994 following Brexit, in particular with respect to the fact that they are not necessary and lack any legal basis under the WTO Agreements.

13.6. Uruguay regrets that, even though it participated actively and constructively in the process from the beginning, taking into account the importance and sensitivity of the market access conditions and concessions at stake, and demonstrating the injury that its agricultural sector, and its economy as a whole, would suffer as a result of the apportionment, the European Union rejected even the most modest and reasonable requests for compensation submitted by Uruguay.

13.7. This is why Uruguay wishes once again to reiterate its profound disappointment and dissatisfaction with this 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.

13.8. Lastly, without prejudice to the bilaterally agreed commitments between them, Uruguay once again requests that the European Union remove the United Kingdom from the potential users of its tariff rate quotas in its WTO Schedule of concessions. At the same time, as a year and a half has now passed since the end of the transition period of the Withdrawal Agreement and the completion of the UK's withdrawal from the EU, Uruguay reiterates its query about when and how the EU intends to adjust downwards its final bound aggregate measurement of support (AMS) entitlements in its Schedule of concessions, in line with the announcements made.

13.9. With respect to Agenda Item 14, Uruguay would like to express concern over the United Kingdom's proposed AMS entitlement of GBP 4,949 million and its practical implications, as well as the UK's intention to retain the agricultural special safeguard (SSG) rights under Article 5 of the AoA, for all products and under the same criteria and conditions as set out in the European Union's Schedule. With respect to the Article XXVIII procedures, Uruguay would like to reaffirm its willingness to work together with the UK with a view to reaching a mutually agreeable solution that allows the UK to have an independent Schedule of concessions at the WTO.

13.10. The delegate of India, addressing Agenda Items 13 and 14, indicated the following:

13.11. India continues to discuss the issue of tariff rate quota (TRQ) commitments with the European Union and shares some of the concerns raised by this agenda item's proponents. India will continue to work bilaterally with the EU towards resolving these issues. At the same time, India continues to discuss bilaterally with the United Kingdom the issue of the UK's modified goods schedule post-Brexit.

13.12. The delegate of Paraguay, addressing Agenda Items 13 and 14, indicated the following:

13.13. Paraguay wishes to reiterate its systemic concern over the approach adopted for the apportionment of the tariff rate quotas, as well as the establishment of a broad AMS for the United Kingdom, without, so far, having an equivalent reduction in the European Union's entitlement. Paraguay also associates itself with the concerns raised by Uruguay regarding the UK's intention to reserve special safeguard rights that would not meet the market access requirements necessary for its existence.

13.14. The delegate of Canada, addressing Agenda Items 13 and 14, indicated the following:

13.15. Negotiations with the European Union on modifications to its TRQ commitments as the result of Brexit are ongoing. Canada notes the extension of these negotiations to 1 January 2023. On a related matter, Canada would be interested in the EU's timeline to modify its domestic support commitment to reflect its apportionment to the United Kingdom.

13.16. The delegate of Mexico, addressing Agenda Items 13 and 14, indicated the following:

13.17. Mexico wishes to place on record its systemic concerns, as it has done in other meetings, and requests that its previous statements be noted for the record.[6] Mexico also wishes to echo the concerns of other Members regarding the European Union's AMS, and particularly on the question of when Members can expect the EU to make the necessary change to establish the United Kingdom's exit, with the data that the UK intends to have on its list, and when that subtraction would be reflected in the EU's list from its consolidated AMS?

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

13.19. The European Union takes careful note of the comments made. As the EU mentioned under Agenda Item 2, good progress has been achieved with agreements formally signed with six of the EU's partners, initialled with three other partners, and negotiations progressing well with several other partners. The EU welcomes the increased engagement of many WTO Members. The European Union remains fully committed to continuing these negotiations and consultations and to bringing them to a successful close in the coming months.

13.20. The Council took note of the statements made.

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

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

14.2. The delegates of Brazil, Canada, India, Mexico, Paraguay, and Uruguay addressed this item in their respective interventions under Agenda Item 13. [7]

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

14.4. The Russian Federation is concerned about the United Kingdom's approach and methodology in respect of its TRQ renegotiations. In particular, Russia cannot agree with the UK's proposed schedule modifications without receiving compensation as provided for under Article XXVIII of the GATT.

14.5. The Russian Federation wishes to recall that it was recognized by the United Kingdom as a principal supplier of certain products. However, to date Russia did not receive any compensation proposal from the UK. In this regard, Russia urges the UK to continue its negotiations and to provide Russia with adequate compensation in order to complete the establishment of its proper schedule of tariff commitments in the WTO under the Brexit process.

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

14.7. The United Kingdom wishes to thank WTO Members for engaging with the UK in discussions in Geneva that week. The UK hopes to continue its constructive dialogue with the WTO Members concerned in the upcoming months with the hope that this process will soon be concluded.

14.8. As the United Kingdom set out under Agenda Item 3, it remains committed to resolving all discussions relating to its Goods Schedule, including through the process under Article XXVIII of the GATT. It is expected that the extension of timelines under Article XXVIII:3 will allow further necessary engagement and a conclusion of the discussions.

14.9. On the statements concerning the AMS, special safeguards, and currency conversion, the United Kingdom wishes to refer Members to its previous statements made in this Council, and at the CMA, which set out the UK's position on these issues as it still stands. The UK wishes to note that, following engagement at a technical level, many WTO Members that held initial concerns over this

[6] Document G/C/M/141, paragraphs 13.29-13.32.
[7] Paragraphs 13.2-13.3 (Brazil), 13.14-13.15 (Canada), 13.10-13.11 (India), 13.16-13.17 (Mexico), 13.12-13.13 (Paraguay), and 13.4-13.9 (Uruguay).

matter have since been satisfied to remove their objections. The UK remains open to holding similar discussions with those WTO Members that continue to express their concerns.

14.10. The United Kingdom reiterates its thanks to those WTO Members that have engaged constructively on all matters relating to its goods schedule so far, including for the recent in-person engagement. The UK continues to welcome constructive bilateral dialogue towards resolving those concerns voiced by WTO Members on this occasion.

14.11. The Council took note of the statements made.

15 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

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

15.2. The delegate of New Zealand indicated the following:

15.3. New Zealand continues to raise this item in the Goods Council and refers the European Union to its previous statements. New Zealand has considered the European Union's response on this matter. However, New Zealand still sees a conflict in the European Commission's approach to protecting the cheese names "Danbo" and "Havarti", for which there are existing Codex standards, and 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.

15.4. The delegate of Uruguay indicated the following:

15.5. Uruguay regrets having to place this item on the agenda once again and wishes to refer to its previous statements[8] 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.

15.6. As Uruguay has noted for a long time, Danbo refers to a cheese manufacturing technique; it 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. However, the EU subsequently decided to include Danbo cheese as a PGI. It was also included in its free trade agreements, thereby indirectly excluding from third markets producers of this type of cheese, which, in Uruguay's view, constitutes a limitation on trade.

15.7. Therefore, Uruguay considers that the registration by the European Union of the term Danbo as a PGI is not only contradictory, but also amounts to establishing a *de facto* monopoly on a Codex standard, which creates legal uncertainty, because Members cannot choose which international rules to comply with and which to ignore. For these reasons, despite the time that has elapsed, Uruguay will continue to maintain this trade concern.

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

15.9. The European Union takes note of the concerns expressed by New Zealand and Uruguay. The EU has provided detailed replies to these concerns at previous CTG meetings. There has been no new development since the CTG's previous meeting. The EU therefore refers to its statement delivered at the CTG's previous meeting, which remains valid in its entirety.[9]

15.10. The Council took note of the statements made.

[8] Document G/C/M/142, paragraphs 13.2-13.5.
[9] Document G/C/M/142, paragraphs 13.10-13.13.

16 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM (CBAM)

- **STATEMENT BY CHINA**
- **STATEMENT BY THE RUSSIAN FEDERATION**

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

16.2. The delegate of China indicated the following:

16.3. China reiterates its statements made in previous meetings of this Council and the Committee on Market Access, and wishes to continue to express its deep concern over the European Union's proposed Carbon Border Adjustment Mechanism (CBAM). China fully supports international efforts to fight against climate change. However, China believes that to effectively combat climate change, we need to take collective action among all Members, rather than implementing unilateral measures by individual WTO Members. WTO Members also need to fully respect the basic principles of "common but differentiated responsibilities and respective capabilities" and "nationally determined contributions" under the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, and the WTO rules.

16.4. China take note that, on 22 June 2022, the EU Parliament adopted its position on the CBAM. The adopted position of the EU Parliament appears to be derived from the previously released version. Nevertheless, there are some changes, a few of which China wishes to mention here, as follows: (i) the CBAM transitional period is still to start on 1 January 2023, but is to end on 1 January 2027 (instead of 1 January 2025, as proposed by the ENVI Committee, and 1 January 2026, as previously proposed by the EU Commission); (ii) the scope of CBAM products will be extended to include organic chemicals, plastics, hydrogen, and ammonia; (iii) in addition to direct emissions, the calculation of embedded emissions of CBAM in-scope products should also include "indirect emissions" (being emissions of the electricity used during the production process of the in-scope products); (iv) the full implementation of CBAM by 2032, which is three years earlier than proposed by the EU Commission.

16.5. In addition to its questions raised in previous Council meetings, China has a new question with regard to the amendments adopted by the European Parliament on 22 June 2022. These amendments mention that the European Commission shall draft a legislative proposal providing for a protection against the risk of carbon leakage that equalizes carbon pricing for the production in the European Union of products listed in Annex I that are produced for export to third countries without carbon pricing mechanisms similar to the EU Emissions Trading System (ETS), in particular for installations belonging to the 10% most efficient installations as laid down in Article 10(a) of Directive No. 2003/87/EC. China wishes to know how the EU can ensure that such a practice will be consistent with WTO rules.

16.6. China also notes that the European Union stated many times, on various occasions, that the CBAM will be consistent with WTO rules, but unfortunately China has not seen any pragmatic actions taken by the EU under the WTO. China does not wish to argue over whether the CBAM is a climate or a trade measure, but it is true that the CBAM will have restrictive rather than facilitating effects on international trade. If the EU really wishes to ensure that its CBAM will be in line with WTO rules, it should first fully discus all the controversial details of the CBAM with all interested WTO Members, and answer the technical questions raised by various of those Members, including China. China will continue to raise its concern on the CBAM and expects the EU to respond directly to all the questions that it has raised in previous meetings.

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

16.8. The Russian Federation reiterates its statements made during previous meetings of the CMA and the CTG, and expresses its deep concern regarding the EU's proposed CBAM. Russia supports international efforts aimed at combating climate change and considers specialized international organizations to be the main platforms to address this challenge.

16.9. Climate change can be tackled only in cooperation between all members of the global community. The Russian Federation is convinced that current provisions of international climate

agreements have not yet been exhausted. However, the European Union has made a decision to act unilaterally by developing its own trade restrictive measures, in particular the CBAM. Russia believes that this measure contradicts the basic principles and rules of the WTO, as well as hampering the architecture of global trade.

16.10. The Russian Federation draws the attention of WTO Members to the fact that the institutions of the European Union, namely the Council and the Parliament, have been working on amending the provisions of the draft regulation prepared by the Commission last July. Russia stresses that their proposals are aimed at tightening already trade-restrictive provisions of the current version of the draft regulation on the CBAM. For example, the European Parliament proposes to extend the scope of products subject to the measure by including hydrogen, organic chemicals, polymers, and ammonia. Moreover, the Parliament suggested an extension of the CBAM on both direct and indirect greenhouse gas emissions that would increase the charges on imported products and create additional barriers, including fiscal, administrative, and technical barriers. In addition, the Parliament proposes not to take into account the decarbonization practices of manufacturing processes in the EU's trading partners in order to decrease CBAM charges.

16.11. The EU Council also proposes not to take into account the practices of decarbonization of manufacturing processes in third countries while calculating the CBAM rate, regardless of whether those practices are effective or not. Instead, the European Union will take into account only the ETS similar to its own. Apparently, such an approach is purely economic and aimed at imposing additional costs on exporters of covered products to the EU. At the same time, the Russian Federation reminds the EU that the UNFCCC, as well as the Paris Agreement, allow their Parties to decide on their own way of achieving climate goals that are most effective for them. According to Article 3 of the UNFCCC, for example, "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."

16.12. Another issue is the proposal of the Council 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 appointees only. This makes mutual recognition of verification between the EU and its trading partners, even in theory, impossible.

16.13. Bearing all these proposals in mind one can only conclude that the final version of the CBAM will lead to a disruption in supply chains, increasing prices for basic products and aggravating the current global economic situation.

16.14. In October 2021, the Russian Federation circulated questions to the European Union in document G/MA/W/172-G/C/W/800. However, the EU has failed to provide answers. Russia urges the EU to provide its responses accordingly. Finally, Russia also urges the EU to respect current trade rules and international climate agreements in order to avoid negative economic and social consequences.

16.15. The delegate of Türkiye indicated the following:

16.16. At this Council and in other relevant committees, Türkiye has communicated its expectations from the European Union on the drafting and future implementation of the CBAM. These comments have been and are being shared with the European Commission bilaterally and in other forums. As always, Türkiye thanks the EU for its transparent approach and constant information-sharing efforts on the ongoing design of the CBAM.

16.17. Türkiye understands and shares the European Union's objectives and rationale in designing such response measures aimed at protecting the environment and tackling climate change. However, Türkiye considers that measures targeted for this purpose should prioritize international cooperation and collective action, should take into account the different circumstances and historical responsibilities of countries, should respect the social and economic development needs of others, and furthermore, should not constitute arbitrary or disguised restriction and unjustifiable discrimination in international trade. At this juncture, Türkiye reiterates that the design of the CBAM appears not to be taking some of its concerns into account.

16.18. Since the Council's previous meeting, discussions within the EU Parliament have been concluded in a process that seems to bring possible additions to the design of the CBAM. While Türkiye would appreciate receiving detailed information and updates from the European Union, at this stage it sees that certain new aspects that are being mentioned, such as inclusion of indirect emissions to the mechanism and the possibility of free allowances for EU exports to countries without similar carbon pricing, further increases Türkiye's concerns with regard to the WTO consistency of these possible additions, as well as the additional burden they may create on manufacturers in other countries.

16.19. Türkiye looks forward to receiving further updates from the European Union in this regard.

16.20. The delegate of Japan indicated the following:

16.21. Climate change is one of the most important issues. Countries 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. Therefore, policy coordination is important for the production and introduction of products with low carbon intensity. When discussing policy coordination, each country 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.

16.22. In other words, if the "carbon intensity" of a country or sector is low, this would be the result of said country or sector having taken sufficient measures, such that there would be no problems in terms of the level playing field or carbon leakage. In this regard, the European Union's CBAM is designed to calculate the explicit carbon price at the present time by specific environmental measures, and to charge based on this manner at the border. In this case, even if the product has the same actual carbon intensity and does not cause any carbon leakage, taxation will occur due to the explicit difference in carbon price. In this respect, the environmental objective itself cannot be justified from the viewpoint of preventing carbon leakage, but sufficient consideration is required from the viewpoint of ensuring fair and competitive conditions. In addition to the above-mentioned institutional design issues, it is a prerequisite that this measure be designed consistently with the WTO rules, as has been repeatedly stated.

16.23. Japan is closely following the development of the EU CBAM. As far as Japan understands, the CBAM was approved for re-amendment at the European Parliament's plenary session of 22 June, and the trialogue discussions are under way between the European Council, the European Parliament, and the European Commission. Meanwhile, the amendment of the European Parliament includes the refund of emission credits at the time of export from the EU, and there are more issues, such as subsidies agreements, that need to be considered. In the future, Japan considers that the EU must avoid rushed and arbitrary decisions and to continue to fully discuss this matter internationally.

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

16.25. The Republic of Korea appreciates the European Union's leading role and efforts in tackling ongoing climate change. Korea understands that the EU has introduced its CBAM framework in an attempt to address the issue of possible carbon leakage. Korea wishes to reiterate that trade-related measures, such as the CBAM, should be consistent with the WTO rules, while also being carefully designed so as not to function as unnecessary trade barriers or to create an excessive administrative burden.

16.26. The Republic of Korea thus believes that it is essential to provide sufficient information and opportunities to submit its opinions to those that will be affected by the measure. Moreover, with a view to reaching a common understanding on this issue among WTO 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.

16.27. The Republic of Korea hopes that the European Union's CBAM will be implemented in a manner that fulfils the WTO objectives of ensuring sustainable development and facilitating free trade. Korea will continue to follow the process of the CBAM's introduction closely.

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

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

16.30. The Kingdom of Saudi Arabia considers that the consistency of the European Union's CBAM with the fundamental rules of the WTO is 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 NTBs, falls on 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. Saudi Arabia requests the EU to provide further clarification in this regard.

16.31. In addition, the Kingdom of Saudi Arabia kindly requests the European Union to specify the 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 WTO Members in order to ensure the CBAM's full compliance with the WTO's rules and Agreements, including by ensuring that the proposed mechanism would not create any unnecessary barriers to trade, or be used as the means of an arbitrary or unjustifiable discrimination or disguised restriction on international trade, or be applied in a manner that constitutes protection to EU domestic industries.

16.32. Finally, the Kingdom of Saudi Arabia looks forward to receiving further details and reflections from the European Union on its proposed mechanism. The Kingdom also stands ready to engage on this issue with the EU and interested Members.

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

16.34. The United States wishes to reiterate its encouragement to the European Union to further consult with WTO Members, in the spirit of transparency and minimizing any disruption to trade, as it finalizes the CBAM legislation and the associated delegated acts which will provide necessary detail to implement the mechanism. The US urges the EU to ensure that the CBAM will not unnecessarily penalize goods that are produced in countries without an explicit price on carbon, and create loopholes for goods originating in jurisdictions with weak carbon pricing mechanisms regardless of actual emissions intensity.

16.35. The United States believes that it is essential that WTO Members focus on the outcomes of our overall climate objectives to achieve net zero by 2050, including by addressing the embedded emissions associated with traded goods. The US does not believe that it is necessary for all WTO Members to adopt the same domestic policy approach to addressing climate change. Therefore, the US encourages the EU to consider ways to account for the full range of climate mitigation measures taken by trading partners in the CBAM.

16.36. Focusing on embedded emissions in trade is a concrete and measurable approach to addressing climate change objectives through trade. By focusing on embedded emissions in traded goods, and reducing those emissions over time, WTO Members can consider how to employ trade policies, through whatever policy tools Members have chosen, to achieve our shared objective, which is incentivizing industrial decarbonization. With this objective in mind, the United States welcomes additional, detailed information and fulsome engagement by the European Union on the CBAM.

16.37. The delegate of Brazil indicated the following:

16.38. Brazil refers to its previous statements on the topic and wishes to highlight two particular aspects of this measure. First, the European Union has recently clarified that its CBAM will be phased in while free allowances of ETS will be phased out. With this, the EU will be imposing a tax on foreign imports while exempting some of its own producers of the very same tax. The fact that the EU,

which is the largest trading partner of several WTO Members, could make such a blatant violation of a core WTO principle, compounded with the discriminatory policies for agricultural products that were discussed earlier, is extremely worrying for the future of this Organization. While in the context of MC12 Members have seen strong signals of flexibility and commitment to the WTO coming from China, the United States, India, and several other Members, these policies by the EU lead us to question to what extent the EU is willing to play a constructive role at a time of great challenges to the multilateral trading system.

16.39. Second, the CBAM represents an attempt by the European Union to shift the burden of adjustment costs to other countries, while at the same time it is backtracking on its own commitments. For instance, by labelling investments in natural gas and nuclear energy as "green". Furthermore, it is in clear violation of the principles, norms, and commitments assumed by the EU in international environmental agreements.

16.40. Many stakeholders have called for trade negotiators to work closely with environment experts, as these topics cannot be addressed in silos. Brazil notes, in this context, that if the Climate Coalition of Trade Ministers that is being proposed by the European Union and a few other Members is true and serious in its purposes, the EU will find in Brazil a strong partner to promote sustainable development. It was under Brazil's auspices that the international community achieved the main agreements and principles in International Environmental Law (IEL), as well as the core framework for both the Sustainable Development Goals (SDGs) and the Paris Agreement (much of which was achieved in Rio a few years before). Therefore, Brazil has much to contribute in terms of how to bridge divergences and build consensus on this matter. However, Brazil fears that the EU is consistently seeking to water down any reference to its commitments in environmental agreements and their principles, and instead seeks to legitimize unilateral actions that do not contribute to common global challenges, violate core rules and principles of both the trade and environmental regimes, and weaken the capacity of those regimes to provide global solutions to global problems.

16.41. Brazil is very proud of the very constructive role it played in both the trade and environmental regimes and urges the European Union to reconsider the systemic impact of its unilateral actions.

16.42. The delegate of Paraguay indicated the following:

16.43. Paraguay wishes to reiterate its interest in this trade concern and requests that its previous statements be placed on record.[10] In addition, Paraguay again requests information from the European Union on whether it plans a tariff reduction for imported products with a lower carbon footprint, and how it plans an increase for those with a higher footprint. Paraguay believes that incentives are just as important as penalties in measures such as these, and that common but differentiated responsibilities should also be taken into account.

16.44. The delegate of Indonesia indicated the following:

16.45. Indonesia wishes to reiterate its statement delivered at the CTG's previous meeting on its concerns on the European Green Deal policy, mainly the proposed CBAM and Deforestation Free Commodities (DFC).[11] Indonesia is of the view that such proposals have the potential to create unnecessary barriers to international trade and create different treatment between products produced within the European Union and imported products. On the CBAM, Indonesia requests the EU to provide clear and reasonable justification regarding the expansion of CBAM product coverage, which now includes organic chemicals, plastics, hydrogen, and ammonia, as well as the expansion in the scope of its emission coverage, which now includes indirect emissions. Regarding the DFC, although the EU has stated that the policy is only aimed at importers in the EU, Indonesia emphasizes that, in the end, the proposed legislation would have an impact on producing countries, including Indonesia. Indonesia is of the view that, in addressing environmental challenges, Members should act in accordance with WTO rules and principles, including the principles of common but differentiated responsibilities and respective capabilities. Indonesia is also of the view that the EU, instead of applying a carbon mechanism that could hinder international trade, should have carried out its obligations as stated in the Paris Agreement, and its related agreements, including to provide technical assistance. In the context of the current and developing geopolitical tensions in Europe,

[10] Document G/C/M/142, paragraphs 36.24-36.25.
[11] Document G/C/M/142, paragraphs 41.2-41.7.

Indonesia realizes the significance of joint efforts by all WTO Members to maintain global supply chain stability by prioritizing trade cooperation that is non-unilateral and non-discriminatory. Therefore, Indonesia urges the EU to review the European Green Deal policy, especially the CBAM and DFC proposals, so as to bring it into line with WTO law and principles, and avoid hindering international trade.

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

16.47. The European Union takes careful note of Members' statements. For the sake of efficiency, and since the issues covered under this agenda item will also be raised under Agenda Item 41, the EU intends to provide one single intervention under that other agenda item.

16.48. The Council took note of the statements made.

17 EUROPEAN UNION – THE EUROPEAN GREEN DEAL – REQUEST FROM THE RUSSIAN FEDERATION

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

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

17.3. The Russian Federation reiterates its statements made during the Council's previous meetings and expresses deep concern in respect of the European Green Deal and its implementation. The European Union continues to develop and impose new trade-restrictive measures under the pretext of environmental and climate protection.

17.4. The Council has just discussed the European Union's CBAM. And it is no secret that the imposition of this mechanism is closely related to the EU's desire 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 a transfer of production from the EU to other countries, or what the EU describes as "carbon leakage".

17.5. Obviously, the European Union's Green Deal does not include its CBAM only. It covers all sectors of the economy. Currently, WTO Members are raising specific trade concerns with regard to certain elements of the Green Deal during the meetings of specialized WTO working bodies. One such measure that causes deep concern to the Russian Federation is the Draft EU Batteries Regulation. This measure sets out product requirements for new batteries as a condition for access to the EU market; it also sets out 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 on the minimum level of recycled materials such as cobalt, lithium, lead, and nickel. Apparently, the requirements for the minimum level of recycled materials in batteries are aimed at reducing the use of primary metals in the EU. The requirements of 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 batteries.

17.6. 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 energy sources of supply, the adoption of new technical regulations, and the revision of competition rules, among others. Most of these projects are, or will be, heavily subsidized, and their implementation would lead to the elimination of traditional foreign supplies from the EU market. Russia already sees the compensation of costs for reduction of indirect emissions in accordance with the EU ETS State Aid Guidelines, for example.

17.7. In sum, the Russian Federation underlines that, whatever activities WTO Members plan within the framework of environment and climate change, they should be carried out in accordance with the fundamental principles and rules of the WTO, and should not result in any kind of discrimination or disguised restrictions on trade. Russia expects that current trade rules will be fully respected.

17.8. The Council took note of the statement made.

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

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

18.2. The delegate of China indicated the following:

18.3. China reiterates its statements made at previous meetings of the CTG and CMA, and expresses its deep concern with regard to the United States Section 232 tariffs on steel and/or aluminium. China is of the view that any measures that introduce new quotas, maintain tariffs above the bound ceiling, or discriminate between WTO Members, seem difficult to reconcile with the WTO's rules, including Article I, Article XI, and Article XIII of the GATT.

18.4. The United States stated in the Council's meeting of April 2022 that it had invoked Article XXI(b) of the GATT as justification for its action; however, the US had not elaborated why these discriminatory measures were necessary for the protection of its essential security interests. Therefore, China believes that the Section 232 tariff is inconsistent with the United States' obligations under the WTO.

18.5. China also wishes to express its opposition to the practice adopted by the United States of first raising tariffs under the pretext of national security and then lifting the additional tariffs only for certain WTO Members, based on their bilateral arrangements with the US. This has created a dangerous precedent that does not comply with the letter and spirit of the WTO nor with the history of the multilateral trading system.

18.6. In addition, and as already stated in April's Council meeting, China requests the United States to indicate whether and when it intends to notify to the WTO its Section 232 quotas for the European Union, Japan, and the United Kingdom.

18.7. Finally, China urges the United States to remove all Section 232 tariffs and quotas as soon as possible.

18.8. The delegate of Türkiye indicated the following:

18.9. As Türkiye did at the Council's previous meeting, it wishes on this occasion to reiterate its concerns with regard to Section 232 tariffs that have been imposed by the United States on imports of steel and aluminium products since 2018. Türkiye once again notes its concern over the compatibility of the measures with the WTO Agreement on Safeguards and the GATT 1994. Türkiye is of the view that the recent developments towards the exclusion of some WTO Members from Section 232 tariffs, on a selective basis, further complicates the problem by violating the WTO's most-favoured-nation (MFN) principle. Türkiye hopes that the United States will soon abide by its WTO commitments, meaning the removal and total elimination of all additional duties and quantitative restrictions, including discriminatory tariff rate quotas, applied to imports of steel and aluminium products.

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

18.11. The United States takes note of the comments and questions raised by China regarding the WTO consistency of its 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. Regarding questions relating to the operation of the Section 232 quotas, the United States refers Members to the proclamations issued by the President of the United States under Section 232, and to quota implementation information published on the website of US Customs and Border Protection.

18.12. The Council took note of the statements made.

19 UNITED STATES – EXPORT CONTROL MEASURES FOR CHINESE ENTERPRISES – REQUEST FROM CHINA

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

19.2. The delegate of China indicated the following:

19.3. China must raise this issue again as the United States continues to abuse the concept of national security and to impose export control measures against various Chinese companies. China believes that the measures taken by the US disregard basic WTO rules, undermine the market principle and the principle of fair competition, and endanger the security of global supply chains. China urges the United States immediately to eliminate its unjust and unfair export control measures against China's companies in order to create favourable conditions for normal US-China bilateral trade while avoiding negative effects on global supply chains.

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

19.5. 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.

19.6. The Council took note of the statements made.

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

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

20.2. The delegate of China indicated the following:

20.3. China wishes to reiterate its statements made at previous meetings of the CTG[12] and to continue to express its deep concern over measures taken by the United States restricting Chinese companies from providing communication products and services on the US market. In this regard, China urges the US to abide by the WTO's rules and to stop abusing the national security concept.

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

20.5. 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.

20.6. The Council took note of the statements made.

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

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

21.2. The delegate of China indicated the following:

21.3. China continues to express its deep concern over the discriminatory measures taken by Australia prohibiting Chinese companies from participating in its 5G network construction. In addition, China is seriously concerned that Australia's prohibition has been extended to include its existing 4G network. China urges Australia to review the regulatory policies in its telecommunications sector and to provide fair market access to Chinese companies, thereby allowing

[12] Document G/C/M/142, paragraphs 32.2-32.3.

them to participate in Australia's construction of its 5G network. China urges Australia to align its measures with the WTO's rules.

21.4. The delegate of Australia indicated the following:

21.5. 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. Australia also notes that other WTO Members have made similar decisions in their national interest on equipment for national 5G networks. As previously stated, Australia's position on 5G networks is country agnostic, transparent, risk-based, non-discriminatory, and fully WTO consistent.

21.6. The Council took note of the statements made.

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

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

22.2. The delegate of China indicated the following:

22.3. China regrets having to raise this issue again. However, to date, despite its repeated requests, China has not seen any assessments and relevant evidence provided by Sweden indicating that Chinese companies' products pose security risks to Sweden. In this regard, China considers that it is inappropriate to assume that Chinese companies' products cause harm to Sweden's security without producing any credible evidence. Therefore, China is of the view that Sweden's measure is non-transparent, groundless, discriminatory, and inconsistent with WTO rules. In conclusion, China requests Sweden to provide a fair, transparent, and non-discriminatory environment for Chinese companies operating in Sweden.

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

22.5. The European Union notes that the matter raised by China in relation to the recent Swedish 5G spectrum auction is still under legal proceedings under the bilateral investment agreement between Sweden and China. In light of those ongoing legal proceedings, the EU will not enter into any of the details of this issue in the context of the Council's current meeting.

22.6. The Council took note of the statements made.

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

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

23.2. The delegate of China indicated the following:

23.3. China reiterates its statements made in previous meetings of the CTG and the TBT Committee. China thanks the European Union for its updates given at the Council's April meeting but notes with concern that Belgium's law introducing additional security measures for the provision of mobile 5G services has been adopted. China reiterates that its main concerns over the adopted law remain, in particular its concerns over Article 105, Section 4. China recognizes that WTO Members are legitimately entitled to protect the security of their 5G networks. Nevertheless, relevant risk assessments on vendors' products should be based on objective technical criteria and be consistent with the TBT Agreement. On the draft Royal Decree on the secured roll-out of 5G services, China requests the EU to take the opportunity of the current meeting to provide updates on the re-drafted text. Finally, China calls upon the European Union to review the adopted law and to ensure that it is aligned with the WTO's rules.

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

23.5. The European Union takes note of China's continued 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.

23.6. China submitted written comments during the comment period for these notifications (for which the initial comment period of 60 days was extended by an addendum, at China's request). The European Union replied to China's comments on 8 November 2021. In addition, in a detailed oral exchange at the March 2022 TBT Committee meeting, the EU responded to further concerns raised by China. In this regard, the EU notes that China has again included this issue on the agenda of the following week's TBT Committee meeting, which will provide an opportunity for experts to have a further exchange of views on its substance.

23.7. As the European Union already noted at the CTG's April meeting, the notified draft law was adopted on 10 February 2022 and no revision is foreseen in the near future.

23.8. As to the concerns raised by China, the European Union refers to its detailed statements delivered at the TBT Committee's meeting of March 2022 and the CTG's meeting of April 2022. Moreover, the EU will provide a new statement that will be introduced in the eAgenda and presented to the following week's TBT Committee.

23.9. Finally, the European Union wishes to note that the draft Royal Decree, notified in document G/TBT/N/BEL/45, will be replaced by two new Royal Decrees. In accordance with the TBT Agreement, the EU expects that these Decrees will be notified before the end of the year, and with a new comment period, thereby scrupulously respecting the recommendations made by the TBT Agreement and the TBT Committee.

23.10. The Council took note of the statements made.

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

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

24.2. The delegate of Australia indicated the following:

24.3. China has been, and will remain, an important trading partner for Australia for the foreseeable future. The Chinese and Australian economies are highly complementary and the sustained strong bilateral trade flows continue to be mutually beneficial. Australia and China have also both made it clear that they value the rules-based multilateral trading system and want to ensure that it works in a way that benefits all WTO Members. A stable and open global trading system is a key driver of prosperity for all.

24.4. However, China's continued implementation of trade disruptive and restrictive measures against Australia, some of which have been in place since 2020, is not consistent with the value that China and Australia place on the rules-based multilateral trading system. Indeed, Australia continues to be very concerned about these measures, particularly as many of them have not been implemented transparently. To remind WTO Members, no fewer than nine commodities, ranging from coal, to copper ores and concentrates, to rock lobsters, and to barley, have been subject to the following measures: (i) quantitative restrictions such as *de facto* import bans; (ii) the imposition of unjustified anti-dumping and countervailing duties; (iii) increased and arbitrary border testing and inspections, including delays, applied without prior notification; or (iv) unwarranted delays in listing and re-listing export establishments, and issuing import licences.

24.5. Australia cannot ignore the unusual breadth and duration of China's trade disruptions against Australian goods, which have severely reduced or, in some cases, completely stopped trade of affected commodities. China has previously committed to practise multilateralism by "safeguarding a rules-based multilateral trading system that is transparent, non-discriminatory, open and

inclusive". Australia expects China to uphold this position and once again calls upon China to resolve all trade disruptive and restrictive measures imposed on exports from Australia and other WTO Members.

24.6. China's responses to Australia's statements and requests for advice in this Council and in other relevant Committees have not provided satisfactory answers about how these measures are consistent with China's WTO commitments and obligations. There has been no substantive response from China's authorities to Australia's detailed submissions of non-compliance investigation reports, despite China's claim at the Council's previous meeting that "relevant communication between government authorities from both sides is open". There has also been no clear guidance or advice provided by China's authorities on pathways for how these suspensions may be lifted or revoked, where possible.

24.7. Australia looks forward to continuing its valuable bilateral relationship with China and is ready to engage with China on these matters at any time.

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

24.9. The United Kingdom again wishes to express its support for Australia's concerns about China's trade restrictive measures. WTO Members must adhere to the fundamental principles and objectives of free and fair trade that underpin the rules-based multilateral trading system. 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 lead to direct harmful consequences for business and citizens worldwide. Trade measures need to be applied in a non-discriminatory, predictable manner, and with the necessary transparency around decision-making and administrative procedures, as required by the relevant WTO Agreements.

24.10. It is vital that China, as a WTO Member, ensures that their trade measures are applied in line with their WTO obligations and that it adheres to the fundamental principles and objectives of free and fair trade underpinning the rules-based multilateral trading system. The United Kingdom still continues to closely monitor reports of trade restrictive measures and encourages China to engage in good faith and in a timely manner, providing clarifications to the points raised by Australia.

24.11. The delegate of Japan indicated the following:

24.12. As Japan commented at the Council's previous meeting, it shares the concerns expressed by Australia over China's trade measures, including its trade remedy measures, which should be implemented within the framework of the WTO Agreements and comply with the relevant WTO Agreements in the procedures and fact-finding. As WTO Members pointed out during China's most recent Trade Policy Review (TPR), Chinese government measures conducted in an informal or undisclosed manner are problematic in terms of China's WTO Accession Protocol, as well as in relation to the WTO principle of transparency. Japan believes that it is important that China ensure transparency in its relevant measures. If, as reported, China operates its trade measures in an arbitrary manner, its approach would conflict with the free, fair, and rules-based international trading system. Japan hopes that China will respond to Australia's concerns in good faith and in a timely manner.

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

24.14. As stated at previous meetings, and as raised once again under this agenda item, the European Union shares Australia's concerns over China's implementation of trade disruptive and restrictive measures. On this occasion, the EU wishes once again to reiterate the same points of principle and of law. The EU continues to be concerned by the form, number, and wide-ranging effects that these Chinese measures allegedly seem to have. In particular regarding the form, the EU considers that informal, unpublished, and non-transparent trade restrictions are not in line with the rules and spirit of the WTO.

24.15. The European Union also speaks out against the alleged purpose of the measures in question, which appears to be coercive; if so, the alleged measures are incompatible with general international law. Within the EU, the legislative proposal for an anti-coercion instrument is progressing in the EU's legislature. In addition, the EU is pursuing a WTO dispute with China in relation to a range of

measures negatively affecting its trade with China, and where China's intention also appears to be coercive.

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

24.17. The United States shares Australia's concerns, and remains deeply troubled by the information provided by Australia, which it has also heard from other, credible sources. 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 inappropriate manner. In this connection, the US is concerned by reports that Chinese authorities have informally instructed importers not to purchase certain goods.

24.18. As noted previously, 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. It is important to identify similarly coercive actions taken by China against other WTO Members as they demonstrate a broader pattern of behaviour. Specifically, China uses, or threatens to use, arbitrary or unjustifiable trade actions to pressure or influence the legitimate decision-making of sovereign governments.

24.19. 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. 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.

24.20. The delegate of Canada indicated the following:

24.21. Canada continues to share the systemic concerns raised by Australia and other WTO Members regarding trade disruptive and restrictive measures adopted by China. In this regard, Canada refers to its previous intervention on this item, which remains valid.[13] China's repeated use of trade restrictions that are inconsistent with established international practices negatively impacts Canada's agricultural and non-agricultural exports.

24.22. 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. Canada also remains concerned with the trade disruptive impact of China's COVID-19 measures on food imports. WHO/FAO guidance has reconfirmed 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 only be viewed now as a tool to block trade. The world is facing rising food prices and disruptions to global supply chains impacting food security. It is critical for all WTO Members, including China, to take a science-based approach to their decisions and measures.

24.23. 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. The use of trade disruptive and coercive measures challenges and destabilizes the rules-based international trading system from which China, Canada, and all WTO Members have benefited.

24.24. Canada encourages all WTO Members, including China, to abide by their WTO commitments.

24.25. The delegate of Chinese Taipei indicated the following:

24.26. Chinese Taipei wishes to support the concerns raised by Australia regarding China's implementation of trade disruptive and restrictive measures targeting a broad range of Australian goods. The real intention of China's trade actions, whether imposed formally or informally, appears

[13] Document G/C/M/142, paragraphs 7.23-7.30.

to be to hamper certain Members' trade interests based on unrelated bilateral issues. This surely poses a systemic risk to the rules-based multilateral trading system, and is likely to create a negative trade impact not only on Australia, but also on all other WTO Members.

24.27. As indicated at previous meetings, Chinese Taipei has also noticed and experienced China's unconstructive approach in its application of unjustified SPS requirements on the exportation of its fruit and fishery products to China. Although Chinese Taipei has repeatedly requested scientific and technical dialogues with the Chinese authorities on the relevant measures, there has been no substantive response from China. Such an approach only raises Chinese Taipei's suspicions regarding China's coercive intentions, which would clearly run counter to the spirit of the rules-based multilateral trading system.

24.28. Chinese Taipei therefore calls upon China once again to engage in a good faith and constructive manner to resolve these legitimate trade concerns and uphold its commitments to the principles and obligations of the WTO's rules.

24.29. The delegate of New Zealand indicated the following:

24.30. New Zealand shares a systemic interest in the concerns expressed on this topic. As New Zealand has repeatedly noted, in a number of forums, the multilateral rules-based trading system provides that all WTO 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 friction possible. And given the challenges that all WTO 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.

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

24.32. The adoption of measures by WTO Members that cause widespread disruption to trade and lack transparency cause serious concern to New Zealand, including actions taken by China against a range of exports from Australia and other WTO Members. New Zealand encourages WTO Members to comply fully with their WTO obligations, including in the good faith application of trade remedies.

24.33. The delegate of China indicated the following:

24.34. China has already provided its explanations on this issue raised by Australia. To save time, China wishes to refer to its statements made at previous meetings of this Council and other relevant committees.[14] China reiterates that its relevant measures taken in relation to certain Australian products are aimed at protecting the legitimate rights and interests of domestic industries and the safety of consumers. The measures in question are also consistent with the WTO's rules.

24.35. China stands ready to work with the new Australian government following the principles of mutual respect and mutual benefits to promote a sound and steady development of the China-Australia comprehensive strategic partnership. China hopes that the Australian government will work with it in a joint effort towards this end and provide a fair, open and non-discriminatory investment environment for investors from all WTO Members, including China, so as to facilitate practical cooperation between China and Australia in the economic and trade fields.

24.36. The Council took note of the statements made.

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

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

[14] Document G/C/M/142, paragraphs 7.50-7.55.

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

25.3. The United States remains deeply concerned with China's lack of response to requests for scientific justification or explanation of how Decrees No. 248 and No. 249 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.

25.4. The United States asks that China take the following steps to facilitate trade: (i) the General Administration of Customs of China (GACC) should continue to use existing government-to-government facility registration processes, as outlined in Article 11 of Decree No. 248, and not require facilities to enter information online where such pre-established processes exist; (ii) allow entry of all products from registered facilities until at least 1 July 2023 without requiring complete registration information or competent authority intervention. This additional time will allow facilities to accurately enter or update product information in their online registration; (iii) provide a point of contact at the GACC for facilities to directly submit concerns and feedback about the online registration system. Facilities should be able to communicate with this point of contact in English from outside of China, and the point of contact should not refer general registration questions to satellite GACC offices at individual ports; and (iv) hold information session(s) in Geneva for trading partners to learn more about GACC's implementation of the Decrees.

25.5. The United States notes that the GACC's requests for additional detailed information from facilities and competent authorities, such as process-specific food safety plans and photographs on an establishment-by-establishment basis, are not consistent with a systems-based equivalence approach to food safety. The United States looks forward to China's response to these specific requests and comments.

25.6. The delegate of Australia indicated the following:

25.7. 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 and is more trade restrictive than necessary to fulfil China's food safety objectives. Furthermore, WTO Members were not given sufficient time and information to register, adjust and prepare before the measures entered into force on 1 January 2022. The regulations do not distinguish between food safety risk categories, nor provide the scientific justification for the measures or the required equivalency of foreign food safety systems. Australia has previously raised its concerns on several occasions in both the SPS and the TBT Committees.

25.8. Exporters are reporting delays in registration and customs clearance, 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. Australia reminds China that its regulations must not be used to discriminate against imported goods, and that delays in processing registration renewals and new applications from overseas food producers may lead to imported foods being treated less favourably than China's domestic product.

25.9. 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 necessary changes to comply with China's new measures. 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-period 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 online registrations. Australia urges China to address these issues promptly and remains willing to work collaboratively with China to ensure that food safety is upheld while facilitating undisrupted trade.

25.10. The delegate of Canada indicated the following:

25.11. Canada continues to share the concerns raised by Australia and the United States. Canada and other WTO Members have raised significant concerns and challenges with China's administrative measures for the registration of overseas manufacturers of imported food. In this regard, Canada

refers to its previous interventions on this item, which remain valid.[15] Canada continues to be concerned that the new administrative measures are overly burdensome and unjustified, and remains deeply concerned about the unnecessary impact these measures are having on trade.

25.12. Canada notes that the implementation of the online China Import Food Enterprise Registration (CIFER) system, which was not notified by China to the WTO, will create further barriers to trade, including significant financial and resource impacts on both industry and foreign competent authorities.

25.13. Despite repeated requests from trading partners, there remains limited engagement, limited information, and minimal guidance from China Customs regarding the implementation of the CIFER system, which is resulting in continued uncertainty and concerns. As a result, exporters are now encountering delayed clearance of their shipments as companies are unable to register or update their registration in the CIFER system. Furthermore, the registration process in the CIFER system is overly detailed and confusing, lacking a step-by-step guidance and defined timelines for both competent authorities and industry. As many questions remain regarding the registration process, Canada calls upon China to create a single contact or enquiry point for both industry and competent authorities, or to work directly with companies for the completion of their registration. In addition, Canada expects China to add to the CIFER system, without further delay, all Canadian products and establishments previously approved by China, but currently not on China Customs' lists of approved Canadian products and facilities eligible to export to China.

25.14. Canada strongly urges China to outline all timelines in a transparent manner and develop clear guidance documents to address the questions and concerns from both industry and competent authorities. Canada remains deeply concerned about the unnecessary impact these measures are having on trade. In conclusion, Canada calls upon China to provide WTO Members with additional information and clarification on the new measures and the CIFER system.

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

25.16. 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 WTO Members before the measures entered into force this year. However, Korea remains concerned that its points conveyed over the course of previous meetings have not yet been duly addressed.

25.17. First, the Republic of Korea requests China to provide its rationale on 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 on its scientific data or risk analysis having been used to select its 14 categories. Korea believes that food safety is a legitimate objective in accordance with relevant international trade norms, but the implementation of such measures should not be more trade restrictive than necessary.

25.18. Second, the competent authorities of exporting Members have already been experiencing a heavy administrative burden because of having to review registration applications of overseas producers and track whether the producers remain compliant with China's regulations and standards after their initial registrations. Therefore, Korea recommends that China work directly with overseas producers for the application process. Korea also requests China to 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.

25.19. The delegate of Norway indicated the following:

25.20. Norway remains concerned that the regulations imposed by China on 1 January 2022 are more trade restrictive than necessary to ensure the safety of imported food products. It remains unclear how China's Decrees No. 248 and No. 249 will contribute to achieving China's appropriate level of protection.

[15] Document G/C/M/142, paragraphs 18.35-18.40.

25.21. Decrees No. 248 and No. 249 have been in force for six months. The new regulations have proven to impose a significant burden on both the national industry and the national competent authority. The Norwegian competent authority and the Norwegian industry have made significant efforts to ensure that China's administrative requirements are met. However, insufficient information from the Chinese authorities, a lack of information in English, and uncertainties regarding the implementation of the decrees, are causing real concerns for the industry.

25.22. The implementation of the online CIFER system has created further barriers to trade and imposes a significant burden on Norway's competent authorities. Norway questions the vast amount of information and documentation required to register establishments and to change company information in CIFER, taking into consideration that the companies are under official control by the national competent authority. Numerous changes to the CIFER system after its implementation, lack of guidance, and significant technical errors have caused further problems in registering companies. Since the CIFER system was implemented on 1 January 2022, no new Norwegian producers have been able to complete the registration process.

25.23. In order to facilitate trade, these issues need to be resolved immediately, with the aim of reducing disruptions to trade. Norway asks China to review the measures and to apply them in a manner that is not more trade restrictive than necessary to achieve the appropriate level of protection. Norway wishes to thank China for the ongoing dialogue on new regulations. Nevertheless, Norway still urges China to engage in an open dialogue and to make the necessary updates and changes to the CIFER system in order to reduce the burden imposed on foreign competent authorities.

25.24. The delegate of Switzerland indicated the following:

25.25. Switzerland shares and supports the concerns expressed by other WTO Members regarding Decrees No. 248 and No. 249 published by the GACC. Switzerland supports China's objective of ensuring that only safe food is imported. However, Switzerland regrets that the measures in question still include all food categories, irrespective of their risk profile; in addition, the measures 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.

25.26. The delegate of Türkiye indicated the following:

25.27. Türkiye has stated its ongoing concerns with regard to this issue at previous meetings of the TBT Committee. To briefly restate its position, Türkiye wishes first to acknowledge China's right to take the measures necessary to ensure its food safety and to prioritize the protection of human health and safety. That said, Türkiye considers that Decree No. 248 covers a wide range of food products, that the registration process is highly complex and burdensome on both the exporters and the competent authorities of the exporting countries, and that the implementation of the decree needs further clarification. Furthermore, Türkiye believes that the practice of not classifying products based on a risk assessment is more trade restrictive than necessary to ensure the safety of imported food products. Therefore, Türkiye requests China to review this legislation from a risk-based perspective, to narrow its scope, and to extend a grace period.

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

25.29. The United Kingdom thanks the agenda item's co-sponsors for again raising this concern in relation to China's administrative measures for registration of overseas manufacturers. Regretfully, China's Regulation on Registration and Administration of Overseas Manufacturers of Imported Food entered into force on 1 January 2022 despite requests from the United Kingdom and other Members to delay the implementation of these new measures in order to allow sufficient and reasonable time for competent authorities and businesses to prepare.

25.30. Much effort has been taken to meet China's administrative requirements so as to limit any disruption to trade. For "high risk" products the significant amount of documentation required is disproportionate and the specific requirements often change in an arbitrary manner and with no prior notification provided to the exporting country, or guidance provided.

25.31. The United Kingdom also 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 low-risk products places a significant and unnecessary administrative burden on authorities and businesses.

25.32. The United Kingdom urges China to review these measures, applying them in a manner that is commensurate 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, paragraph 6, of the SPS Agreement.

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

25.34. The European Union wishes to reiterate its concerns about the implementation of Decree No. 248 of the General Administration of Customs of the People's Republic of China. The EU does not question China's desire to ensure that imported food products come from legitimate sources. Overall, the EU shares and supports this objective.

25.35. China has provided guidance information and engaged in a dialogue with the European Union. However, problems persist with the lengthy and burdensome mechanism set up by China to register exporting businesses. The EU's concerns are well known and include the following: (i) cases of shipments being held up at ports in China due to erroneous or missing information in CIFER; (ii) cases of establishments in the meat, dairy and fishery sector that were notified to the General Customs Administration (GACC) before the deadline of 31 December and remain unregistered; (iii) lack of clarity about the scope and category of products that are covered, which keep expanding; and (iv) the obligation put on competent authorities and businesses to consult CIFER almost permanently to be able to follow all the changes made by China to the structure of the CIFER system and to individual registrations, as well as to be informed about the deadlines to re-register individual establishments.

25.36. The European Union therefore urges China: (i) to solve implementation issues pragmatically and expeditiously; (ii) to facilitate new and old registrations by continuing to provide supporting material and guidance documents in English, including on how competent authorities have to verify the establishments that were registered under the fast-track procedure; (iii) to facilitate amendments/corrections to existing registrations; and (iv) to facilitate the management by competent authorities and businesses of the changes in the CIFER system of the information requested by China and of the deadline to register establishments by introducing an automatic email notifications system in CIFER.

25.37. The European Union wishes to thank China for its openness and ongoing dialogue to resolve the technical issues relating to Decree No. 248, in particular the replies received on 1 July, which the EU is currently reviewing. Important implementation issues remain and need to be resolved in order to eliminate all disruptions to trade as soon as possible and before 1 July 2023.

25.38. The delegate of Japan indicated the following:

25.39. China's registration procedure related to the "Regulations on the Registration and Administration of Overseas Producers of Imported Foods" imposes a significant burden on overseas authorities and overseas businesses. Japan requests that the procedures for implementation be made transparent so that these procedures do not become an excessive burden on business operators.

25.40. The delegate of Chinese Taipei indicated the following:

25.41. Chinese Taipei thanks Australia and the United States for tabling this agenda item. The measure has already been in force since 1 January 2022, but Members' concerns remain unresolved, and so many exporters and competent authorities are continuously facing difficulties in following China's registration mechanism.

25.42. While Chinese Taipei respects the fact that the objective of the measure concerned may have been to protect human health and food safety, it is also of the view that the regulation and its implementation are far more trade restrictive than necessary. Therefore, Chinese Taipei needs to

highlight the following problematic issues again, which are based on its own on-the-ground experiences.

25.43. First, one of the greatest difficulties is the lack of information on registration requirements and guidance on how to follow the requirements. This issue is even more critical for those facilities that need to file their application themselves. Chinese Taipei urges China to designate and provide an enquiry point that facilities are able to engage with directly in order to deal with their concerns about the online registration system.

25.44. Second, there are genuine concerns over the measure's review and approval procedure. Standard or anticipated processing periods are not known. The same applies to the status of the application stage. Furthermore, some of Chinese Taipei's facilities have received the GACC's rejection without any further explanation being given, while others are finding it impossible to correct their applications on the registration system. Therefore, Chinese Taipei requests the GACC to comply with the requirements as set out under Article 5.2.2 of the TBT Agreement, which include the transparency requirement and the requirement of the applicant to be informed in a precise and complete manner of all the deficiencies in its application so as to allow for any necessary corrective action to be taken.

25.45. Third, another difficulty Chinese Taipei faces is in the significant ambiguity in China's HS code categorization and in the scope of the product that is subject to this measure. Some of Chinese Taipei's facilities have reported that their products faced customs clearance suspension for no apparent reason.

25.46. Fourth, any measure of this magnitude requires far more time for relevant industries to implement, so Chinese Taipei urges China to consider offering a longer grace period for implementation in order to avoid yet more serious trade disruption. This additional time will then at least allow facilities to accurately enter or update the product information in their online registration.

25.47. Chinese Taipei urges China to take Members' concerns into consideration and bring the measure at issue into line with the relevant WTO rules.

25.48. The delegate of Mexico indicated the following:

25.49. Mexico thanks Australia and the United States for placing this item on the agenda. Mexico has reiterated its concerns in the TBT Committee regarding China's measure published in its Decree No. 248, and shares the concerns expressed by those Members that have previously taken the floor regarding the implementation of this measure. While the Government of Mexico has established coordinated mechanisms to ensure that the registration of Mexican companies exporting to China can be carried out in a satisfactory manner to avoid delays to export processes, Mexico considers it important that the relevant authorities in China commit to ensuring that this new scheme does not lead to delays for products that fully comply with the requirements established for importation into China. Mexico thanks China for taking its comments into account and for any updates that it may provide, and Mexico notes that it will also include this trade concern on the agenda of the TBT Committee.

25.50. The delegate of China indicated the following:

25.51. As Capital needs more time to work on the various technical issues raised by a number of Members, China will provide its feedback on this issue at the following week's meeting of the TBT Committee. Nevertheless, China remains available to continue to constructively engage with relevant WTO Members on this issue.

25.52. The Council took note of the statements made.

26 CHINA – SUBSIDY TRANSPARENCY AND CHINA'S PUBLICATION AND INQUIRY POINT OBLIGATIONS UNDER CHINA'S PROTOCOL OF ACCESSION – REQUEST FROM AUSTRALIA, CANADA, THE EUROPEAN UNION, JAPAN, THE UNITED KINGDOM, AND THE UNITED STATES

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

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

26.3. As the Council is aware, over the years, the United States and other WTO Members have had numerous concerns with respect to the transparency of China's industrial subsidy regime. In China's Protocol of Accession, China agreed to publish all trade-related measures in a single journal, which China has designated as the China Foreign Trade and Economic Cooperation Gazette, or MOFCOM Gazette. However, China rarely publishes its subsidy measures in the MOFCOM Gazette – especially what it calls "normative documents", as well as measures from sub-central governments. And sometimes these measures are not made public at all.

26.4. In its Protocol of Accession, China also agreed to "establish or designate an enquiry point where, upon request of any individual, enterprise or WTO Member all information relating to the measures required to be published … may be obtained."

26.5. Several years ago, the United States came across references to five legal measures, two relating to fuel subsidies for fishers, one relating to the development of China's distant water fishing fleet, and two relating to the semiconductor industry. Unable to find these measures in the MOFCOM Gazette, or anywhere else, the US submitted a request to China's WTO enquiry point in April 2020, over two years ago.

26.6. Under its Protocol of Accession, China agreed with respect to its enquiry point that "Replies to requests for information shall generally be provided within 30 days after receipt of a request. In exceptional cases, replies may be provided within 45 days after receipt of a request. Notice of the delay and the reasons therefor shall be provided in writing to the interested party."

26.7. Despite having submitted the initial request for the missing legal measures in April 2020, more than two years ago, the United States has yet to receive the legal measures requested or any written response to its request, as China is obligated to provide under its Protocol of Accession.

26.8. In September 2020, a Ministry of Commerce representative did speak with the US Embassy and stated that China would not be providing copies of any of the requested measures because they were either soon to be replaced by new measures or, in its view, were not relevant to China's WTO commitments.

26.9. The United States views China's handling of the United States' request as inadequate and not in keeping with China's WTO commitments.

26.10. First, China plainly should have provided copies of the requested measures that it claimed were soon to be replaced. Paragraph 2(c) of China's Protocol of Accession contains no exception for China to withhold measures that may be superseded at some point in the future. The United States also notes that, when the new measures eventually did come out, it was nearly a year after the US' initial request, which is well beyond the 45-day response time mandated in China's Protocol of Accession.

26.11. Second, the United States disagrees with China's refusal to provide copies of the requested measures that China claims are not relevant to China's WTO commitments. The requested measures, on the face of the measures themselves, address policies and guidelines relating to the development of China's fisheries and semiconductor sectors and therefore clearly would appear to satisfy the standard of "pertaining to or affecting trade in goods" in paragraph 2(c) of China's Protocol of Accession.

26.12. The United States notes that, while its interest in the measures at issue stems from concerns about China's subsidy practices, China's obligation does not depend on a determination as to whether

the requested measures provide "subsidies" within the meaning of the WTO Agreement on Subsidies and Countervailing Measures. China's obligation under paragraph 2(c) of China's Protocol of Accession is not limited to providing copies of requested subsidy measures. Rather, China is to provide copies of "any measures pertaining to or affecting trade in goods…", which clearly includes all of the requested measures.

26.13. The United States also notes that the two new fishery support measures, like their predecessors, have not been published in China's designated official journal, the MOFCOM Gazette, as required by paragraph 2(c) of China's Protocol of Accession.

26.14. The transparency obligations of China's Protocol of Accession are there because WTO Members were concerned, in part, with the lack of transparency of China's industrial subsidy regime. After 21 years, those very same concerns remain. But more fundamentally, as the United States noted at the Council's previous meeting, beyond the legal technicalities, the US has to ask the obvious question: why is China refusing to make public, for example, a legal measure on its fuel subsidy for fishers? It is difficult to understand.

26.15. Since the Council's previous meeting there has been a new development; specifically, through its own further investigation, the United States has found two of the measures that the US had requested relating to China's fuel subsidy programmes for its domestic and distant water fishers. These measures were published on unofficial Chinese news sites, and they still do not appear on any official government websites. Furthermore, as noted earlier, they have not been published in the MOFCOM Gazette.

26.16. The essence of these two measures, which cover China's fuel subsidy programmes from 2015 to 2020, is that, while China is keeping the same overall level of support for its fishing industry, it has reduced subsidies for its fishers in its own waters, while increasing the level of subsidies for its distant water fleet. These measures also provide striking new details about China's support for domestic fishers. For example, the measure covering fishers in China's domestic waters cites the objective of renovating 14,000 fishing vessels and scrapping or converting twenty thousand fishing vessels to other uses.

26.17. So what exactly is it about these measures that China does not want us to see? What makes them so revealing that China has been willing to ignore its obligation to publish these measures as required by its Protocol of Accession and to refuse to provide the measures pursuant to a legitimate request of another WTO Member as required under its Protocol of Accession? Is it the extensive scope of the fishing vessel renovation programme that targets 14,000 fishing vessels for renovation? Is it the very large number of fishing vessels that are targeted for scrapping or conversion, perhaps indicative of an overcapitalized domestic waters industry and overfished domestic fisheries? Is it the specifics of exactly how the fuel subsidy was calculated for both domestic and distant water fishers, which is estimated to have provided nearly USD 3 billion annually to Chinese fishers between 2015 and 2020 and may have totalled much more? Or is it the reference to the provinces' ability to have their own programmes – that perhaps have not been notified – to supplement the central government's fuel subsidy programme? And what is in the other measures that China has refused to provide or to otherwise make public? Of the remaining measures, one appears to be China's plan to develop its distant water fishery. The other two measures relate to China's semiconductor policies. What is it about these measures that China does not want us to see? Does the distant water fishery measure establish a subsidy programme for the purpose of constructing or buying fishing vessels? Despite our efforts to encourage China to be more transparent over the years, the origins and rather spectacular growth of China's distant water fleet is shrouded in mystery.

26.18. As to the semiconductor measures that the United States requested under China's Protocol of Accession enquiry point, what is it that China does not want us to see? Are there prohibited subsidy programmes involved, perhaps with local content requirements? For the various equity investment measures now in place for the semiconductor industry, are there Ministry of Finance guarantees to private sector investors, such that their losses are minimized, thereby increasing private participation? What is so potentially damaging to China's interests that it is willing to ignore its Protocol of Accession obligations?

26.19. Often the first response that the United States hears from China on these transparency issues is that China takes its WTO transparency obligations very seriously. But to be frank,

US experience in making a very simple request to China's enquiry point seems to demonstrate otherwise. And the US can only wonder what else it is that China is not showing us, despite its WTO transparency obligations. Which other WTO Member takes such overt, purposeful steps not to reveal the nature and extent of its subsidy programmes, and what is China's motivation in doing so?

26.20. The delegate of Australia indicated the following:

26.21. Australia attaches considerable importance to the WTO notification and transparency obligations, particularly relating to subsidies. These obligations stem from both the Agreements and the obligations made by WTO Members under their Protocols of Accession. Transparency remains critical to the proper functioning of the WTO and underpins the Subsidies Agreement. It creates certainty for all our exporters in being able to compete fairly in international markets. Australia therefore urges China to fulfil the transparency commitments made as part of its Protocol of Accession.

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

26.23. The commitment by China under its Protocol of Accession to publish all trade-related measures, as well as providing information through the enquiry point, was designed to improve transparency. However, in order for it to be meaningful, China must publish all its trade-related measures in the MOFCOM Gazette and actually respond to requests for information under the enquiry point. This is not only in the interest of transparency but also required under China's obligations in its Protocol of Accession. Therefore, the European Union urges China to comply fully with its commitments under the Protocol of Accession to the WTO by publishing all trade-related measures, as it agreed to do, and by responding to requests for information under the enquiry point without undue delay.

26.24. The delegate of Canada indicated the following:

26.25. Canada echoes the concerns of others regarding China's compliance with its WTO transparency obligations. When it acceded to the WTO in 2001, China accepted comprehensive transparency obligations, and Canada is disappointed that these obligations are not being met. The notification process and transparency requirements are integral aspects of the multilateral trading system, and it is important that these obligations are upheld for the proper functioning of the rules-based international system. In order for the system to work, it is important that all WTO Members comply with the notification requirements and responses to enquiries in accordance with WTO rules, including the transparency obligations in Protocols of Accession to the WTO. This is all the more important as WTO Members continue to build back from the COVID-19 crisis.

26.26. The delegate of Japan indicated the following:

26.27. The obligations of notification and transparency represent one of the most important foundations of the WTO system, and it is in the interests of all WTO Members to comply with them. If the transparency of subsidy spending is not ensured, there is concern that distorted subsidy delivery will be encouraged, which may lead to problems such as over production capacity. This issue has been discussed by the Committee on Subsidies and Countervailing Measures (SCM Committee), but it is difficult to say whether China has taken sufficient measures.

26.28. Regarding China's subsidies, various WTO Members have expressed in the SCM Committee their concerns about transparency and the possibility of non-notification issues. China is the world's largest trading nation and is required to ensure transparency and compliance with the WTO's notification obligations, especially with regard to subsidy expenditure. Japan also urges China to fulfil its transparency obligations as agreed in its WTO Accession Protocol (as has already been pointed out by others) and to ensure the effectiveness of its mechanisms contributing to increased transparency.

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

26.30. The United Kingdom again wishes to show its support for the concerns raised by the United States and other co-sponsors regarding China's compliance with its transparency obligations under its Accession Protocol. The UK reiterates its belief that transparency is central to the proper

functioning of the WTO. It is vital that China, as a WTO Member, takes all the necessary steps to fulfil its obligations, including any Member-specific commitments, in a timely manner. Therefore, the UK encourages China to comply with its transparency commitments, in accordance with its WTO obligations.

26.31. The delegate of New Zealand indicated the following:

26.32. New Zealand considers transparency as critical to the proper functioning of the WTO, and attaches considerable importance to adherence by all WTO Members to their WTO notification and transparency obligations, particularly in relation to subsidies, including under their Protocols of Accession. It is vital that all WTO Members fulfil these obligations in a timely manner, including any Member-specific commitments. Adhering to these obligations helps build certainty for exporters and makes an important contribution to the successful functioning of the rules-based international trading system.

26.33. The delegate of China indicated the following:

26.34. With regard to this issue, China refers to its statements made in previous meetings of the CTG.[16] As China stated at previous meetings, it has already provided its replies, in accordance with the commitments specified in China's WTO Protocol of Accession, to the enquiry made by the United States. In addition, China notes that some of the documents requested by the US do not fall under the scope of China's commitments specified in its WTO Protocol of Accession.

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

26.36. China has not provided a response in writing to the request by the United States, pursuant to China's obligations under its Protocol of Accession. The US respectfully requests China to provide the legal measures requested. In response to China's statement that it had already discussed with China through the enquiry point, the US wishes to point out that China has only discussed the issue orally with personnel from the US Embassy and has not provided a copy of the requested legal measures nor provided a response in writing as it is obliged to do under its Protocol of Accession.

26.37. The delegate of China indicated the following:

26.38. China wishes to respond to the comments by the United States by saying that, from its point of view, it has already provided the replies in accordance with China's commitments, and that some of the documents that have been requested by the US are in fact not covered by the scope of China's commitments to the WTO.

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

26.40. The United States wishes to point out that this is not a subsidy notification issue, but an enquiry point issue under China's Protocol of Accession. Therefore, the documents are relevant, and China is obliged to provide the requested legal measures pursuant to requests made to its Enquiry Point.

26.41. The Council took note of the statements made.

27 EGYPT – HALAL CERTIFICATION REQUIREMENTS FOR IMPORTED FOOD AND BEVERAGE PRODUCTS - REQUEST FROM CANADA AND THE UNITED STATES

27.1. The Chairperson recalled that this new item had been included on the agenda at the request of Canada and the United States.

27.2. The delegate of Canada indicated the following:

27.3. Canada understands Egypt's objective to ensure that Egyptian consumers are confident that they are buying and consuming halal-certified products in agreement with Islamic Sharia. However,

[16] Document G/C/M/141, paragraphs 16.40-16.41.

Canada also believes that such measures should not create unnecessary barriers to international trade or be more trade-restrictive than necessary to fulfil that objective.

27.4. While Canada appreciates Egypt notifying this measure to the WTO TBT Committee in December 2021, it failed to do so prior to the implementation date of 1 October 2021. As set out in Article 2.9 of the TBT Agreement, Members have an obligation to provide trading partners with adequate time to comment on a given measure (at least 60 days) and have those comments taken into consideration prior to that measure being finalized. In addition, as per WTO obligations, a six-month period between the notification of the final measure and its entry into force is considered a reasonable amount of time to provide industry time to adapt to the new requirements. This was clearly not the case with this measure.

27.5. Although Canada appreciates Egypt's delayed implementation of the halal certification for dairy products to October 2022, Canada still remains concerned with the lack of details, documentation, and specificity on how these requirements will be implemented and how specific products will be impacted. For example, the proposed new regime only specifies one Egyptian certification body that will have the authority to certify halal products for the Egyptian market. It is Canada's understanding that this has already significantly raised the halal certification fee, which will have to be borne by exporters of halal products to Egypt. The new measure could result in a certification process that is overly burdensome, costly, and more trade restrictive than necessary to achieve Egypt's stated objective.

27.6. Canada strongly encourages Egypt to have open and transparent discussions with its trading partners to share information, further clarify the requirements under this new measure, and consider the impact it may have on trade. Until then, Canada respectfully requests that Egypt suspend the implementation of the measure. Canada notes that Egypt did not provide a written response to WTO Members at previous TBT Committee meetings and kindly requests Egypt to provide one to Members for this meeting.

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

27.8. The United States shares the concerns expressed by Canada. While the United States recognizes Egypt's objective of providing its consumers assurance with regard to the halal status of certain products, it is concerned with the lack of transparency provided by Egypt. With Egypt scheduled to begin implementation of its new halal requirements in less than three months, it has yet to provide the necessary information to allow exporters effectively to comply with this measure. These requirements could be especially devastating to milk and dairy product exports.

27.9. The United States requests that Egypt provide information on any changes to its import requirements and to delay enforcing any new requirements until this information has been notified to the WTO, and WTO Members have had a reasonable period to provide their comments and to comply with the measure. This includes information related to fee schedules, audit procedures, labelling requirements, and facility registration requirements. The US is also requesting that Egypt identify the product scope by providing a comprehensive list of HS lines covered by the future measure.

27.10. Finally, the United States seeks information about Egypt's process and standards used to approve or delist certification bodies. Egypt's move to prevent US certifying bodies from participating in the halal certification process has a substantial impact on trade, and the US requests that Egypt explain its rationale for having a sole halal certifying body to achieve halal assurance. The United States strongly urges Egypt to immediately delay and suspend implementation of any new halal certification requirements until all concerns have been addressed, including those relating to changes regarding halal certification bodies.

27.11. The delegate of Paraguay indicated the following:

27.12. Paraguay shares Egypt's interest in providing its consumers with certainty regarding the purchase and consumption of halal-certified products. However, as a food exporter to Egypt, Paraguay is closely following the development of this measure, and regrets that, despite the fact that the trade concern has been repeatedly discussed in the TBT Committee, Members have still not received the information requested. Paraguay does not have details or precise information on the

products that would ultimately be covered by the measure, the procedures for certification, costs, labelling requirements, and other information necessary to assess the adaptation of operators. Paraguay requests Egypt to suspend the application of its new halal certification requirements until Members have all the information requested and commercial operators have sufficient time to adapt to the measures.

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

27.14. The European Union wishes to express its concerns over Egypt's requirements on halal certification applying as of 1 October 2021 based on the Egyptian Halal standard 4249/2014. The EU is concerned about the negative impact of this measure on food and beverages imports into Egypt. The EU welcomes the more recent facilitating measures notified to the TBT Committee on 4 April 2022 extending, until 30 September 2022, the period in which imports of milk and dairy products are accepted in Egypt without a halal certificate. However, facilitating measures are temporary. The EU urges Egypt to postpone the implementation of the measure and to provide for a reasonable adaptation period, of at least one year, between the publication of the updated measures and their entry into force; in this way, companies will have a reasonable period of time in which to adapt to the new requirements.

27.15. The European Union wishes to invite Egypt to reconsider its decision to grant the right to certify compliance with halal requirements to a single company, IS EG Halal, and to provide for a halal certification system that would allow multiple, well-established certification entities, in accordance with international best practice. The EU also requests Egypt to consider keeping the halal certification and labelling voluntary, in order to pursue the legitimate objective of ensuring reliable information without unduly hindering trade flows. By these means, consumers would be able to decide whether to buy halal-certified food, based on clear labelling.

27.16. Finally, the European Union would welcome clarifications from Egypt about the concrete steps envisaged to provide comprehensive information about the new measures, as well as clear, written, and publicly available guidance to stakeholders, including a detailed description of the certification procedure, its duration, costs, and required documents, as well as the process for registration of suppliers, and the product coverage. The European Union stands ready to work with Egypt on solutions that would prevent the negative impact this measure would have on food and beverages imports to Egypt.

27.17. The delegate of Australia indicated the following:

27.18. Australia acknowledges the ongoing bilateral communication and engagement with Egypt on the implementation of new halal certification requirements for IS EG Halal. Australia welcomes Egypt's notification of details around these requirements to the TBT Committee. Australia remains concerned about a number of issues, including products covered by the certification requirements and the need to provide Members with adequate time to comment on any proposed changes to the measures. Australia encourages Egypt to meet its WTO transparency obligations and to provide notifications in advance of further changes and any implementation of Egypt's new halal certification measures. Australia welcomes ongoing discussion on the halal certification requirements to ensure that they meet Egypt's policy goals while not being more trade restrictive than necessary.

27.19. The delegate of New Zealand indicated the following:

27.20. New Zealand welcomes the opportunity to speak in support of this trade concern raised by the United States and Canada. In this regard, New Zealand wishes to refer to earlier statements made on the parallel issue at the TBT Committee. New Zealand understands that Egypt has implemented changes under Prime Ministerial Decree No. 35/2020 to require that certification of relevant halal standards shall only be undertaken by IS EG Halal, and that certification from other halal certification bodies is no longer accepted for halal food products imported into Egypt. New Zealand also understands that the measures may apply to dairy products imported into Egypt, irrespective of whether halal labelling is applied to those goods, and irrespective of whether those goods have previously been treated as halal.

27.21. New Zealand still has serious concerns with these measures. New Zealand would draw Egypt's attention to its WTO obligations, including its obligations under the TBT Agreement

concerning the use of conformity assessments, including under Articles 5 and 6, and the requirement that measures not be more trade restrictive than necessary. New Zealand wishes to better understand what consideration Egypt has accorded to less trade restrictive alternatives. New Zealand is also interested in what factors led Egypt to introduce a measure that requires halal certification of products, which have commonly been treated and accepted as intrinsically halal. New Zealand also understands that the halal certification process is straying into sanitary matters; both during audits or inspections and in respect of additional sanitary information being required for registration with IS EG Halal. Sanitary matters should remain outside the scope of IS EG's halal certification and be addressed by competent authorities responsible for sanitary matters, in line with existing agreements.

27.22. New Zealand wishes to thank Egypt for its WTO notification in document G/TBT/N/EGY/313, dated 1 December 2021. New Zealand understands that Egypt is currently developing a new halal standard that will clarify which products are subject to halal certification and the standard applied. New Zealand looks forward to this Halal Standard being provided and notified to the TBT Committee, in accordance with Article 5.6.2 of the TBT Agreement.

27.23. New Zealand wishes to thank Egypt for its ongoing bilateral engagement on this issue. New Zealand requests that Egypt provide clarification on the points made above and continues to request that any new measures be suspended until all WTO obligations, including those requiring consultation with other WTO Members, have been met.

27.24. The delegate of Argentina indicated the following:

27.25. Argentina reiterates its concern about this measure, as raised already in the TBT Committee, including the lack of detailed and complete information on it. The recent postponement by Egypt of the entry into force of the new regime does not allay Argentina's concerns and worries. These concerns relate mainly to the lack of transparency and predictability, as Egypt has provided no information on the certification procedures or other regulatory details.

27.26. The delegate of Egypt indicated the following:

27.27. This issue has been discussed in the TBT Committee's previous meetings. Through its TBT enquiry point, Egypt has replied to questions sent by WTO Members and is currently preparing a new set of replies with respect to the follow-up and new questions received.

27.28. Recognizing the issues that have been raised by our trading partners at bilateral and multilateral levels, Egypt has taken a number of steps to take into account the concerns raised with respect to transparency, and allowing for an appropriate time-period for implementation. Accordingly, in documents G/TBT/N/EGY/313 and G/TBT/N/EGY/313/Add.1, the product coverage (meat, poultry and their products, milk and dairy products (except for crude milk)), and timelines for entry into force have been clarified.

27.29. Egypt has also taken a number of facilitating measures, including allowing imports of milk and dairy products that are not accompanied by a Halal certificate to enter into Egypt until 28 February 2022. Furthermore, this time-period has been extended until 30 September 2022 (the date of arrival at Egyptian ports), as contained in document G/TBT/N/EGY/313/Add.2. It is also important to note that ES 4249/2014 is currently under review and will be duly notified to the TBT Committee. Finally, Egypt wishes to stress that it is committed to continuing its bilateral exchanges on the subject matter with all interested trading partners and will take their concerns into account, as appropriate.

27.30. The Council took note of the statements made.

28 PAKISTAN – IMPORT RESTRICTIONS ON FOODSTUFFS AND CONSUMER GOODS – REQUEST FROM THE EUROPEAN UNION AND THE UNITED STATES

28.1. The Chairperson recalled that this new item had been included on the agenda at the request of the European Union and the United States.

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

28.3. The United States wishes to express its concern over SRO 598, introduced by the Government of Pakistan on 19 May 2022, imposing an import ban on what it deems "luxury and non-essential goods." This ban was issued without transparency, consultation or notification, and is the latest in a series of import restrictions. While the United States recognizes Pakistan's balance-of-payment concerns, it encourages Pakistan to instead pursue macroeconomic policy measures to ease its long-standing external pressures. The list of banned imports, covering food products such as frozen meat, breakfast cereals, and pasta, as well as consumer products, ranging from tissue paper to sanitary pads to cell phones, includes items widely considered essential. The ban will severely impact companies that either export to or have operations in Pakistan, jeopardize thousands of jobs, and exacerbate existing supply chain disruptions. The United States urges Pakistan to reverse this SRO. The United States further encourages Pakistan to provide ample opportunity for consultation with affected sectors prior to implementing any future import bans or restrictions.

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

28.5. The European Union wishes to echo the concerns raised by the US delegation. Pakistan adopted a new regulation (SRO 598(I)/2022) on 19 May 2022 that imposes an import ban on 38 products (non-agricultural and processed agricultural products). The EU understands that the measure has been taken on the grounds of the balance of payments and current account deficit crisis affecting Pakistan. However, Pakistan has been practicing a policy of import compression since 2018 that is detrimental to EU exports. The new measures will further impact the EU's exporters.

28.6. While the European Union does not dispute the right of WTO Members to take measures to face a balance-of-payment crisis, such measures need to be in accordance with WTO rules. It is therefore essential that the new import ban is notified and fully WTO-compliant; that it is the least trade-restrictive possible; that it is temporary in nature; and that it is lifted as soon as possible.

28.7. The European Union also has concerns over whether the restrictions imposed on the selected items will be effective in redressing Pakistan's balance-of-payment situation. As a general rule, the EU wishes to call upon Pakistan's authorities to notify any future changes well in advance so that economic operators have time to adjust to them. The EU stands ready to continue working with Pakistan. At the same time, the European Union invites Pakistan to remain committed to a long-term agenda of trade openness as a solid basis for its economic diversification and sustainable growth.

28.8. The delegate of Pakistan indicated the following:

28.9. Pakistan thanks the United States and the European Union for their interest in its import policy. The US and EU concerns have been noted and a response shall be shared in due course, upon receiving feedback from Capital.

28.10. The Council took note of the statements made.

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

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

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

29.3. The United States reiterates its profound concerns regarding Mexico's NOM-223 – Cheese Conformity Assessment Procedures (CAP), a measure that was re-notified to the WTO in February 2022. Unfortunately, despite previous interventions, the United States still has four key concerns.

29.4. Principally, NOM-223 contains a conformity assessment scheme which is highly trade burdensome. Providing information to consumers about cheese quality is typically a low-risk undertaking. The United States and industry are concerned that Mexico's scheme may not be

proportional to those risks, and that Mexico needs to seriously consider available alternatives to meet the consumer's needs. Accordingly, the US requests that Mexico halt the finalization of this measure and consider the previously proposed alternatives, such as reverting to a voluntary scheme and using standards of identity, labelling, or supplier's declaration of conformity to demonstrate the completion of third-party test procedures.

29.5. Second, cheese made from animal fat will have to undergo burdensome testing and certification requirements, while cheese produced from vegetable fat will not. In this regard, the United States notes that there are no internationally well-accepted biomarkers to differentiate milk fat from all-vegetable fat. Additionally, there are no relevant Codex nor other international standards available for this type of analysis. Therefore, the US requests that Mexico consider allowing fatty acid analysis to be voluntary rather than mandatory.

29.6. Third, the United States remains concerned as to whether Mexico has seriously taken comments from WTO Members and stakeholders into account. In 2020, stakeholders provided input into a draft and participated in good faith in the working group that concluded in September 2020, and the final draft is significantly different from the draft agreed to by that working group.

29.7. Fourth, the United States is concerned that this measure may conflict with the ongoing redrafting of the corresponding cheese standard. How will Mexico harmonize the 2019 update to the NOM-223 cheese standard, with the NOM-223 cheese CAP versions developed through 2020-2021, and an expected 2022 update to the NOM-223 cheese standard?

29.8. Once more, the United States asks Mexico to indefinitely suspend the cheese conformity assessment procedure (in its mandatory form) and to provide consideration to the less trade-restrictive alternatives presented by other WTO Members and dairy industry stakeholders.

29.9. The delegate of New Zealand indicated the following:

29.10. New Zealand welcomes the opportunity to speak in support of this specific trade concern raised by the United States. New Zealand considers that the CAP that Mexico has set for cheese under NOM-223 are more trade restrictive than necessary, with some aspects of the procedure likely to cause difficulties for New Zealand's exporters and to create unnecessary obstacles to international trade. New Zealand thanks Mexico for its notification of these measures in document G/TBT/N/MEX/465/Rev.1 and looks forward to receiving a response from Mexico on its comments.

29.11. The delegate of Mexico indicated the following:

29.12. As mentioned to the United States at the TBT Committee's meeting of 10 March, and at the Council's previous meeting, in April of this year, and again on this occasion, Mexico 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 that fell on 9 April. The delegations of the EU and the US subsequently requested an extension of the deadline to submit their comments, to 30 April and 9 May, respectively. These requests were granted. The comments received during the additional public consultation period are currently being evaluated by the competent standardizing authorities. Mexico reaffirms its commitment to transparency. Any updates will be duly shared and notified in a timely manner.

29.13. The Council took note of the statements made.

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

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

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

30.3. As it noted at the March 2022 meeting of the TBT Committee, and at the June 2022 meeting of the SPS Committee, 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, in document G/TBT/N/IND/168, and a later notified entry-into-force date of 1 March 2021.

30.4. The United States disagrees with India's statements in the June SPS Committee that the measure does not impede trade. Again, the US urges India to withdraw this requirement, and to engage with its trading partners to find a science-based, trade-facilitative alternative that does not increase the cost of food. The United States also notes the unclear nature of this Order's implementation. Since it went into effect in March 2021, the Order has limited trade of certain processed products that are not listed in Annex-I of the Order, despite language which stipulates that the Order does not apply to processed food products in general.

30.5. The United States again 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.

30.6. The delegate of Canada indicated the following:

30.7. Canada thanks the United States for placing this item on the agenda. Canada wishes to reiterate its concerns raised at previous meetings of the TBT Committee, SPS Committee, and CTG regarding 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.

30.8. While Canada welcomes India's recent decision to accept its attestation for non-GM attestation for bean exports, Canada remains concerned that India's Order could disproportionately impact the ability of GM-producing countries to export to India and unnecessarily restrict international trade. 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.

30.9. Despite requests by several WTO Members, including Canada, in the aforementioned forums, India has provided neither scientific justification nor a risk assessment supporting this measure. As such, Canada requests once again that India suspend the implementation of this measure and permit 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 alternate, 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.

30.10. Lastly, Canada recalls its request for India to notify the non-GM Order to the SPS Committee given the Order's stated objective is "to ensure the safety and wholesomeness of articles of food imported into India." Canada notes India's assertion that the requirement to regulate imports of GM food was notified to the WTO as the Environment Protection Act 1986; Canada would appreciate provision of this notification. However, Canada maintains its request that, in line with India's WTO commitments to notify measures that significantly impact WTO Members' trade, India notify the 2020 Order to the SPS Committee.

30.11. Canada remains available and would welcome the opportunity to pursue further discussions on this issue in a bilateral setting.

30.12. The delegate of Argentina indicated the following:

30.13. With regard to this measure, Argentina reiterates its concern and again stresses that the measure has no scientific explanation to support it. Argentina is concerned that this requirement would set a precedent for other products or even their derivatives to be included in the future, and that this requirement could be a barrier to trade.

30.14. The delegate of Paraguay indicated the following:

30.15. Paraguay reiterates its support for the United States in its inclusion of this item on the Council's agenda. Several months before, through Paraguay's representation in New Delhi, and along with other Members, Paraguay had already requested India to reconsider this policy, which is inconsistent with its obligations to this Organization. Paraguay reiterates that it continues to await a response from India to its concerns and requests, and looks forward to receiving an update as soon as possible.

30.16. The delegate of Japan indicated the following:

30.17. Japan echoes the concerns raised by the co-sponsors and other WTO Members, and expresses its concern that this is a trade-restrictive measure that is not based on scientific evidence. Japan requests that agricultural products exported from exporting countries that exercise proper control of their genetically modified agricultural products be excluded from this requirement.

30.18. The delegate of India indicated the following:

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

30.20. The FSSAI Order, dated 21 August 2020, requiring a non-GM certificate for imports of 24 food crops is only an assurance provided by 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. This requirement has already been notified to the WTO. Furthermore, it is not trade restrictive as it is uniformly applicable to imports from all WTO Members.

30.21. The requirement of non-GMO certificate is not applicable for 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. WTO Members may also 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 further discussing this issue bilaterally with any WTO Member.

30.22. The Council took note of the statements made.

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

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

31.2. The delegate of Canada indicated the following:

31.3. Canada wishes to raise this specific trade concern regarding Panama's new quality requirements for fresh potatoes established by the Ministry of Industry and Commerce on 20 February 2020. As a long-standing supplier of fresh potatoes to Panama, with year-round exports, Canada continues to be concerned that implementing these new quality requirements could have a direct impact on its ability to export potatoes to Panama.

31.4. Canada recognizes that Panama delayed the implementation of these measures to allow for further consultations with trading partners and is appreciative of Panama's participation in a bilateral technical meeting that was held in September 2021 to address elements of concern on this issue. However, despite this positive engagement, Canada notes that its concerns were not taken into account by Panama in its final measure. Canada has signalled its concern with the restrictive time-limits for storage and marketing, as well as the zero tolerance for sprouting, to Panama's Ministry of Commerce (MICI).

31.5. Canada respectfully requests that Panama pause the enforcement of these requirements to allow for additional technical dialogue to occur and ensure that Panama's quality standards do not create unintended barriers to their mutually beneficial bilateral trade in agriculture.

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

31.7. The United States continues to raise its concerns on Panama's newly implemented technical regulations for potatoes. Since the Council's previous meeting, the US has continued its attempts to constructively engage with Panama on this issue. Panama continues to be unresponsive to these requests and has still not provided scientific justification for these measures. The US 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. In the interim, the US reiterates its request that Panama provide the scientific justification for its measures or suspend implementation of both the potato and onion regulations until technical discussions have concluded.

31.8. The delegate of Panama indicated the following:

31.9. Panama thanks the delegations of the United States and Canada for their comments and takes note of their concerns. Panama is aware that the concerns are not new and continues to work with its Capital to address them bilaterally. Panama looks forward to working together to find mutually satisfactory solutions and will share with the Council any information it receives as a result of these bilateral discussions.

31.10. The Council took note of the statements made.

32 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

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

32.2. The delegate of Switzerland indicated the following:

32.3. Since this remains an ongoing issue, Switzerland will remain brief and refer to its previous statements. Switzerland also wishes to thank the Gulf Cooperation Council (GCC) member States for the meeting that they held in May, at which certain elements relating to the time-frame of the reform could be very usefully clarified. However, as the devil lies in the detail, Switzerland still has serious concerns with regard to several aspects of the selective tax reform. Therefore, Switzerland requests additional clarity and certainty as concerns these details before any final decision is taken. Switzerland would welcome another meeting in the autumn in order to get an update on the state of play of the reform. Switzerland hopes that it will be possible to resolve this trade irritant in the near future.

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

32.5. The United States, along with Switzerland, the European Union, and Japan, circulated questions in March 2021 to GCC member State governments regarding the status of the selective tax on beverages. While the US appreciates the information provided during the Council's April meeting, as well as separate discussions with member State officials since then, it notes that it still has yet to receive written responses to its questions from March 2021, and asks that these Members provide an update as to when such responses to those questions will be provided. As the US has previously conveyed, it 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.

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

32.7. The European Union wishes to reiterate its previous requests made in the CTG and the Market Access Committee. The EU requests a substantive update on revisions to the GCC excise tax model and its implementation plan under the GCC Unified Excise Tax Agreement. The EU notes the

importance of timely engagement with interested parties regarding this issue and stands ready to hold technical consultations with competent GCC authorities from Capital and Geneva to review the progress.

32.8. The European Union provided its comments at previous meetings of the CTG and the CMA. In addition, on 7 June 2022, the EU submitted written comments to the notification in document G/TBT/N/SAU/1104/Add.1 of 17 March 2022 related to the draft standard on "Energy drinks", in which the definition of energy drinks was modified. The EU would welcome a reply to those comments.

32.9. The European Union wishes to underline the need to provide immediate relief to industry, 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. The European Union stands ready to continue engaging with the GCC on this important issue.

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

32.11. 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.

32.12. 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 tremendous effort, extensive coordination, and comprehensive studies. The GCC Working Group on Tax Issues is sparing no effort to complete this exercise in order to submit to the GCC member States appropriate results and high standards in its excise tax model.

32.13. In addition, appropriate procedures and an appropriate timeline will be adopted by the GCC member States for the revision of their excise tax regime. Once this process has been completed, the related information will be immediately shared with WTO Members.

32.14. Finally, the Kingdom of Saudi Arabia wishes to thank the United States, the European Union, and Switzerland for their constructive bilateral meeting of 18 May held with the competent authorities in the GCC member States.

32.15. The Council took note of the statements made.

33 CHINA – EXPORT CONTROL LAW – REQUEST FROM JAPAN

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

33.2. The delegate of Japan indicated the following:

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

33.4. Taking into consideration the objective of the law, which is to safeguard national interests, Japan again reiterates, as it has already stated in past Council meetings, its concerns on the following three points in particular: (i) Japan is concerned that the scope of products subject to export control is possibly excessive; (ii) Japan is concerned that there may be cases that require unnecessary technical disclosure requests during classification and end-user or usage investigations; and (iii) Japan is also concerned that the provisions on countermeasures against discriminatory export regulations by other countries have been maintained in the law. 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 be considered export restrictions prohibited under Article XI of the GATT, and consequently be inconsistent with the WTO Agreement.

33.5. In April 2022, a draft ordinance for the Dual-Use Item Export Control (draft of public consultations) was published regarding the operation of the law concerning dual-use products. The opacity of the legal operation has not been resolved at all in relation to the scope of items subject to regulation and technical disclosure requirements, and Japan will continue to request explanations of the details of the regulations related to the law. In this regard, Japan wishes to reiterate the following two points, as pointed out in previous meetings of the Council.

33.6. Firstly, Japan has concerns regarding the fact that the draft regulations on rare earths, published in January 2021, mentions a plan to set out strategic reserves. Japan believes that this plan could mean that there is a possibility that China might introduce controls on exports of rare earth-related products in accordance with the aforementioned Export Control Law.

33.7. Secondly, regarding the "Unreliable Entity List" and export prohibition list, based on the external trade law, Japan is concerned by the lack of clarity in the relationship between the entity list in the Export Control Law and the items covered in the law and the technology list. China had explained previously that the regulatory list and unreliable entity list provided in Article 18 of this law had been constructed from different legal systems. However, Japan requests a clearer explanation as to the kind of legal system on which each regulation is based, and whether or not they are related. In particular, with regard to the "Unreliable Entity List" measures, Japan is concerned about whether the fairness and transparency, in terms of the recognition of foreign entities and the content of measures taken against foreign entities, would be ensured. Japan notes that there is a possibility that these measures would be inconsistent with Article X of the GATT, among others.

33.8. At the CTG's previous meeting, China had explained that it was still drafting the supporting regulations and control lists of its Export Control Law, which would provide clearer guidance for all parties to implement and abide by the export control law. China also said that it would welcome engagement from other Members and requested them to put forward comments and suggestions during the public consultation period. Therefore, Japan will continue to monitor the details of the law's implementing regulations closely and hopes that its concerns will be addressed accordingly in the final draft of the regulations. In addition, Japan is of the view that countermeasure provisions should be removed from the law. Japan requests that China, in full transparency, provide detailed information on its regulations and their timeline, while providing ample time for their consideration.

33.9. The delegate of Canada indicated the following:

33.10. Canada reiterates its concerns previously expressed at the CTG's meeting in April 2022. Given the notable differences between China's Export Control Law and standard international practice relating to export controls, Canada would encourage China to circumscribe the application of its Export Control Law through its upcoming regulations and implementation with a view to harmonizing its practices with international standards.

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

33.12. The European Union continues to follow closely the developments in China's new Export Control Law, which took effect on 1 December 2020. The European Union takes note of the release for public comment in April-May 2022 of the Export Control Regulations, which enhance the efficiency of China's export control system.

33.13. The European Union reiterates its concerns regarding the policy defined in the White Paper of December 2021 representing a shift towards safeguarding China's "national interests" rather than contributing to international peace and security. The White Paper of 2021 also seems to imply that existing international export control regimes jeopardize the stability of global value chains and the rights of developing countries.

33.14. However, Multilateral Export Control Regimes (MECRs) have been set up to enable the implementation of international treaty obligations on the non-proliferation of Weapons of Mass

Destruction and conventional weapons, and to support the implementation of UNSC resolutions on the maintenance of international peace and security by preventing the diversion of sensitive materials, technology, and equipment to end-users of concern. They set clear guidelines and develop lists of sensitive items that give exporting WTO Members the necessary assurances that exports of sensitive products to trusted recipients are for peaceful uses and will not undermine international peace and security. MECRs are a technical instrument to fulfil WTO Members' international obligations and commitments and for enabling peaceful uses of sensitive items by all WTO Members.

33.15. The European Union appreciates China's efforts to increase transparency in its existing export control regime via the draft regulation, such as the work towards producing unified control lists, regulation of new licence types, partly streamlining licensing application processes, and encouraging companies to develop internal compliance systems, among others.

33.16. The European Union recognizes that the Chinese Export Control Law consolidates China's non-proliferation commitments, and that the draft regulations further modernize the export control system. However the EU would still like to recall its five major concerns regarding this measure, while referring to its previous statement for the full details, namely: (i) extra-territorial application; (ii) rules on deemed exports and re-exports; (iii) objectives and scope of controls; (iv) risk assessment with regard to destination countries or regions; and (v) control lists. The EU will also have a number of detailed questions to which it would welcome China's feedback.

33.17. The European Union wishes to invite China to confirm the relationship between those 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 those technologies that are prohibited/restricted to be exported under the Catalogue of Technologies Restricted or Forbidden for Export. In the CTG's April meeting, China referred to its answers in the context of the TPR exercise. In the WTO Trade Policy Review carried out recently, China noted that "any technologies that are civil-military dual-use technologies shall be subject to the Export Control Law".

33.18. The European Union would therefore like to invite China to consider amending the relevant legal provisions and confirm that the Catalogue of Technologies Restricted or Forbidden for Export lie in the applicable scope of the Export Control Law. In particular, the EU wishes to ask China whether the new control lists will include and repeal other lists of technologies subject to export restrictions, in particular the Catalogue of Technologies Restricted or Forbidden for Export. Finally, the European Union invites China to clarify whether corresponding references to the lists of MECRs will be published to provide further legal clarity.

33.19. The delegate of Australia indicated the following:

33.20. Australia notes Japan's statement in relation to China's Export Control Law. As set out in Australia's submissions to China's consultations with interested parties ahead of the adoption of this law in December 2020, and draft regulations published in April 2022, Australia welcomes 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.

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

33.22. Australia continues to urge China to take account of the concerns of foreign businesses and WTO Members in the implementation of this law and development of future measures. Australia looks forward to continuing to work closely with China.

33.23. The delegate of China indicated the following:

33.24. China refers to its statements made at previous meetings of the CTG[17], as well as its detailed reply provided in China's 2021 Trade Policy Review. China also wishes to update relevant WTO Members that, on 22 April 2022, China published the draft China Dual Use Export Control Regulation for public comment. China thanks Japan and other relevant WTO Members for submitting their comments and advice on the draft regulation during the commenting period. China is working on those comments in Capital and will continue to engage with relevant WTO Members on this issue.

33.25. The Council took note of the statements made.

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

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

34.2. The delegate of Japan indicated the following:

34.3. Japan continues to express its concerns that India's import ban on air conditioners, including refrigerants, introduced in October last year by Notification No. 41/2015-2020, is a measure that unreasonably imposes a 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.

34.4. India had responded in its TPR and at the Council's previous meeting to state that its measure was consistent with its obligations under the Montreal Protocol. However, Japan considers this 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 obligations under the Montreal Protocol, or the regulation for freon gas causing ozone layer depletion under India's domestic regulation.

34.5. In this regard, after considering the previous answers received from India, Japan submitted written questions to the TRIMs Committee meeting in September 2021 to request India's more detailed explanations, questions to which Japan expects India to provide prompt answers. 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, in writing, to Japan's written questions.

34.6. In addition, and as recently mentioned in the context of the CMA, 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 India's postponement of 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 would ask India to consider alternative procedures for certification other than overseas factory inspection.

34.7. The delegate of Thailand indicated the following:

34.8. Thailand wishes to join Japan in expressing a concern, which they have jointly raised several times before, regarding India's import prohibition of air conditioners with refrigerant.

34.9. First of all, this highly restrictive import measure has had a considerable impact on Thailand's exports of air conditioners to India. Exports of wall-mounted air conditioners from Thailand to India declined 6.21% in 2021 relative to 2019, before the measure was implemented. For the first four months of 2022, moreover, the exports of wall or ceiling type air conditioners from Thailand to India fell 47.85% compared to the same period of 2021, which represented the greatest fall in the exports of air conditioners among Thailand's top 10 export destinations of such products

[17] Document G/C/M/142, paragraphs 29.24-29.32.

worldwide. Furthermore, as Thailand is India's largest provider of imported air conditioners, Thailand obviously experiences the greatest and the most adverse impact from such a restrictive measure.

34.10. Thailand respects India's determination to comply with the Montreal Protocol. However, Thailand does not believe that the current measure is in compliance with the Montreal Protocol, as claimed by India. According to the Montreal Protocol, any measure that reduces the use of Hydrofluorocarbons (HFCs) shall be announced in advance and provide a sufficient transition period for affected countries. Moreover, the measure should be applied to domestic producers before it can be applied to foreign producers. Also, for Article 5 Parties Group 2, of which India is a part, there are clearly determined reduction steps on the use of HFCs, which India should follow. However, although India may apply a shorter time-frame for such a reduction, it must be done in a non-discriminatory manner between domestic and foreign producers.

34.11. The above argument leads to the conclusion that this measure is in blatant breach of the WTO's national treatment principle under Article III of the GATT 1994 and Article 2.1 of the TRIMs Agreement since domestic producers are allowed to inject refrigerant into domestically manufactured air conditioners, but imported producers are not. It is also a *de facto* violation of the TRIMs Agreement, which has prohibited the use of local content requirements, such as refrigerant that must be filled into imported empty air conditioners in India only. Therefore, Thailand reiterates its request that India amend the measure as soon as possible to ensure its compliance with India's WTO commitments, and to notify the measure to the WTO.

34.12. The delegate of India indicated the following:

34.13. India thanks the delegations of Japan and Thailand for their continued interest in this issue. Since the CTG's previous meeting, India has shared the details of these measures with Japan, including on their intended purpose and ongoing developments. India also thanks Thailand for sharing, on this occasion, its relevant data; this data will be transmitted to Capital. India wishes to draw WTO Members' attention to its notification to the Committee on Import Licensing under Article 5.1-5.4 of the Agreement on Import Licensing Procedures, in document G/LIC/N/2/IND/21. This notification clearly spells out the details of the restricted import policy for hydrofluorocarbons, which are relevant to this agenda item.

34.14. 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. This measure was necessary for the application of standards and regulations in line with India's commitment to the Kigali Amendment to the Montreal Protocol. India wishes to reiterate that this measure has been taken to reduce risk to human, animal and plant life, and for health reasons.

34.15. The Council took note of the statements made.

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

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

35.2. The delegate of Thailand indicated the following:

35.3. Thailand wishes to reiterate its concern over the Government of Nepal's measure prohibiting imports of caffeinated mixed energy drinks and flavoured synthetic drinks from Thailand since 2019. Having said that, Thailand wishes to convey its sympathy to the people of Nepal, who are facing some of the most difficult economic hardships, with declining foreign exchange reserves, the chronic problems of trade deficits, high inflation, and aggravating food insecurity, which have understandably forced the Government of Nepal to adopt trade restrictive measures in a bid to prevent Nepal's foreign exchange reserves from further depleting.

35.4. Thailand wishes to remind Nepal that WTO Members facing balance-of-payment difficulties may apply import restrictions, subject to the provisions under Article XII of the GATT, provided that they do not exceed the level of restrictions which are necessary, that they are progressively relaxed, and they are maintained only to the extent that the conditions still justify their application. In light

of this, Thailand urges Nepal to provide an update of its balance-of-payments situation and how such trade restrictive measures could help to alleviate the problem. Thailand would also like to encourage Nepal to provide an official WTO notification in order to further clarify the precise WTO legal basis that justifies to WTO Members Nepal's temporary adoption of such measures.

35.5. Finally, Thailand would welcome bilateral consultations with Nepal with a view to finding a mutually acceptable solution.

35.6. The delegate of Nepal indicated the following:

35.7. Nepal thanks Thailand for its statement and continued interest in Nepal's trade policy measures and notes that this concern has also been raised in the CMA. Accordingly, Nepal wishes to refer to its statements delivered at the meetings of the CMA held in March 2022, and at the Council's meeting held in April 2022[18], in response to the concern raised today, while noting that Nepal is still facing challenges in its balance of payments.

35.8. In addition, Nepal is pleased to inform the Council that its delegation, and the WTO Secretariat, have largely completed the technical work of notification. Indeed, Nepal hopes that its notification, in the appropriate format, will be circulated to WTO Members soon. Finally, Nepal wishes to resolve this matter at the bilateral level and welcomes the proposal made by Thailand regarding bilateral consultations.

35.9. The Council took note of the statements made.

36 SRI LANKA – IMPORT BAN ON VARIOUS PRODUCTS – REQUEST FROM THAILAND

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

36.2. The delegate of Thailand indicated the following:

36.3. As it has done at many previous meetings of the CTG and the Committee on Market Access (CMA), Thailand wishes once again to raise its concern over Sri Lanka's import measures, such as its temporary suspension of imports, imports on a credit basis, and import control licences, which have significantly impacted Thailand's exports to Sri Lanka. This has been especially the case of exports of small passenger vehicles, which have virtually ground to a halt since 2021.

36.4. Having said that, Thailand keenly follows the economic situation in Sri Lanka and stands by the side of its people, who are facing some of the most difficult economic hardships in the country's modern history, with high and rising inflation, depleting foreign exchange reserves, rising external debt, and looming severe economic contraction in 2022. Moreover, Thailand welcomes Sri Lanka's talks with the International Monetary Fund to secure a much-needed support and economic relief package, if applicable.

36.5. Thailand wishes to remind Sri Lanka that WTO Members facing balance-of-payment difficulties may apply import restrictions subject to the provisions set out under Article XII of the GATT, provided that they do not exceed the level of restrictions which are necessary, that they are progressively relaxed, and they are maintained only to the extent that the conditions still justify their application. In light of this, Thailand requests Sri Lanka to revise the impact of its measures in relation to relieving its foreign exchange reserve shortage, and also urges Sri Lanka to notify the above-mentioned measures to the WTO.

36.6. The delegate of Japan indicated the following:

36.7. Japan shares the concerns expressed by Australia and Thailand. Japan believes that Sri Lanka's measures may constitute an import ban that does not comply with Article XI:1 of the GATT. 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

[18] Document G/C/M/142, paragraphs 24.6-24.7.

lightly; rather, it needs to be carried out with the utmost caution and in due consideration for the substantive and procedural requirements of the WTO Agreement.

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

36.9. In this regard, Japan asks Sri Lanka to explain the following: (i) the specific target items for which import restrictions are being implemented; (ii) the aspects of which systems that 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. Further to these points, Japan also wishes to request a reiteration of Sri Lanka's measures and their consistency with the WTO Agreements.

36.10. While it is mindful of the difficult economic situation that Sri Lanka currently faces, Japan nevertheless requests from Sri Lanka an indication of when this measure will be lifted, and that it be withdrawn at the earliest possible opportunity.

36.11. With regard to the possibility that Sri Lanka will remove the import ban once its economic situation improves, Japan welcomes the fact that Sri Lanka is currently in discussions with the IMF regarding its economic crisis; nevertheless, Japan still wishes to know what the criteria and timing are for the lifting of these measures.

36.12. The delegate of New Zealand indicated the following:

36.13. Sri Lanka is facing an unprecedented economic crisis. As the international community seeks to help Sri Lanka meet that crisis, it is important that unnecessary impediments to the import of important products needed by the Sri Lankan people are not maintained. New Zealand wishes to be reassured by Sri Lanka that the measures in place are justified and consistent with its international obligations. New Zealand would welcome further briefing in this regard, in Geneva or Colombo.

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

36.15. The European Union is 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. While understanding Sri Lanka's difficult context, the EU wishes to reiterate the concerns that it has expressed under this item in previous meetings. The EU is also concerned about the very high level of the recent duty surcharges introduced by the new government since 1 June, for a period of six months, and the wide range of products targeted, among which are many agricultural and foodstuffs/processed agricultural products. The European Union therefore invites Sri Lanka to provide further information in this regard, including a timetable for the lifting of its import restrictions.

36.16. The delegate of Sri Lanka indicated the following:

36.17. Sri Lanka wishes to thank the delegation of Thailand for its continuous interest in Sri Lanka's trade policy measures introduced to curb the adverse impact of the COVID-19 pandemic on Sri Lanka's economy. As Sri Lanka informed WTO Members at the CTG's meeting held in April 2022, several positive steps have been taken by Sri Lanka to relax most of the recent import measures imposed to curb the impact of the COVID-19 pandemic in a progressive manner. In this regard, Sri Lanka made a detailed statement at the meeting of the Market Access Committee held on 30 March 2022, including on the steps that it had taken from time to time to relax its import measures.

36.18. At the CTG's previous meeting, several WTO Members expressed their concern with regard to Sri Lanka's import measures imposed through Regulation No. 2270/18, dated 9 March 2022, requiring importers to obtain import licences for importation of the 369 items identified therein. Sri Lanka is pleased to inform the Council that the requirement on obtaining import licences to import

those identified 369 items has now been removed, through Regulation No. 2282/21, dated 31 May 2022, which is a positive development.

36.19. As Sri Lanka has previously explained at the meetings of various committees, the importation of automobiles into Sri Lanka is highly dependent on the duty-free car permits issued to government officials from time to time. This duty-free permit (or duty-free vehicle permit, or motor vehicle permit on concessionary terms) is a permit issued by the Treasury of the Government of Sri Lanka that allows its holder to import a vehicle, irrespective of its engine capacity, into Sri Lanka on duty concessions or exempt from certain taxes. As previously stated, Sri Lanka considers that these duty waivers and suspension of customs duties, Import Cess and excise duties in the case of duty-free car permits cannot be considered as commercial activities that take place "under the normal course of trade" (within the meaning of the WTO rules). Accordingly, Sri Lanka's trading partners cannot presume that the trade flows taking place under a "non-normal course of trade" are the general norm, and claim that Sri Lanka's imports of motor vehicles from its trading partners have been affected due to trade-restrictive measures imposed by Sri Lanka. In the absence of duty car permits, the demand for such vehicles is not expected to surge in tandem with the import relaxation. Furthermore, it has been estimated that Sri Lanka has lost around LKR 94 billion annually from such concessionary vehicle permits in the past, which is nearly equivalent to the amount the government collects from taxing vehicle imports, making the policy more counterproductive. In view of this, the Government had to take certain restrictive measures, including making such permits inactive in order to protect the economy at the outset of the COVID-19 pandemic. Even for those duty-free car permit holders, who are in possession of such permits issued prior to March 2020, 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 ongoing dire economic crisis in the country.

36.20. Sri Lanka is currently finding it difficult to find foreign currency even for such essential import items as medicine, fuel, and food items. In this context, Sri Lanka will probably be able to release foreign currency for importation of non-essential items, such as automobiles and spare parts thereof, only when the economy recovers from the current economic crisis.

36.21. Sri Lanka understands that several WTO Members do have concerns with regard to Sri Lanka's delays in notifying its import measures introduced to curb the impact of the COVID-19 pandemic. As it informed WTO Members at the CTG's previous meeting, Sri Lanka has already begun its negotiations with the International Monetary Fund to get its assistance in addressing Sri Lanka's economic crisis, including the BOP issues that Sri Lanka is currently encountering. Several rounds of negotiations with the IMF have already been concluded. In this context, Sri Lanka is of the view that when its discussions with the IMF allow for greater clarity, it would be able to notify to the WTO the import measures that it had introduced in order to curb the adverse impact of the COVID-19 pandemic, including the most recent measures. Sri Lanka will coordinate with Capital regarding the specific concerns raised on this occasion by several WTO Members, and keep the Council informed of Capital's responses.

36.22. 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 wishes to thank India on its progress and efforts to resolve the issue of Indonesian paper export barriers to India due to the implementation of India's Plain Copier Paper (Quality Order) 2020. Indonesia wishes once again to inform India that the quarantine and PCR test obligation requirements to travel to Indonesia have been removed. Based on information from Indonesia's business sectors, the Bureau of Indian Standards (BIS), auditors will conduct their on-site factory inspections in Indonesia in July 2022. Indonesia hopes that it could immediately receive the definitive date of the BIS auditors' on-site factory visit.

37.4. The delegate of India indicated the following:

37.5. India wishes to thank Indonesia for its update and continued interest in this issue. In particular, Indonesia's update on changes to its quarantine rules will be communicated to Capital. The Bureau of Indian Standards operates its product certification activities as per Scheme-I of the BIS (Conformity Assessment) Regulations, 2018. Under this Scheme, factory inspection is a mandatory requirement for the purpose of granting a licence. 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. At present, there is no provision in the BIS (Conformity Assessment) Regulations, 2018 to undertake remote (virtual) inspection for the purpose of conformity assessment activities.

37.6. Earlier, factory inspections were on hold due to restrictions on international travel because of the COVID-19 pandemic. This position was not discriminatory against any individual WTO 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 or carrying negative RT-PCR test reports, without the requirement of quarantine or quarantine of up to three days for which the applicant has to bear the charges incurred.

37.7. Indonesia's entry rules as mentioned by its delegate at the CTG's previous meeting have been communicated to Capital. India also wishes to state that Notification No. 11/2015-2020, dated 25 May 2022, made by the Directorate General of Foreign Trade, explains the import policy condition of "free subject to compulsory registration" under the Paper Import Monitoring System (PIMS).

37.8. 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 once again to express its deep concern over the Philippines' application of Special Agricultural Safeguards (SSG) measures on Indonesian Instant Coffee products. Indonesia requests the Government of the Philippines immediately to terminate the application of its SSG to Indonesian Instant Coffee, which has been applied for almost four years.

38.4. Indonesia believes that the application of SSGs should be temporary; otherwise, they would undermine the tariff commitments made by the Philippines, as well as the legitimate expectations of other WTO Members on tariff liberalization. The prolonged application of the SSG in question will also effectively create an export restriction, trade distortions, and a threat to food security, which are not in line with the spirit of the MC12 outcomes in agriculture and food security. Indonesia will continue to oversee this matter in other relevant WTO committees and hopes that the Government of the Philippines will take concrete action to settle this issue as soon as possible.

38.5. The delegate of the Philippines indicated the following:

38.6. The Philippines wishes to thank Indonesia for its continued interest in the Philippines' Special Safeguard (SSG) measure on instant coffee. The Philippines notes that Indonesia had also raised this matter in the Committees on Agriculture and Market Access, and during the Council's meeting in April 2022, at which meetings the Philippines had provided its responses.

38.7. The Philippines reiterates that, in accordance with Article 5.1 of the AoA, SSGs 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 2002 in the Philippines' up-front notification in document G/AG/N/PHL/27, which is the basis for the imposition of the price-based SSG. Notwithstanding the up-front notification, the Philippines notified the WTO of the initial imposition of its price-based SSG on instant coffee through document G/AG/N/PHL/53, circulated in April 2018, and the SSG's continued imposition has been reflected in subsequent MA:5 notifications.

38.8. The price-based SSG mechanism is being implemented in the Philippines through a domestic law that mandates the government to impose the SSG measure on imports of SSG-eligible products that are causing or threatening to cause injury to the domestic industry, and the c.i.f. prices of which are breaching their respective trigger prices.

38.9. The Philippines stands ready to further discuss this issue with Indonesia and remains committed to addressing this matter in the appropriate forum.

38.10. The Council took note of the statements made.

39 UNITED KINGDOM – ENVIRONMENTAL ACT: FORESTRY COMMODITIES – REQUEST FROM BRAZIL AND INDONESIA

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

39.2. The delegate of Brazil indicated the following:

39.3. Brazil shares the objective of protecting ecosystems, understanding that they will be better protected if governments cooperate with one another, and if this cooperation is based on the observance of local law and territoriality. Brazil particularly shares the United Kingdom's concern about illegal deforestation and notes that, at COP26, Brazil committed itself to eradicating this activity from its national territory by 2028.

39.4. The Brazilian government believes that improving the sustainability of international agricultural trade should be a result of the dissemination of best production practices to all rural producers. In line with their common but differentiated responsibilities regarding climate change, developed countries ought to support developing countries to achieve this goal, implementing the commitments made in different multilateral environmental agreements, particularly through financing, training, and technology transfer for conservation and sustainable production actions.

39.5. Brazil believes that the conciliation and cooperation efforts undertaken by Brazil with the United Kingdom in different formats, including the Forests, Agriculture and Commodity Trade (FACT) Dialogue is the way forward. Implementing trade-restrictive measures will hardly help to solve the problem. In Brazil's view, collaborative initiatives between producer and consumer countries would be far more successful than unilateral restrictive measures in terms of promoting sustainable value chains, reducing deforestation associated with the illegal conversion of forests and other ecosystems into arable land, and generating long-lasting advances in global agricultural trade. The collective action needed to support sustainable production and the trade of resulting food and agricultural products is only feasible through multilateral partnership, where national governments agree on measures involving key stakeholders.

39.6. In particular, Brazil takes this opportunity to express its concerns about the following aspects of the UK proposal.

39.7. First, the definition of the scope of application of this secondary legislation in relation to the impacted countries is discriminatory, as it will require measures almost exclusively from developing countries with tropical climates, which have managed, in their own processes of development over the last few centuries, to preserve their natural forests.

39.8. Second, in the case of Brazil, it should be taken into account that more than 60% of its territory is covered by native vegetation and that almost 80% of the Amazon rainforest is intact. Furthermore, Brazil notably has some of the world's most stringent environmental protection legislation, in addition to being one of the most environmentally monitored countries, due to large domestic investments and international partnerships, for example by means of satellite images that provide publicly available data on fires and deforestation.

39.9. Third, among the possible consequences of such discrimination is trade diversion towards imports of similar products from third countries that will receive more favourable treatment under British law for not having preserved their natural forest cover to the same extent as the targeted countries. Furthermore, those countries would not be required to provide new information to their

supply chain to support UK businesses in applying the regulations and not being subject to import bans.

39.10. The definition of forest used in the Environment Act is reportedly in line with the definition of forest used by the Food and Agriculture Organization of the United Nations (FAO). However, it omits an essential aspect of that multilaterally agreed definition, namely the minimum tree height, which should be above five metres. By omitting this fundamental aspect of the definition, which is also included in the definition of forest used by the UNFCCC and the Convention on Biological Diversity (CBD), the British government is distorting the concept of forest and therefore creating a situation of conceptual uncertainty, which could lead to arbitrariness in the implementation of the due diligence process.

39.11. The due diligence operation will be highly costly. Due diligence could, in practice, have the same effect as a prohibitive tariff on products imported from countries discriminated against under the scope of the secondary legislation. The increased costs will inform the decision-making process of UK importers, who may stop their imports if they deem the prices excessively high or the requirements overly burdensome, with possible undesirable consequences for international supply chains (including the production of industrial goods), for the wider international economy, and specifically for the food security of the population. The costs of due diligence and the technical difficulties of its implementation will vary greatly depending on which regulation is adopted.

39.12. It is not clear to what extent the additional costs incurred by supply-side companies in the countries of origin of regulated products (including exporters, producers, intermediaries, and so on) will be taken into account, in addition to the time needed to adapt to the different scenarios in the markets of origin. Nor is it clear whether, similar to the exemptions to be granted by the British government to local companies, there will be exemptions for small and medium-sized companies, especially producers, in exporting countries. Difficulties in complying with the requirements to be adopted may entail the risk of disruption to trade flows and an uncertain scenario for commercial operators, who could incur costs with no guarantee that the British authorities will consider the legal requirements to have been met.

39.13. The above-mentioned costs would be disproportionately higher for smaller, lower-income producers if the burden of due diligence were passed on to them by importers in the UK. This could have a negative social impact on developing countries by increasing poverty levels and related social problems. These costs would increase poverty either by reducing income levels or even by driving small and medium-scale rural producers from the market, or because they would have a systemic impact on their national economies through the disruption of production chains and the resulting decline in wealth generation.

39.14. It is worth remembering that, similar to developed countries, agricultural production in developing countries is also intrinsically linked to the service and industrial sectors, which would also be affected. This would obviously compromise the social pillar of the desired sustainable development. In addition, as shown in SDG 1, the fight against poverty has positive effects from an environmental and sustainability point of view, while its opposite, the increase of poverty, clearly has negative impacts on sustainability goals.

39.15. Finally, considering that the public consultation period for the secondary legislation is over, Brazil asks that the contributions by the Brazilian government and Brazilian associations receive a fair share of attention.

39.16. The delegate of Indonesia indicated the following:

39.17. Indonesia wishes to reiterate its statement delivered at the Council's previous meeting[19], and to be updated on developments in the internal discussions within the UK government regarding the secondary legislation derived from the UK Environmental Act. Indonesia also wishes to seek the United Kingdom's clarification of the mechanism and information on the 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. Indonesia recognizes WTO Members' rights and the importance of preserving the environment. Nevertheless, Indonesia is of the view that such

[19] Document G/C/M/142, paragraphs 39.2-39.4.

action should be in accordance with WTO principles and rules, including the most-favoured-nation and national treatment principles.

39.18. The delegate of India indicated the following:

39.19. India continues to monitor the evolving trade situation due to this UK legislation. As a matter of principle, India remains opposed to unilateral environmental measures by WTO Members that create new non-tariff barriers.

39.20. The delegate of Argentina indicated the following:

39.21. Argentina is closely monitoring the United Kingdom's legislative process, with the expectation that the resulting legislation will be compatible with WTO rules. The Forestry Commodities Act is a unilateral measure that is likely to affect trade and be discriminatory because of the high costs that it can generate in terms of enforcement, even for those countries that already meet strict standards in this area. Argentina wishes to reiterate that all unilateral measures pursuing an environmental objective must be designed and implemented with a high degree of caution and precaution with regard to their consequences for developing and least developed countries, and should, above all, be considered in the light of the principle of common but differentiated responsibilities.

39.22. The delegate of Japan indicated the following:

39.23. Although Japan understands the vital importance of environmental conservation, it is interested in the consistency of due diligence, based on UK environmental law, with the WTO Agreements. Therefore, Japan requests the United Kingdom to provide sufficient information in this regard.

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

39.25. The United Kingdom thanks the WTO Members that have intervened on this occasion for their continued interest in the due diligence provisions in the Environment Act 2021. The UK's due diligence legislation is one part of a wider package of measures to improve the sustainability of supply chains and contribute to global, national and local efforts to protect forests and other ecosystems. The legislation will only apply to larger businesses operating in the UK that use regulated forest risk commodities, regardless of where those commodities have been produced.

39.26. The core of the United Kingdom's approach to due diligence legislation is that of partnership. The UK's aim is to work with producer countries and support their efforts to uphold their laws and strengthen environmental protection. The UK held a second consultation on this measure from 3 December 2021 to 11 March 2022, inviting views to inform the development of the regulations that will implement these provisions, to ensure that they are designed effectively. The UK thanks those WTO Members that contributed to the consultation. A summary of the consultation responses was published on 1 June 2022.

39.27. 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. As previously stated in its intervention at the Council's previous meeting, Indonesia would like to raise its serious concerns on the imposition of three simultaneous trade remedy measures by the European Union on Stainless Steel Cold-Rolled (SSCR) products from Indonesia, which have practically closed market access for Indonesian SSCR products to the EU. Indonesia is displeased by the imposition of these measures.

40.4. In March 2022, the European Commission issued Implementing Regulation No. 2022/433 regarding the imposition of CVD on SSCR products imported from Indonesia, even though in 2021, the European Union had already imposed both safeguards and also anti-dumping duties on Indonesian SSCR products. The CVD imposition by the EU has resulted in an increase in tariffs to Indonesian SSCR products, which resulted in a decrease of Indonesia's exports value and competitiveness of Indonesian SSCR in the European market.

40.5. Regarding the European Union's statement at the previous CTG meeting that Indonesia's authorities only partially cooperated in some stages of the CVD investigation process, Indonesia wishes to clarify that it has always actively participated in the complete investigation process. Indonesia has also submitted to the EU all the appropriate and required information. In this context, the EU, in one of the stages of the investigation, requested highly confidential data and other data that are not directly related to the aforementioned investigation. For these reasons, the submission of such data could not be carried out in a timely manner.

40.6. The delegate of China indicated the following:

40.7. China thanks Indonesia for adding this item to the Council's agenda. China is deeply concerned about the European Union's so-called cross-country subsidy investigation in this case.

40.8. China believes that the European Union's investigation is in violation of both Article 1 and Article 2 of the SCM Agreement and the EU's Basic Regulation EU 2016/1037. It also incorrectly interpreted and applied the Draft Articles on Responsibility of States for Internationally Wrongful Acts.

40.9. China also notes, with concern, that similar investigations were carried out in other cases. China believes that the European Union's practice has negatively affected the legitimate rights of relevant enterprises and normal economic cooperation and cross-border investments among WTO Members. Therefore, China urges the EU to rectify its wrong practice.

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

40.11. The European Union takes due note of the statements made. However, the EU has no new element to report since the issue was raised at the CTG's previous meeting. The EU therefore refers to its previous statement in this forum as its position stands as previously expressed; in addition, the EU asks that its previous statement be reproduced in the minutes of the meeting, as follows.

40.12. As previously stated, 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.

40.13. 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.

40.14. 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.

40.15. In sum, the European Union's investigation revealed that, by providing subsidies to exporting producers established in Indonesia with the express acceptance and acknowledgement 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.

40.16. 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.

40.17. The Council took note of the statements made.

41 EUROPEAN UNION – EUROPEAN GREEN DEAL (CARBON BORDER ADJUSTMENT MECHANISM AND DEFORESTATION FREE COMMODITIES) – REQUEST FROM BRAZIL AND INDONESIA

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

41.2. The delegate of Brazil indicated the following:

41.3. Brazil believes that the European Union's proposal establishes an illegitimate obstacle to international trade, is strongly discriminatory in nature, and will have little impact, if any, on its alleged goal of reducing deforestation and forest degradation.

41.4. First, Brazil considers that the proposed regulation does not contribute to the fight against deforestation. Deforestation is a multivariable problem that should be dealt with through comprehensive public policies. Illegal activities linked to deforestation must be halted. Alternative means of livelihood must be made available to the millions of people that live near forests. Sustainable production practices must be fostered and scaled-up.

41.5. In this sense, trade restrictions are a very limited instrument. They unfairly punish 99.1% of rural producers and do not provide any other remedy for the direct and indirect drivers of deforestation. By acting as an obstacle to economic development, trade restrictions actually reinforce some of the dynamics that lead to deforestation and reduce government capacity to deal with this issue.

41.6. Second, the proposed regulation is also heavily skewed towards punishment and disengagement by excluding from the EU market any producer suspected of having links to deforestation (or worse still, based on an area regarded as high risk, regardless of the specific sustainability credentials of each producer) with no flexibilities or margin for remedial or compensatory action such as reforestation. Once cut off, producers no longer have any incentives to improve their practices and will probably also lack the means for doing so.

41.7. Brazil is committed to the protection of its forests. In its last Nationally Determined Contribution (NDC) to the UNFCCC Paris Agreement, Brazil confirmed that it will strive to end illegal deforestation in the Amazon by 2028. Demanding that Brazil accomplishes its NDC targets immediately not only violates the Paris Agreement and the UNFCCC, but also opens the floodgates for similar initiatives by other Members. Should Brazil perhaps classify as high-risk those Members that label investments in natural gas as "green"? Or those that do not meet Brazil's energy grid based on 80% from renewable sources and ban their products accordingly? Just as Brazil does not criticize the European Union in light of the challenges it is facing in increasing its reliability on renewable energies despite its very high income level and the rhetoric it has employed, the EU should take into account the many challenges that Brazil faces in the Amazon, an area larger than the EU itself. Brazil also excels in the legal protection of its natural ecosystems, with 30% of Brazil's terrestrial area and 26% of its marine areas being protected. In the Amazon, this number rises to 50%. These figures are significantly higher than those of the EU. It is also worth noting that 10.9 million hectares of land are going through the process of natural regeneration in Brazil.

41.8. Third, Brazilian agriculture is sustainable. Brazil is the third-largest exporter of agricultural products in the world. This position was achieved through massive increases in productivity. In the last 25 years, grain production has grown 248%, in a harvested area that expanded by only 58%. In livestock, Brazil's cattle herd increased 49%, while areas of pastureland decreased 11%. Furthermore, rural landowners in Brazil actively contribute to the conservation of forests. The Brazilian Forest Code (Law 4.771/95) sets aside ample space for nature inside rural properties, thus preserving ecosystem services that are crucial for agriculture and for human and animal wellbeing. Roughly 40% of all private rural land in Brazil is reserved for the protection of forests and

ecosystems, complementing the network of protected areas mentioned above. In the Amazon biome, rural properties may be required to set aside up to 80% of their land for conservation. The great majority of Brazilian producers abide by the law and uphold their environmental obligations. Recent studies show that deforestation occurred in only 0.9% (52.766) of rural properties in Brazil in 2020.

41.9. Fourth, Brazil believes that international trade contributes to the fight against deforestation. Sustainable development only materializes through the simultaneous improvement of its three core dimensions: economic; social; and environmental. It is precisely because international trade helps improve conditions in all three that it can be such a powerful tool in that process. International trade has a proven beneficial effect by providing opportunities for small and medium-sized companies, as well as for families, to access new markets and improve their income, escape poverty, and improve their economic and social conditions. Frequently, this is also what is necessary to enable those stakeholders to improve their environmental practices and to abandon environmentally harmful production methods. These effects have been repeatedly acknowledged and demonstrated by several UN agencies, the WTO, and the EU itself, which is one of the leading providers of Aid for Trade.

41.10. Nevertheless, the European Union's proposal disregards such positive effects and instead proposes to restrict trade by imposing a potential ban on the trade of several commodities based on an unnecessarily strict concept of "deforestation-free products" that diverges from the 2030 Agenda for Sustainable Development and all relevant multilateral environmental agreements, including the UNFCCC and the CBD, which acknowledge the importance of notions such as sustainable use, ecosystem regeneration, and reforestation, among others.

41.11. Therefore, the European Union's proposed regulation is likely to have very little impact in terms of actually reducing deforestation. It lacks any provisions or pathways for rehabilitation and offers no incentive for struggling producers to improve their practices. Instead, it punishes even those producers that may have been acting in accordance with domestic law and international standards of sustainability.

41.12. Fifth, Brazil considers that the benchmarking system is discriminatory and distorts trade. The proposed country benchmarking system, with its tiered classification, will not contribute to fighting deforestation and forest degradation. On the contrary, it will only promote trade diversion in favour of highly subsidized producers.

41.13. Brazil considers that there are several reasons to believe that a benchmarking system in general, and more specifically, the benchmarking system proposed by the European Commission, is an entirely inefficient tool when trying to halt deforestation and forest degradation. First, the benchmarking system is inherently discriminatory and will impose a different treatment to producer countries based on a unilateral decision by the European Commission in light of criteria as subjective as the suitability of a country's environmental laws and enforcement capabilities (Article 27.2(f)). Second, by mandating "enhanced scrutiny" over products originating from high-risk countries, it stigmatizes entire countries and penalizes those producers that produce in a sustainable manner in those countries. Therefore, the benchmarking system, far from creating incentives for improving sustainability practices and credentials, will promote disengagement in precisely those areas that would most benefit from, and perhaps most require, cooperation and engagement. For this reason, it is very unlikely to have any positive effects, and may even have negative effects, on forest degradation and deforestation rates.

41.14. Sixth, in Brazil's view, the proposed regulation is incompatible with the WTO's rules The proposal poses evident challenges to the spirit and letter of the multilateral trading system, and several of its elements are potentially inconsistent with one or more provisions of the WTO Agreements. For example, the proposed regulation and, more specifically, the benchmarking system, appear to be inherently discriminatory, with the potential to severely limit and distort trade. Furthermore, a significant number of other provisions contain elements of arbitrariness and discrimination, ranging from the scope of the measure to the monitoring and enforcement mechanisms set out in it.

41.15. Seventh, for Brazil, the proposed regulation must be adapted to the production reality on the ground. Instead, the European Union's approach is to impose a "top-down", "one size fits all", very detailed and cumbersome due diligence obligation on traders and operators within the

EU market, which includes a heavy informational and documentary burden, as well as full geo-localization and traceability requirements throughout the supply chain. This system is then complemented by comprehensive and strict provisions on monitoring and enforcement, and by heavy penalties in case of non-compliance, not to mention the possibility of transferring the costs of enforcement to traders and operators.

41.16. Such a system completely disregards the very significant differences in the ways in which the covered commodities are produced, and their supply chains organized. For example, it ignores the fact that some of the commodities are largely produced by smallholders (like coffee), as well as the fact that the supply chain for several commodities (such as coffee and soya) usually include several links between producer and trader/operator. All of this means that the system of geo-localization and traceability envisaged by the European Commission and supposed to apply to all six commodities is simply not feasible in the short or even medium term, as confirmed by several stakeholders, both Brazilian and European, across several of the affected commodities' supply chains.

41.17. Eighth, Brazil believes that the proposed regulation should foster cooperation and focus on the future. In this regard, it is disappointing that the European Commission has decided to pursue an avenue of unilateral legislation and enforcement when it comes to an issue of such importance as reducing deforestation worldwide. There are several appropriate multilateral forums in which initiatives to reduce deforestation could have been discussed with a more significant participation and engagement from producing countries.

41.18. Ninth, Brazil considers that the proposed regulation should have objective criteria. In this regard, the criteria used to evaluate the risk of non-compliance with the regulation are insufficiently clear and objective. For example, it contains unclear parameters, including governance criteria, which are not always related to deforestation risk. Furthermore, the proposed regulation's criteria may be applied in a discretionary manner by the Commission, which is not required to justify country categorization or decisions regarding compliance or non-compliance with the regulation. In addition, the criteria are not internationally agreed and there is no harmonized methodology to assess and evaluate them. This lack of objective criteria, besides reinforcing the perception of a unilateral and arbitrary piece of legislation, is an obstacle to the very participation of countries and producers in the evaluation process, which is not guided by international and consensual values and measures.

41.19. Tenth, the definition of "forests" in the proposed regulation is, in Brazil's view, not objective. Notably, the definition of forests in the proposal conveniently excludes deforestation that has been taking place within the European Union itself.

41.20. In addition to these remarks on specific aspects of the European Union's proposal, Brazil believes that the EU's initiative should be seen in a broader context. If Members were to take a bird's-eye view of the discussions since yesterday, Brazil, for its part, would note that, in Agriculture, the EU has benefited from an unbalanced playing field regarding agricultural subsidies, has not engaged as provided for in Article 20 of the AoA, and has consistently adopted policies that violate the SPS Agreement and granted undue and discriminatory benefits to its own producers. In CBAM, similarly, Brazil sees that the EU is going against the letter and spirit of the UNFCCC and the GATT in granting undue benefits to its domestic producers. And in "deforestation-free commodities", as Brazil has argued, there are many grounds to affirm that the proposal may violate WTO and UNFCCC norms and grant undue benefits to domestic producers. This is an extremely worrying pattern that, if it were to persist, would weaken the capacity of both trade and environmental regimes to provide global solutions to Members' common challenges. And if Members are to have a proper rules-based international order, they cannot have such an important member of the international community adopting policies that depart from the principles and spirit of both regimes.

41.21. One final aspect that Brazil wishes to address is that of historical responsibilities, as many Members have referred to International Environmental Law (IEL) principles. First, let me address what it is not. Common But Differentiated Responsibilities (CBDR) is not an excuse for developing countries to avoid environmental commitments. Members have seen large developing countries assuming ambitious net zero commitments in line with the idea of "respective capabilities", including even India, with one of the lowest per capita emission rates. And in the case of Brazil, just as it has declared that it can forgo special and differential treatment in future negotiations at the WTO, since it recognizes that, as a large economy, it can, on many occasions, do more, so it has also adopted ambitious environmental targets to the extent of its capacities. What historical responsibilities do

mean, however, is that Members that developed for centuries on the back of dirty energy sources and unsustainable practices have a moral and legal obligation to do more. The consumer preferences of a few hundred millions should not be an excuse for shifting the transition costs to billions of rural producers in the developing world, especially if those consumers are only in a position to do so because of centuries of unsustainable practices by their countries. And, as EU consumers are well aware, the transition towards a low carbon economy must be based on the principles of justice and fairness.

41.22. It is unfortunate that Brazil has had to make such a long statement, but we do not have the resources to fund thinktanks and seminars to call for a change in environmental rule books according to our interests or to support our narratives. However, Brazil has a legacy of constructive effort and building bridges in both trade and environmental regimes, making meaningful and often decisive contributions to achieving outcomes that balance the interests of all Members, thus putting Members on a proper path to addressing their common challenges. Therefore, Brazil reiterates that the European Union will find in Brazil a strong and committed partner in the promotion of sustainable development, and Brazil urges the EU to duly consider the many concerns that Brazil has expressed and adopt a constructive approach on these issues, to the benefit of both regimes, and to the benefit, most especially, of small producers in the developing world.

41.23. The delegate of Indonesia indicated the following:

41.24. Indonesia wishes once again to reiterate its statement delivered at the CTG's previous meeting on its concerns over the European Green Deal policy, in particular regarding the proposed CBAM and Deforestation-Free Commodities. Indonesia is of the view that such proposals have the potential to create unnecessary barriers to international trade; they may also create different treatment between products produced within the European Union and imported products.

41.25. On the CBAM, Indonesia requests the European Union to provide its clear and reasonable justification regarding the expansion of its CBAM product coverage, which now includes organic chemicals, plastics, hydrogen, and ammonia; and also to provide its justification regarding the expansion in the scope of its emissions coverage, which now includes indirect emissions.

41.26. Regarding the Deforestation Free Commodities (DFC), although the European Union has stated that the policy is only aimed at importers in the EU, Indonesia emphasizes that, in the end, the proposed legislation would have an impact on producing countries as well, including Indonesia.

41.27. Indonesia is of the view that, in addressing environmental challenges, Members should act in accordance with WTO rules and principles, including the principle of common but differentiated responsibilities and respective capabilities. Indonesia is also of the view that the European Union, instead of applying a CBAM, which could hinder international trade, should have carried out its obligations as stated in the Paris Agreement, and its related agreements, including to provide technical assistance.

41.28. In the context of the current and developing geopolitical tensions in Europe, Indonesia realizes the significance of joint efforts by all WTO Members to maintain global supply chain stability by prioritizing trade cooperation that is non-unilateral and non-discriminatory. Therefore, Indonesia urges the European Union to review the European Green Deal policy, especially the CBAM and DFC proposals, so as to bring the policy into line with WTO law and principles, without hindering international trade.

41.29. The delegate of Paraguay indicated the following:

41.30. Paraguay thanks Brazil and Indonesia for raising this trade concern and reiterates its support. Paraguay notes with concern that the European Union is continuing to develop a series of measures designed to be implemented extra-territorially. The EU argues that the measures aim to level the playing field between its producers and foreign competition, with a view to avoiding the migration of production to other Members that it considers have less ambitious standards, and to preventing carbon leakage or undermining the competitiveness of European production. These objectives are repeated continuously in this Council. Paraguay also notes with concern that, with regard to the CBAM, and with reference to the EU's statement made under Agenda Item 16, as well

as according to the latest reports from Brussels, the EU is considering export subsidies, which would be inconsistent with the EU's WTO obligations.

41.31. Paraguay echoes Brazil's words that Members must look at European policies as a whole because these are not isolated measures. Rather, they are complex and interconnected measures that create non-tariff barriers to entry into a market that is already heavily protected by high and complex tariffs that the EU is reluctant to reform in the agricultural negotiations in this Organization. Paraguay must also mention the EU's generous subsidies to its producers.

41.32. In agriculture, Paraguay notes that the European Union itself, according to its latest notification, following the implementation of the new Green Deal policies, is providing more than USD 80 billion of support to its producers, who are currently protesting against many of these policies, saying that, with these new adjustments and efficiencies, they will not make it through to the end of the month. Paraguay wonders, then, if EU farmers are receiving USD 80 billion in subsidies but cannot make ends meet, how will farmers in developing countries fare, who do not receive such subsidies? In this regard, Paraguay also notes that many of these subsidies, like those for organic production, are granted to generate competitive conditions, disregarding the fact that their producers are already compensated in their market. Other subsidies are granted for fertilizers, which, according to the European Union, Members should reduce; or for livestock, milk, and sugar production; or for some of the commodities that would fall under this deforestation law.

41.33. Specifically with regard to the deforestation-free commodities mechanism, Paraguay reiterates the importance of taking into account the economic, social, and environmental dimensions of sustainable development, and of ensuring that measures are implemented in accordance with international principles and standards, in particular those of this Organization concerning measures with a trade impact. The transition towards sustainability in productive systems needs to be gradual and determined by countries themselves, according to their economic and social development needs. Local circumstances in different regions, and their specific productive, social, and environmental characteristics must also be respected.

41.34. As mentioned under Agenda Item 16, a combination of penalties as well as incentives must be put in place if Members are to achieve their common objectives in the fight against global environmental challenges such as climate change, biodiversity loss, and pollution. However, what Members see is that, while only European Union producers benefit from significant subsidies, whether directly to comply with these measures or indirectly, which certainly reduces their costs by doing so, producers in countries such as Paraguay that provide free ecosystem and environmental services and produce without subsidies, are being penalized by having to comply with the same measures. For Paraguayan producers, the costs of complying with these measures comes from their profits, and not from a small fraction of the domestic support that they receive.

41.35. What can be seen from this is that, while some Members industrialized and achieved their current level of development through highly polluting and environmentally damaging methods, and are responsible for climate change, in other Members, which only marginally contributed to climate change, those Members are being penalized and forced to comply with the same measures without the same degree of support. This clearly disregards the principle enshrined in International Environmental Law of common but differentiated responsibilities.

41.36. Paraguay therefore asks the European Union to explain how these measures are consistent with the principle of non-discrimination, and how the three elements of sustainable development and common but differentiated responsibilities can be reconciled, bearing in mind that the countries that contribute the least to climate change are the most affected by it, and are at the same time the main target recipients of measures such as the one the EU is presenting to us on this occasion.

41.37. In addition, it is unclear from the draft measure what type of requirements will exist in practice when the measure is implemented in terms of the information adequacy and verifiability criteria. It is also unclear which criteria will be used for the risk assessment methodology and compliance management obligation, how the European Union will classify countries in its risk assessment system for countries of origin, and when those countries would be notified of their classification. Paraguay requests the EU to provide information to the Membership on these elements and to submit the corresponding clarifications.

41.38. Before concluding, Paraguay wishes to call for reflection on the impact that this type of measure is having on European producers that, as Members have seen, are demonstrating against it in several EU member States, and who consider that their interests are not being served. How much truer is this for Paraguayan producers, who must, under market conditions, meet the same requirements to access the market of the world's largest agricultural food importer.

41.39. The delegate of Argentina indicated the following:

41.40. Argentina is closely following the European Union's legislative process on deforestation and is concerned about the proposed single model concept that the EU seeks to impose, and which does not take into account the different characteristics of the production models of the WTO's various Members. Argentina also reiterates that the regulation must be compatible with the WTO's rules.

41.41. Regarding the CBAM, Argentina shares the concerns expressed by other delegations in previous meetings about the potential inconsistency with WTO rules that could arise from the, albeit temporary, coexistence between the mechanism and the free allowances currently allocated under the European Union's Emissions Trading System. In this regard, Argentina is particularly interested in knowing whether the EU plans to maintain any system of refunds or rebates of emission certificates for EU exports to other markets, and the underlying form or methodology, if so, to ensure that the calculation of "embedded carbon" in the products subject to the mechanism does not generate distortions or discriminatory treatment on and between products from third countries.

41.42. Regarding the measures to discourage deforestation, Argentina shares Indonesia's concern about the classification of countries according to an alleged "risk of deforestation" (benchmarking), bearing in mind the characteristics of the system envisaged for its implementation based on the principle of due diligence. Similarly, it is unclear by what criteria the implementing authorities of the regulation could determine the compliance, or non-compliance, of third country producers with their own country's legislation.

41.43. Finally, as stated when it previously took the floor, Argentina wishes to reiterate that all unilateral measures pursuing an environmental objective must be designed and implemented with a high degree of caution and precaution with regard to their consequences for developing and least developed countries, and should, above all, be considered in the light of the principle of common but differentiated responsibilities.

41.44. The delegate of India indicated the following:

41.45. India continues to study the various provisions of the European Green Deal and, within that, the CBAM. India *prima facie* believes that these measures encroach upon the sovereign policy-making rights of Members. India remains concerned with the recommendations on inclusion of organic chemicals, plastics, hydrogen, and ammonia in the purview of the CBAM.

41.46. On the one hand, the European Union seeks to include indirect emissions in the calculation towards carbon emissions; but on the other hand, the proposed rules do not have any offset for taxes inherent in the cost of carbon-based input commodities. These headline inconsistencies lead to an unfortunate conclusion, namely that the EU is not enacting these laws to solve environmental problems. Instead, these laws are being designed to create a protectionist ring-fencing for the local industry, distorting global trade flows.

41.47. The proposed measures under the European Green Deal also violate the basic principles of International Environmental Law, namely Common But Differentiated Responsibilities and Respective Capacities. Any application of International Environmental Law into International Trade Law should be complete, consistent, and cohesive, with no cherry-picking based on domestic policy considerations. International Environmental Law predates International Trade Law by at least two decades. These long-enshrined principles should be reflected in the proposed European Green Deal if the intent is truly to solve a global problem through collective action.

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

41.49. India is working on environment action on many fronts. In November 2021, in Glasgow, Indian Prime Minister Shri Narendra Modi announced India's Net Zero 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. In June 2022, India launched a Lifestyle for Environment Movement with global organizations like UNEP, UNDP, World Bank and others in attendance. India has also recently announced a ban on a range of single use plastic products.

41.50. India urges the European Union to take a holistic view of this problem and not seek to push trade distortive and limited solutions, which create massive uncertainty for global businesses.

41.51. The delegate of Uruguay indicated the following:

41.52. Uruguay echoes the statements made by Brazil, Argentina, and Paraguay. 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. However, Uruguay remains concerned over the European Union's attempts to impose the view that there is only one single model of production and sustainable development that should be emulated worldwide, without taking into account the specific characteristics and conditions of different countries and regions, the realities of their production systems, and their relative contributions to the problems that need to be addressed. The restrictive effects that the practical implementation of several of the strategies and policies announced in the European Green Deal may have on international trade and production beyond EU borders are also cause for concern.

41.53. Uruguay continues to follow closely the ongoing negotiations on the proposal for a CBAM. In this regard, Uruguay wishes once again to stress the importance of ensuring that this measure, and other measures that affect trade to be adopted under the European Green Deal, are compatible with the European Union's commitments under the WTO Agreements. In the case of the CBAM, it seems important to monitor the final measure and ensure that it does not violate Articles I, II, and III of the GATT.

41.54. In this respect, Uruguay is still 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 should also like to know what steps will be taken to ensure the compatibility of any proposal that includes export refunds for the sectors covered therein with WTO rules on export subsidies. Moreover, Uruguay wishes to know how, in the respective calculations, the carbon reduction policies of third countries will be taken into account separately from carbon pricing, as well as what criteria will be used to determine whether the carbon pricing regime of countries that have them is equivalent to that of the European Union. Lastly, Uruguay wishes to ask how the principle of "common but differentiated responsibilities", enshrined in the Paris Agreement, will be taken into consideration in the measure.

41.55. With respect to the other topic addressed under this agenda item, Uruguay continues to follow developments in the discussions on the regulation to prevent deforestation and forest degradation provoked by the European Union, and hopes that the regulation will not lead to an unjustified increase in bilateral trade costs given the production conditions in its country.

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

41.57. The Russian Federation shares the concerns of other Members on the proposed European Commission draft regulation on making available on the EU market, as well as EU exports, of certain commodities and products associated with deforestation and forest degradation. Russia reiterates its statement made during the previous meeting of the CTG.

41.58. Russia notes that the proposed regulation is yet another example of unilateral trade-related climate measures under the European Green Deal umbrella. This particular measure is aimed at restricting the supply of agricultural products under the pretext of environmental protection. The proposal implies complicated market access procedures, which Russia believes do not comply with certain provisions of the Trade Facilitation Agreement, in particular. It also establishes a prohibition on imports when supply of the products concerned is determined to be causing deforestation and

forest degradation, or where its manufacturing has been inconsistent with the national legislation of the country of origin.

41.59. It is unclear not only how the European Union intends to assess the deforestation or forest degradation caused by the production of each 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, that is, a third country.

41.60. The Russian Federation stresses that this measure, as well as many other initiatives under the European Green Deal, may disrupt traditional trade flows, hamper supply chains, and seems to contradict WTO rules. The Russian Federation would like once again to underscore that all so-called "green measures" should be carried out in accordance with fundamental WTO principles.

41.61. The delegate of Japan indicated the following:

41.62. While Japan places great importance on environmental conservation, it has significant concerns about the consistency of the European Union's deforestation-free product regulations with the WTO Agreements, for which reason it politely requests to receive from the EU a sufficient explanation of this matter.

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

41.64. Having already thanked those Members that spoke under Agenda Item 16, the European Union also thanks Brazil, Indonesia, Paraguay, Argentina, India, Uruguay, and Japan for their interest in the European Green Deal. The EU takes note of the statements made. The EU's intervention will address, in particular, the issue of the CBAM and the proposal for a regulation on deforestation-free products.

41.65. On CBAM, the negotiations have advanced significantly since the adoption of the proposal, and even faster since January 2022. The European Union wishes to take the opportunity of the Council's meeting to provide an update on the latest developments in the EU's domestic procedures. The Council reached an agreement on the CBAM regulation on 15 March. Overall, the Council agrees with the objectives of the Commission's proposal. The most significant amendments suggested by the French Presidency concern increased centralization at EU level of the various tasks related to the governance of the CBAM.

41.66. On its side, the European Parliament adopted its position on CBAM in a plenary vote on 22 June. The European Parliament proposed the following: (i) a significant extension of the product scope (including indirect emissions and full coverage of all ETS sectors and downstream products; (ii) a longer transition period with a faster phase-out of free allowances, with the exception of exported goods; (iii) a full centralization of the CBAM's administration; (iv) increased financial assistance to LDCs; and (v) stricter anti-circumvention rules. With all institutions having adopted their position, the trialogue negotiations could begin before the summer break or in September. As per usual practice, the Commission will keep the WTO Members updated on the development of this proposal in the Committee on Trade and Environment (CTE).

41.67. Regarding the proposal for a regulation on deforestation-free products, the measure aims at enhancing trade in products from "deforestation-free" supply chains. The proposal aims at creating more sustainable supply chains and taking action against deforestation and forest degradation. To this end, the proposed measure sets due diligence obligations on operators aiming to place the products within the scope of the proposal on the EU market, irrespective of whether they are domestically produced or imported. Products would thus be treated equally, in line with the principle of non-discrimination. The proposal also includes other key principles, such as transparency, consistency with international commitments (including halting deforestation at the level of end-December 2020, in line with SDG 15), and engagement with partner countries.

41.68. The European Green Deal proposals, like all EU legislation, are prepared in a transparent and inclusive manner, including stakeholder consultations and comprehensive assessments of environmental, social, and economic impacts. The EU has also given regular updates on the most trade-relevant proposals of the European Green Deal in the CTE. Trading partners had an opportunity to engage and express their views in that context.

41.69. The Commission will continue to work with concerned producing Members to jointly address deforestation and forest degradation. This work will also aim to support their capacity to adapt to the incoming new rules and seize the opportunities they offer, building on dialogue and engagement with those Members. The European Union will engage in dialogue with other large importers of commodities considering similar measures, as well as in dialogue and cooperation with countries producing commodities covered by the regulation. Such cooperation could include, for example, supporting the establishment of traceability systems. The EU also stands ready to provide more information about the regulation and its implementation in multilateral forums such as the FAO, UNEP, or the CTE, where the proposal was presented in February 2022. Deforestation work has also been discussed at the G7 and G20 levels. Furthermore, halting deforestation is one of the main objectives of the Sustainable Cocoa Initiative that the Commission has launched with Ghana and Côte d'Ivoire, as well as stakeholders involved in the cocoa supply chain.

41.70. The Council took note of the statements made.

42 AUSTRALIA – INVESTIGATION AND REVIEW OF ANTI-DUMPING DUTIES ON A4 COPY PAPER – REQUEST FROM INDONESIA

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

42.2. The delegate of Indonesia indicated the following:

42.3. Indonesia wishes to raise its concern over the 2021 initial investigation and the sunset review of anti-dumping duties on A4 copy paper products from Indonesia by Australia. The two investigations and the sunset review of the anti-dumping duties are still being carried out by the Australian authorities, although the export volume of Indonesian A4 paper products to Australia has decreased drastically since the imposition of anti-dumping duties in 2017. With the conclusion of this investigation, it is very likely that Indonesian A4 paper products will lose market access and market share in Australia.

42.4. Indonesia is of the view that the two investigations conducted by the Australian authorities may potentially violate a number of provisions in the WTO Anti-dumping Agreement. Indonesia hopes that Australia can re-evaluate its investigation of A4 paper products from Indonesia in accordance with WTO rules and principles, as well as in the WTO spirit of open and transparent trade.

42.5. The delegate of Australia indicated the following:

42.6. Australia had not been apprised of this item prior to it being placed on the Council's agenda, and Indonesia's statement has now clarified that it is raising two distinct enquiries relating to A4 copy paper. Australia is currently holding an anti-dumping investigation into A4 copy paper imported from Indonesia specifically relating to one Indonesian exporter not currently subject to measures (known as Case No. 583). This investigation was initiated on 2 June 2021 following receipt of a duly documented application from Australian industry. The investigation is currently ongoing. The Statement of Essential Facts is to be placed on the public record for comment on 29 July 2022 and the final recommendations are due to the Minister for Industry and Science by 26 September 2022. Separately, there is also under way a merits review of a decision on 19 April 2022 to continue anti-dumping measures on imports of A4 copy paper, including from Indonesia. This merits review does not relate to the Indonesian exporter subject to the current anti-dumping investigation in Case No. 583.

42.7. Australia is committed to ensuring that its anti-dumping system and any measures imposed are consistent with the rules of the WTO. In conducting Case No. 583, Australia's approach takes account of the findings of the WTO dispute settlement panel in DS529 and is being conducted in strict conformity with Australia's WTO obligations. Australia's anti-dumping investigations are initiated following applications from businesses or representatives with sufficient *prima facie* evidence of injurious dumping. Measures will only be imposed where evidence shows that dumped exports have caused, or threaten to cause, material injury to Australian industry. If the investigation finds an exporter is not dumping, the investigation will be terminated for that exporter, and no measures will apply to their goods. Australia's anti-dumping investigations are transparent,

independent, and evidence based. All affected overseas producers and exporters have a full and fair opportunity to provide evidence and make representations during the investigation process in line with Australia's WTO obligations. Australia welcomes that the Government of Indonesia has made submissions regarding Case No. 583.

42.8. With respect to the separate merits review, Australia's independent merits review authority, the Anti-Dumping Review Panel, received an application from exporters seeking a review of the Minister's separate decision to continue anti-dumping measures. Australia welcomes that the Government of Indonesia has also made submissions to this merits review. As both the investigation and the merits review are currently ongoing, it would be inappropriate for Australia to comment further. Australia remains willing to meet separately with Indonesia to provide further information on the ongoing processes, as appropriate.

42.9. The Council took note of the statements made.

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

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

43.2. The delegate of Peru indicated the following:

43.3. 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, which are restricting the entry into the Bolivian market of some of the principal products originating in Peru, such as potatoes and onions, as well as the exportation of whole trout. It should be noted that, on 9 May 2022, the General Secretariat of the Andean Community (SGCAN) issued Resolution No. 2264 on the investigation requested by Peru on Bolivia, in which it qualifies as restrictions of any kind the set of administrative measures applied by Bolivia, which consisted of temporarily ceasing to issue phytosanitary import permits, temporarily suspending phytosanitary inspections at the Binational Border Service Centre (CEBAF) at Desaguadero, and hindering the import process for various Peruvian plant products.

43.4. In this connection, Peru reiterates its request, submitted at the previous meeting of the SPS Committee, asking Bolivia to comply with the provisions of the aforementioned resolution and to inform Peru of the quarterly reports on the issuance of phytosanitary import permits, phytosanitary inspections, and the import process at the CEBAF at Desaguadero for perishable agricultural products from the Andean Community, for a period of one calendar year. Furthermore, with respect to Peru's interest in exporting whole trout, it should be noted that, despite the fact that the Bolivian health authority officially communicated the approval of the harmonized health certificate for the exportation of fresh or chilled/whole or loose trout in 2017, to date it has not fulfilled the corresponding commitments to enable the export of Peruvian trout.

43.5. It is very concerning that, in January 2022, the Bolivian National Agricultural Health and Food Safety Service (SENASAG) indicated that its current regulations allowed only for the marketing of eviscerated animals and that other types of products could not therefore be accepted. In other words, five years after approving a health certificate for the exportation of whole trout, Bolivia is unjustifiably restricting access for this product. It should be mentioned that none of the standards shared by the delegation of Bolivia were notified to the SPS Committee.

43.6. In addition, Peru wishes to express once again its deep concern regarding the new information received from Bolivia, on 10 June 2022, at a meeting held between the Peruvian National Fisheries Health Service (SANIPES) and SENASAG, at which the Bolivian health authority communicated to Peru that a standard, according to which only eviscerated animals may be marketed, entered into force in April 2022. This standard was not notified either, once again violating the SPS Agreement's Article 7 and Annex B. In view of the above, and as mentioned in the SPS Committee, Bolivia's actions would be in breach of the provisions of the GATT, the SPS Agreement, and the bilateral agreements between both parties. Peru therefore reiterates its request to Bolivia to rescind any restrictions in place on Peruvian exports of perishable goods and whole trout.

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

43.8. The Plurinational State of Bolivia takes note of Peru's statement, which will be conveyed to Capital. Likewise, given that this concern has been presented in the SPS Committee, whose meeting was held less than a month ago, Bolivia refers to its intervention made on that occasion. Bolivia would also like to point out that this concern was the subject of a regional opinion, which also established "that it is not proven that SENASAG has hindered or delayed the phytosanitary inspection procedures in the time used to carry them out, in the opening hours provided or in the sampling of the goods", and that "it is not proven that the Bolivian government has applied restrictions under the figure of granting quotas of the PSI". In this context, Bolivia considers that the relevant time-period should be granted to comply with the provisions of the aforementioned Opinion No. 2264.

43.9. The Council took note of the statements made.

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

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

44.2. The delegate of Peru indicated the following:

44.3. Peru would like to present its trade concern over the restrictive measures applied by Ecuador on the reopening of access for grapes and onions from Peru. Despite the fact that the SPS Agreement provides that approval procedures must be undertaken without undue delay, Ecuador has provided replies that continue to stall access to its market for Peruvian grapes and onions beyond what is necessary. It should be mentioned that the Ecuadorian regulations imposing restrictions on Peruvian exports of grapes and onions were not duly notified to the SPS Committee, despite the fact that this measure lays down additional requirements that have a direct impact on the trade of other Members.

44.4. Ecuador continues to require that refrigerated transport be used to export grapes, with one of its arguments being that the refrigeration of fruit and vegetables is the best way of keeping such foods fresh and increasing their commercial life. However, it is important to note that the Ecuadorian Agency for Phytosanitary and Animal Health Regulation and Control (AGROCALIDAD) does not require compliance with conditions on fruit quality or refrigerated transport for the entry and exit of grapes from other countries that are much farther away. In addition, in the case of onions, despite the fact that the ban on Peruvian imports has been deemed to be a measure that restricts trade within the subregion, according to Resolution No. 2253 of the Andean Community[20], Ecuador insisted on requesting a new pest risk analysis in order to provide access to its market.

44.5. In accordance with Ecuador's request, Peru sent all the information required for the pest risk analysis and, on 19 April 2022, at a bilateral technical meeting between the Peruvian National Agrarian Health Service (SENASA) and AGROCALIDAD, this Ecuadorian authority committed to completing the aforementioned analysis in early July 2022, while also undertaking to offer a review period from 8 to 31 July 2022 for Peru's comments on the phytosanitary requirements. In this connection, Peru hopes to receive the proposed phytosanitary requirements by the end of that day at the latest, in order to ensure compliance with the commitments undertaken by both parties.

44.6. Considering that the measures applied by Ecuador contravene the provisions of the SPS Agreement[21], Peru asks 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; and (iii) to provide access for imports of Peruvian grapes and onions.

[20] Resolution available at: https://www.comunidadandina.org/DocOficialesFiles/Gacetas/Gaceta%204415.pdf

[21] Concerns previously raised in the March 2022 SPS Committee, as well as in documents G/SPS/GEN/1937, G/SPS/GEN/1975 and G/SPS/GEN/1907 and in the SPS Committee of 5, 6 and 13 November 2020.

44.7. The delegate of Ecuador indicated the following:

44.8. Ecuador refers to its previous statement in this Council and wishes to point out that the concern raised by Peru has already been addressed in the framework of Andean Community law. As a result, Ecuador took the decision to lift the measures on the importation of onions. However, Ecuador wishes to highlight that it is important for this type of product to comply with international standards and phytosanitary regulations.

44.9. Ecuador is working on the technical norm for the preparation of the relevant pest risk analysis; in this connection, joint work should be carried out with the Peruvian authorities to fulfil the internationally recognized phytosanitary objectives.

44.10. With respect to the safety requirements for the importation into Ecuadorian territory of grapes, this matter has also been duly addressed at the Andean level. Ecuador is thus waiting for a response from Peru regarding the importation requirements for grapes.

44.11. To conclude, Ecuador reiterates its readiness to continue discussions with Peru in both this Council and in the appropriate bodies of the Andean Integration System, in order to find a definitive solution to this trade concern.

44.12. The Council took note of the statements made.

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

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

45.2. The delegate of Peru indicated the following:

45.3. Peru would like to express its trade concern over Panama's undue delays in renewing authorizations or approving new authorizations for the processing plants of Peruvian fish and livestock enterprises, and regarding its re-establishment of trade in Peruvian onions and potatoes.

45.4. Peru wishes to highlight that, despite the bilateral and multilateral meetings and efforts undertaken, as well as the trade concerns raised repeatedly in the SPS Committee, Panama has failed to renew authorizations or to 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. It should be highlighted that, to date, over 30 Peruvian establishments lack valid authorizations. 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.

45.5. In the case of potatoes and onions, Panama has also implemented measures that contravene the provisions of the SPS Agreement, since these measures have not been supported by proper scientific or technical evidence, international phytosanitary reference standards have not been considered, less trade-restrictive measures have not been taken into account, there are still undue delays, and compliance with transparency provisions has been lacking. Regrettably, Panama continues to provide no sanitary or phytosanitary justification regarding the 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 they are necessary to protect human, animal or plant life or health, and must, in addition, be based on a risk assessment. As a result, and in order to prevent 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.

45.6. The delegate of Panama indicated the following:

45.7. Panama takes note of Peru's concerns and will forward them to Capital. Panama wishes to highlight that a high-level bilateral meeting was recently held between the Minister of Trade and

Industry of Panama and the Vice-Minister of Foreign Trade of Peru. During that meeting, it was agreed to hold a technical meeting of the Administrative Commission of the FTA with Peru in the second half of 2022. Panama attaches great importance to this issue and notes that its FTA with Peru establishes clear rules and mutual benefits that govern trade and ensure a predictable legal and commercial framework for business and investment. Panama hopes that the momentum of this meeting will lead to mutually satisfactory solutions and reiterates its readiness to work constructively with Peru and all interested Members.

45.8. The Council took note of the statements made.

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

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

46.2. The delegate of Brazil indicated the following:

46.3. Brazil recognizes the importance of fostering national agricultural production, especially that relating to the livelihoods of small, family, and medium-sized farmers, who are the producers given priority in Brazil's agricultural policies. However, it is against the letter and spirit of the Covered Agreements for Members to pursue this goal through restrictive policies that are tantamount to import bans.

46.4. Brazil has raised several concerns both at the Committee on Agriculture (CoA) and at the SPS Committee regarding a number of issues relating to Nigeria's restrictive policies. To illustrate, a decade ago, Brazil was contributing to Nigeria's food security through exports of rice, which increased overall supply and helped to keep prices in check. Since 2014/2015, when Nigeria banned the use of foreign exchange to imports, Brazil's exports have consistently decreased, reaching zero since 2018. And despite several enquiries by Brazil at the CoA, no answer has been provided by Nigeria.

46.5. At the SPS Committee, Brazil has asked Nigeria about its refusal to launch negotiations for the establishment of SPS requirements for the import of several products. Likewise, no answer has been provided to Brazil's enquiries. More recently, in June, during the last SPS Committee meeting, Nigeria affirmed that there would be no restrictive SPS measures in force against Brazil. In response, Brazil mentioned that, failing to react to its proposals was a clear breach against Articles 2, 5, 7, 8, and Annex C of the SPS Agreement.

46.6. As stated in paragraph 2 of the Ministerial Declaration on the Emergency Response to Food Insecurity, "trade, along with domestic production, plays a vital role in improving global food security in all its dimensions and enhancing nutrition". As the World Bank has summarized, trade in both goods and services plays a key role in complementing local production and overcoming global shocks and limiting their impact in the following ways: (i) providing access to, reducing the cost and improving the availability of essential goods (including material inputs for their production) and services; (ii) ensuring access to food throughout the world; (iii) providing farmers with necessary inputs (seeds, fertilizers, equipment) for the next harvest; (iv) supporting jobs and maintaining economic activity in the face of a global recession; (v) reducing the cost of products, such as food, heavily consumed by the poor; and (vi) supporting the eventual economic recovery and building resilience through greater diversification of imports and exports. In other words, trade should not be treated as the villain, but as an ally to food security and prosperity. For these reasons, Brazil urges Nigeria to revisit both international law and academic evidence on the issue, and to lift the restrictions imposed on its imports of agricultural products.

46.7. The delegate of Nigeria indicated the following:

46.8. Nigeria refers to its statement on this issue made at the Council's previous meeting[22] and reaffirms that Nigeria's agricultural policies are consistent with its WTO commitments. The import restrictions on some agricultural products are temporary measures taken to safeguard Nigeria's

[22] Document G/C/M/142, paragraphs 28.5-28.9.

external financial position, as well as to ensure a level of reserve adequate for the implementation of Nigeria's economic development programme. Furthermore, Nigeria's measures are consistent with Article XII as well as section B of Article XVIII of the GATT.

46.9. Nigeria continues to suffer the effects of economic shocks that have had a negative impact on its external reserve and exerted unprecedented pressure on its currency (Naira). These shocks have also significantly weakened Nigeria's ability to finance its imports, undermining its external financial position and increasing its chances of defaulting on sovereign debt if timely and appropriate measures are not taken. Furthermore, 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 exponential increases in social vices that have further worsened Nigeria's national security situation. Therefore, Nigeria's temporary measures are additionally geared towards addressing its national security difficulties pursuant to Article XXI of the GATT. Its current difficulties notwithstanding, Nigeria is working assiduously to address its economic and national security difficulties with a view to phasing out these measures as soon as possible. In this regard, Nigeria thanks Brazil for its interest in its agricultural policies.

46.10. The Council took note of the statements made.

47 EUROPEAN UNION – REGULATION (EU) 2017/2321 AND REGULATION (EU) 2018/825 – REQUEST FROM THE RUSSIAN FEDERATION

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

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

47.3. The Russian Federation reiterates its concerns regarding the amendments to the European Union's basic regulation on protection against dumped imports introduced by Regulation (EU) 2017/2321 and Regulation (EU) 2018/825. At previous CTG meetings, Russia had 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. Without going into further detail, the Russian Federation wishes to reiterate its systemic concern about the WTO-inconsistency of the amendments. Russia urges the European Union to abstain from their application and not to violate its WTO obligations.

47.4. The Council took note of the statement made.

48 EUROPEAN UNION – REGULATION EC NO. 1272/2008 (CLP REGULATION) – REQUEST FROM THE RUSSIAN FEDERATION

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

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

48.3. The Russian Federation reiterates its statements made during previous meetings of various WTO bodies with regard to the cobalt classification as a carcinogen 1b for all routes of exposure. Russia stresses that this measure was adopted in the absence of any scientific justification, either laboratory-based or epidemiological, and also without taking into account and grounding the measure in the comments and opinions of WTO Members and businesses. In addition, the measure was adopted at a time when the global cobalt industry was going to launch a laboratory study on the carcinogenicity of cobalt via oral exposure, in accordance with the criteria fixed in the REACH Regulation. At the same time, Russia appreciates the European Union's efforts on the adoption of the gastric bioelution protocol at the EU and OECD levels. However, the EU has not yet adopted this methodology, and nor has it incorporated its use into the CLP Regulation as a regular practice for classifying between other alloys and compounds that will allow for the exclusion of many cobalt-containing products from the scope of further restrictions to be developed within the

framework of the implementation of this classification decision. The Russian Federation urges the European Union to adopt this methodology as soon as possible.

48.4. The Council took note of the statement made.

49 OTHER BUSINESS

49.1 Annual Plan of Meetings

49.1. The Chairperson drew Members' attention to room document RD/CTG/16, which contained the latest version of the Annual Plan of Meetings for the CTG and its subsidiary bodies for the year 2022, as well as the information currently available for the year 2023. This document had been prepared in close coordination between the CTG team and the Secretariat officers in charge of the CTG's subsidiary bodies with the aim of avoiding overlaps and ensuring an optimal scheduling of meetings. As noted at previous meetings, the Secretariat prepares an update of this Annual Plan for each CTG meeting with a view to identifying any potential issue at an early stage, while at the same time allowing Members to plan accordingly. He invited Members to comment on the Annual Plan or to raise any other issue relating to the functioning of the CTG and its subsidiary bodies. No Member requested the floor under this agenda sub-item.

49.2 Functioning of the CTG and its Subsidiary Bodies

49.2. The Chairperson then referred to the point that he had made on the previous morning, at the start of the meeting, about the possible work that the CTG may embark upon following the 12th WTO Ministerial Conference. In this regard, he wished to make some very preliminary comments echoing the words of the Chairperson of the General Council, Ambassador Didier Chambovey, who had reminded Heads of Delegation at the previous day's meeting of the General Council that the texts adopted at the 12th WTO Ministerial Conference had provided for a long list of implementation work to be carried out within the framework of the various WTO Councils and Committees. The document that had been prepared by the Secretariat and distributed to Members the previous day (document RD/WTO/13) had attempted to list the elements in that implementation work, in a purely factual, informal manner, and without any order of priority, as the Director-General herself had reminded Heads of Delegation at that same meeting. For his part, the CTG's Chairperson had identified at least three elements that were part of the 17 June Geneva package that could have an impact on the work of the Goods Council.

49.3. First, there could be a possible impact on the work of the Goods Council in relation to the first and second paragraphs of the "Work Programme on Electronic Commerce" and the Moratorium, document WT/MIN(22)/32, which stated: "We agree to reinvigorate the work under the Work Programme on Electronic Commerce, based on the mandate set out in document WT/L/274 and in particular with respect to its development dimension. We will intensify discussions on the Moratorium and instruct the General Council to conduct periodic reviews on the basis of such reports as may be submitted by the relevant WTO bodies, including on the scope, definition and impact of the Moratorium on customs duties on electronic transmissions." As Members were aware, the Council for Trade in Goods had in the past played an important role in relation to these issues, as well as the Council for Trade in Services and the Council on Trade and Development.

49.4. Second, there could be a possible impact on the work of the Goods Council in relation to paragraph 24 of the "Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics", document WT/MIN(22)/31, which stated: "The relevant WTO bodies, within their areas of competence and on the basis of proposals put forward by Members, will continue or commence work as soon as possible to analyse the lessons learned and challenges encountered during the COVID-19 pandemic. A review of the work undertaken by the WTO bodies under this Declaration shall be made annually at the General Council until the end of 2024 on the basis of reports from the relevant bodies concerned." And footnote 1 stated that the relevant bodies included "the Council for Trade in Goods or its subsidiary bodies … ".

49.5. Third, there could be a possible impact on the work of the Goods Council in relation to paragraph 3 of the Final Document of MC12, WT/MIN(22)/24, on WTO Reform, which concluded by stating: "While reaffirming the fundamental principles of the WTO, we envisage reforms to improve all functions of the Organization. The work will be Member-driven, open, transparent, inclusive, and

should address the interests of all Members, including development issues. The General Council and its subsidiary bodies shall direct the work, review progress and, as appropriate, consider decisions for submission to the next Ministerial Conference." The Council for Trade in Goods is not explicitly mentioned in this context, but it is possible, if Members so wish, that the Council may be led to work on certain topics as a General Council subsidiary body.

49.6. The Chairperson was well aware that very little time had passed since the conclusion of MC12, and that Members were probably still having internal discussions on exactly how these issues should be implemented in practice. In addition, the Chairperson of the General Council had announced only the day before that the organization of future work would be one of the most important items on the agenda of the General Council at its end-July meeting. Finally, he was also very conscious of the fact that all the work must be "Member-driven" and based on Members' proposals. Nevertheless, given that the CTG's next formal meeting would not take place until November, he wished to inform Members that his door remained open, if and when they had suggestions regarding possible future work that they would wish to submit to the Council. With this, he opened the floor.

49.7. The delegate of Canada indicated the following:

49.8. Canada thanks the Chairperson for placing this sub-item on the agenda. Equally, Canada is aware that Members are not supposed to engage in substantive discussions under "Other Business". For this reason, Canada would only like to propose that the Chairperson consider holding bilateral discussions and informal consultations with the Council in the coming weeks, or after the summer break. Canada would consider such bilateral discussions and informal consultations to be useful, especially if they could be held well before the CTG's November meeting, in order to consider how the Council itself could best make some visible contribution to the work that is undertaken first in the CTG's subsidiary bodies, and which then gets reported to the CTG before the end of the year. To this end, it would be useful to have some informal discussions within the Council on how best to do that, going forward, in terms of the work that has come out of MC12.

49.9. In addition, Canada considers that it would be useful for Members to have a discussion of how best to organize the work of the Council to examine if Members do bring forward proposals in relation to MC12. And as the Chairperson rightly pointed out, the Council itself is identified in a couple of those work items, and indirectly identified through its status as a subsidiary body of the General Council. For these reasons, Canada thinks that it would be useful for the CTG to have an additional discussion on how its work is organized, and in particular how best to address any cross-cutting issues that may arise in terms of issues within the Council's mandate. Canada will actively participate in any such meetings.

49.10. The Chairperson thanked Canada for its excellent suggestion and noted that his door was already open and would continue to be so.

49.11. The Council took note of the statements made.

49.3 Date of Next Meeting

49.12. The Chairperson indicated that the Council's next formal meeting had been scheduled for 24-25 November 2022. These dates would be confirmed in due course.

49.13. The meeting was closed.