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Council for Trade in Goods

MINUTES OF THE MEETING OF THE COUNCIL FOR TRADE IN GOODS 6 AND 7 JULY 2023

CHAIRPERSON: H.E. DR ADAMU MOHAMMED ABDULHAMID

The meeting of the Council for Trade in Goods (CTG, or the Council) was convened by Airgram WTO/AIR/CTG/25 and WTO/AIR/CTG/25/Rev.1; the proposed agenda for the meeting was circulated in document G/C/W/828.

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. He added that the deadline for uploading written statements on eAgenda, or for sending written statements to the Secretariat, was 14 July. Finally, he asked if any delegation wished to add any other issue under the agenda item, "Other Business".

The delegate of China indicated the following:

China would like to revise the title of Agenda Item 37 in the Airgram, as follows: "US-Japan-Netherlands – Agreement on Export Controls on Semiconductor Manufacturing Equipment".

The delegate of Canada indicated the following:

Canada would like to be added to the list of co-sponsors of Agenda Items 25 and 26 in the Airgram, which relate to "India – Import Policy on Tyres" and "India – Implementation of Conformity Assessment Policy Through Quality Control Orders (QCOs) in Various Sectors".

The Chairperson informed Members that, in addition, Panama had requested to be added to Agenda Item 8 in the Airgram, "European Union – Implementation of Non-Tariff Barriers on Agricultural Products", and that he would be sharing information under "Other Business" with respect to the functioning of the CTG and its subsidiary bodies, the eAgenda, and on the date of the next meeting.

The agenda was agreed with these modifications.

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 three RTAs had been notified to the CRTA, as followed:

Notification of Regional Trade Agreements

- Free Trade Agreement between El Salvador, Honduras and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu – Notification of Suspension between El Salvador and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, Goods (WT/REG283/N/2)

- Free Trade Agreement between Colombia and Israel, Goods (WT/REG468/N/1)

Notification of Changes to Existing RTAs

- Free Trade Agreement between Iceland, Liechtenstein and Norway and the United Kingdom, Goods (WT/REG459/N/2/Add.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.4)

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. To recall, on 22 December 2020, the European Union submitted document G/SECRET/42/Add.3 in connection with the process, launched earlier under Article XXVIII of the GATT 1994, for the apportionment of the European Union's tariff-rate quota concessions following the withdrawal of the United Kingdom from the European Union. That communication effected the modification of EU TRQ tariff concessions, and simultaneously highlighted that the European Union strives for the rapid and successful conclusion of the negotiations and consultations.

2.4. After three years of negotiations, the European Union is pleased to report excellent progress achieved so far with agreements signed formally with 10 WTO partners, initialled with three other partners, and negotiations and consultations being close to reaching an agreement with other partners.

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

2.5. In line with the established practice in the framework of Article XXVIII negotiations (also under Article XXIV:6), the European Union believes it is desirable to extend the timelines of Article XXVIII:3 of the GATT 1994 by another six months, that is, until 1 January 2024. This is, of course, as always, 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 European Union and other Members involved in these Article XXVIII procedures will be able to conclude any open negotiations or consultations over the coming weeks, and will be able to complete any domestic procedures required for the conclusion of agreements under Article XXVIII of the GATT 1994 in the coming months.

2.6. Therefore, the European Union proposes that the CTG take note of this communication and of the extension of the deadline, as indicated in document G/L/1385/Add.4, until 1 January 2024.

2.7. The delegate of India, addressing Agenda Items 2 and 3, indicated the following:

2.8. India continues to discuss the issues of agriculture aggregate measurement of support (AMS), special safeguard mechanisms, and TRQs in light of the developments noted in Agenda Items 2 and 3. Our discussions with both the European Union and the United Kingdom remain ongoing on issues relevant to the respective Member.

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

2.10. The Council so agreed.

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.4)

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 to document G/L/1386/Add.4, which was circulated on 31 May 2023. The document outlines that the UK has extended the timelines under Article XXVIII:3 of the GATT 1994 by six months, until 1 January 2024. Members will be aware that the United Kingdom has been undertaking negotiations and consultations with relevant trading partners with respect to its obligations within the UK's Schedule of concessions and commitments on goods under the Article XXVIII process.

3.4. The United Kingdom's negotiations and consultations are now largely completed, with the vast majority of Members having concluded negotiations, or working through internal processes in order to do so. The new deadline set for this process will enable this latter group to conclude formally. The United Kingdom thanks all Members who have engaged constructively on matters relating to our Goods schedule. We will further update Members and this forum following the conclusion of Article XXVIII negotiations, in line with WTO practice.

3.5. The delegate of India, addressing Agenda Items 2 and 3, indicated the following:

3.6. India continues to discuss the issues of agriculture AMS, special safeguard mechanisms, and TRQs in light of the developments noted in Agenda Items 2 and 3. Our discussions with both the European Union and the United Kingdom remain ongoing on issues relevant to the respective Member.

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

3.8. The Council so agreed.

4 MC12 IMPLEMENTATION MATTERS: FUNCTIONING OF THE CTG AND ITS SUBSIDIARY BODIES AND WTO RESPONSE TO THE PANDEMIC – STATUS REPORT FROM THE CHAIRPERSON (JOB/CTG/32, JOB/CTG/33)

4.1. The Chairperson indicated the following:

4.2. I would like to report to the Council on the status of the work we have undertaken on MC12 Implementation Matters since our last formal meeting, held on 3-4 April 2023. It is not my intention to have an in-depth discussion of these issues, but simply to provide a report for the record.

4.3. As you may recall, at the Council's last formal meeting, Members agreed on three issues as contained in the updated document JOB/CTG/27: (i) an extension to 15 calendar days for requesting the inclusion of an agenda item; (ii) separating the trade concerns into new and previously raised concerns; and (iii) on including CTG trade concerns in the Trade Concerns Database.

4.4. The former Chairperson provided an update on the status of work following the formal meeting of 3-4 April, as contained in document JOB/CTG/28, which includes a table of the almost 30 concrete proposals to improve the functioning of the CTG that were put forward by Members, noting where progress has been made and agreement reached. There are also many issues where the Council has requested the Secretariat to undertake work for further consideration of the Council.

4.5. On 31 May 2023, the Council met again to continue the discussions on the functioning of the CTG and the WTO response to the pandemic. On the functioning of the CTG, under my responsibility, the Secretariat prepared document JOB/CTG/32, which reflects the current status of work following these discussions. On the WTO response to the pandemic, the Council reflected further on the type of report that should be submitted to the General Council in response to paragraph 24 of the "Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics" (WT/MIN(22)/31). It also considered a template that was proposed by Ecuador in document RD/CTG/20.

4.6. Since Members seemed to be willing to proceed along these lines, and without prejudice to the contents of the report or the views of Members, I requested the Secretariat to start working on a first draft based on reports that were prepared by the Chairs of the subsidiary bodies last year, with the idea of discussing it at the next informal CTG meeting, which will take place on 19 September.

4.7. I conveyed this information to the Chairpersons of the CTG's 14 subsidiary bodies and invited them to a meeting that was held on 30 June 2023. For transparency, my communication was also circulated in document JOB/CTG/33. At this meeting, I explained the status of work, and we also coordinated on how best to move forward.

4.8. On the better functioning of the Committees, I requested them to submit the reports describing the outcome of their discussions by the first week of November, so the information can then be compiled by the Secretariat and considered by the CTG at its meeting of 30 November. The process for preparing these reports will need to be looked at by each Committee, and may include a mix of meetings and written procedures.

4.9. On the WTO response to the pandemic, I asked them to inform the CTG Secretariat of any change with respect to the past reports so that such changes could be taken into account in the draft report to be prepared by the Secretariat.

4.10. Coming back to the discussions at the CTG level, we will continue at an informal meeting that has been scheduled for 19 September. In light of the tight calendar of meetings, I doubt we will be able to meet beyond this date, so I would urge you to meet among yourselves with a view to trying to close the discussions at this meeting.

4.11. Does any delegation wish to take the floor on this issue? As I mentioned at the beginning, it is not my intention to have a substantive debate on these issues, which I think will be better addressed at the 19 September meeting.

4.12. The delegate of Peru indicated the following:

4.13. Thank you, Chair, for your report. Peru would like to inform Members that my delegation has joined as a co-sponsor of document JOB/CTG/21. A third revision of this document was circulated on 29 June to reflect this addition. We would also like to appreciate the progress that has been made in the functioning of this Council and its subsidiary bodies, which was partly thanks to the document we are now co-sponsoring and other documents. Finally, Peru reiterated its engagement with the process and thanks you and the Secretariat for the work that you have been doing.

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

4.15. Thank you, Chair. You mentioned that the subsidiary bodies would be submitting their reports around the first week of November so that the CTG could then review and include them in its own report to the General Council. Could you please clarify whether the review process that you referred to will be taken at the CTG, or will the Committees have the opportunity to review them before they are submitted to the CTG?

4.16. The Chairperson explained that he had asked the previous Chairpersons of the subsidiary bodies to prepare these reports. He had also requested the new Chairs to meet with their Committees and prepare a report so it could be added to the CTG for compilation. The CTG report would then be considered at the 30 November meeting and be submitted to the General Council.

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

4.18. The Council so agreed.

5 MEMBERS' NON-RESPONSIVENESS TO QUESTIONS POSED BY OTHER MEMBERS – REQUEST FROM THE UNITED STATES

5.1. The Chairperson recalled that this item had been included on the agenda at the request of the United States. Specific details had been included in Annex 1 of the Agenda.

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

5.3. The United States is once again raising this issue before the Council to identify certain Members' non-responsiveness to questions posed by other Members. These have been outstanding issues on the agendas of the identified bodies for some time, and we are raising them up to the Council as a normal administrative matter.

5.4. As indicated in Annex 1, there are a series of questions that have been outstanding in the identified subsidiary bodies for some time, without response. To be clear, this is not about the quality of a response or any other substantive issue in the questions themselves, but simply there being no response at all to the questions being posed. The United States stands willing to consult and/or work with all of the other Members identified in the Annex, so that those Members can provide the necessary responses. As the United States has demonstrated many times over in the various subsidiary bodies, we are happy to work with Members with such routine committee business and in exploring ways to improve the question-and-answer process going forward. That being said, since the April 2023 meeting, we have received a response from Zimbabwe to the questions posed in the Committee on Safeguards and we thank Zimbabwe for those responses.

5.5. The delegate of India, addressing Agenda Items 5 and 6, indicated the following:

5.6. India remains engaged with the delegation of the United States on the issue raised on the Working Party on State Trading Enterprises. As mentioned in our statement in the previous CTG meeting, to respond to the concerned questions, we have been awaiting the release of our updated National Trade Policy, which has been introduced a few weeks ago.

5.7. Our belief is that the WTO Members act as per their best capacities to comply with the various notification obligations of this Organization. More broadly, transparency brought about by complying to the notification obligations must permeate all parts of this Organization. For example, we recently highlighted a situation in the Committee on Agriculture, where there has been a situation where

counter-notifications were issued against our delegation, including by Members who have not submitted their own domestic support notification. The delegation of the US has also been involved in this discussion. However, this anomaly is not captured in the agenda item raised today by the US for the CTG.

5.8. If the intent here is to highlight discrepancies and anomalies, we would request the delegation of the US not to cherry-pick what would constitute transparency in the working of the CTG and its subsidiary bodies. And we would also request the delegation of the US not to co-sponsor papers on certain subjects along with defaulters on the same subject.

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

5.10. The Russian Federation shares the view that questions posed by other Members need to be answered. Transparency is of immense importance to the Organization. These are the words that are often heard in the WTO. It is unfortunate that the actions of some WTO Members run counter to their words.

5.11. At the previous CTG meeting, the Russian Federation described our concerns in detail; hence, we will not delve into the details this time. However, we will highlight instances of transparency incompliance that a number of WTO Members employ. Specifically, such examples involve non-responsiveness from the United States to questions posed by Russia in the Committee on Subsidies and Countervailing Measures, the Committee on Anti-Dumping Practices, the Committee on Agriculture, as well as the Trade Policy Review Body.

5.12. Some other WTO Members unfortunately decided to follow suit. Japan did not respond to written questions submitted by Russia during its last TPR. Written questions to the European Union on the Carbon Border Adjustment Mechanism circulated two years ago in the Committee on Market Access (CMA) and CTG still remain unanswered. Similarly, questions to the EU posed during the Committee on Market Access and the Committee on Technical Barriers to Trade meetings on the elements of the EU's Green Deal were left unaddressed. In addition, Australia, Canada, the European Union, Iceland, New Zealand, Norway, and the United Kingdom have consistently left written questions in the Committee on Agriculture regarding their unilateral measures that affect their trade in agriculture without response.

5.13. Selective transparency compliance undermines the WTO's transparency mechanism. The Russian Federation calls upon the above-mentioned Members to increase their overall transparency compliance rate in the WTO by improving their transparency track record.

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

5.15. We thank India for their update. As India has indeed noted, the United States and India have cooperatively discussed this issue in the past and we stand ready to further consult with India if necessary. In response to their specific comment regarding cherry-picking, as we stated in our opening comments, this is not about the quality of any response or substantive issues or the questions themselves, but the lack of response to the questions. We will continue working with India to obtain a response to the questions. With regard to the Russian Federation, for reasons that are self-evident and that we will not repeat here, we will not be substantively responding to their comments.

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

5.17. The Council so agreed.

6 MEMBERS' NON-NOTIFICATION OF ITEMS PURSUANT TO CERTAIN WTO AGREEMENTS – REQUEST FROM THE UNITED STATES

6.1. The Chairperson recalled that this item had been included on the agenda at the request of the United States. Specific details had been included in Annex 2 of the Agenda.

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

6.3. Similarly to the previous agenda item, the United States is bringing this agenda item to the Council to identify certain Members' non-notifications of items pursuant to certain WTO Agreements. This non-notification issue has been raised in the identified subsidiary bodies for several years now, and we are now raising this up to the Council as a normal administrative matter.

6.4. As the United States has stated in past meetings, we appreciate the Chairs' and Secretariat's attempts in the relevant subsidiary bodies to get Members to make their respective notifications, and we have noticed that an increasing number of Members have done so. However, as indicated in Annex 2, there remain a number of Members that have not yet made their respective notifications.

6.5. In reviewing the list, the United States notes that, for nearly every Member, information has been reported to the WTO through the TPR process, whether the Member does or does not have the requisite obligation item in place. In other words, most WTO Members have been made aware of their status, albeit in another forum.

6.6. As other Members have demonstrated in the past, the notification requirement is not overly burdensome and, for most Members, will likely result in a nil notification. Therefore, the United States continues to encourage all of the outstanding Members who have yet to make their respective notifications to review their individual situations and make the applicable notification.

6.7. As many of these notifications have been outstanding for over 25 years, and if Members have questions on their notification obligations, they should approach the Secretariat for guidance on the requirements under the applicable WTO Agreements. Alternatively, if for some reason a Member is unable to reach out to the Secretariat, Members can also reach out to other Members for guidance and assistance. We have all been in a situation of having to prepare a notification for the first time at one time or another, so we should all be sympathetic to the challenges that some delegations may face. As many Members in the subsidiary bodies can attest to, including Least Developed Countries (LDCs), and also other small delegations, we stand ready to help in any way we can and have indeed already helped many Members with their pending notifications.

6.8. The delegate of Japan indicated the following:

6.9. The notifications to the CTG's subsidiary committees are important from the perspective of ensuring transparency and monitoring the implementation of the Agreement, as well as from the perspective of improving the functioning of the CTG and its subsidiary bodies. We would like to point out that Members have to redouble their efforts on this, while also taking into account the capacities of developing and LDC Members.

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

6.11. The United Kingdom is grateful to the United States for raising this issue. Members know well that the UK – like so many others – shares the US' passion for the underlying principles of transparency and resolution of trade concerns. We would also be keen to hear from the Members listed what would be most helpful to them in order to fulfil their notification or response requirements. The UK will continue to provide technical assistance and capacity-building to help partners meet their obligations, and we look forward to continuing this conversation on transparency.

6.12. The delegate of Nepal indicated the following:

6.13. Nepal thanks the United States for raising its concerns regarding Nepal's notification under paragraph 25.2 of the Agreement on Subsidies and Countervailing Measures, paragraph 1 of the Understanding of the Working Party on State Trading Enterprises, and replies to the Checklist of Issues (G/VAL/5). The messages have been communicated to Capital. I will update the Council as soon as I receive the relevant information from Capital. Furthermore, I would like to make it clear that LDCs are trying their best to fulfil their obligations and commitments under the WTO Agreements; however, due to limited capacity, they do so with delays.

6.14. The delegate of Bangladesh indicated the following:

6.15. Bangladesh thanks the United States for raising these issues, and for helping Bangladesh in this notification process. Bangladesh believes that, as one of the pillars of the multilateral trading system, notification helps in transparency and for future decision-making process. As a part of this process, Bangladesh already notified under Article 16.4 of the Anti-Dumping Practice; Article 25.11 of the Agreement on Subsidies and Countervailing Measures (SCM Agreement); and Article 18.2 of the Agreement of Agriculture (Domestic Support). In this connection, Bangladesh would like to refer to Article XI:2 of the Marrakesh Agreement and echoes the delegation of Nepal on the constraints and challenges faced by the LDCs. Our Capital-based colleagues are working on the issues raised and will submit our notifications in due course.

6.16. The delegate of Canada indicated the following:

6.17. I would like to draw Members' attention to other activities within this forum. Two weeks ago, the Development Division held an LDC Transparency and Notifications Session, where there were a number of presentations not just on the act of providing notifications and the difficulties Members face in terms of providing information, but also there was a large discussion around the value of the notifications. I think that this is one of the things that we often miss in our discussions here. There is a lot of value and information that is taken from them, not just for us delegates and Capital-based officials to learn about our trading partners, but also by our private sector, our businesses, who are able to access this public information, and use it and look at the analysis that is produced by some academics and the WTO, based on that information. There are activities in this Organization that speak to the notifications, and there is great value ascribed that we are able to provide to WTO Members.

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

6.19. I would like to thank Japan, the United Kingdom, and Canada for their interventions. Indeed, as the UK mentioned, we too would be interested to hear from Members as to what would work best to help them with their notifications. To Nepal and Bangladesh, indeed your efforts are recognized by us in terms of what you have done, and what you are working on, and we look forward to hearing from you in the near future.

6.20. The Chairperson indicated the following:

6.21. I would like to emphasize the need for Members to comply with their notification requirements, and note that I have often heard in meetings encouragement to developing countries to seek support where necessary. I further encourage Members to reach out to the WTO Secretariat for technical assistance, and to other Members who have offered to support them, to comply with their notification obligations.

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

6.23. The Council so agreed.

7 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 DJIBOUTI ON BEHALF OF THE LDC GROUP (G/C/W/752)

7.1. The Chairperson recalled that this item had been included on the agenda at the request of Djibouti on behalf of the LDC Group. He also drew Members' attention to document G/C/W/752, submitted in April 2018, which had a request by the LDC Group and a draft decision by the General Council. He 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 Members listed in Annex VII(b) of the SCM Agreement. Following a request at the CTG's July 2021 meeting, the Secretariat had updated the GNP calculations for all Members, which was circulated in November 2021 in document G/SCM/W/585. Finally, he understood that this issue had also been discussed at the General Council.

7.2. The delegate of Bangladesh, on behalf of the LDC Group, indicated the following:

7.3. Members are aware of the LDC Group's request on this issue. According to Article 27.2(a) of the Agreement on Subsidies and Countervailing Measures (ASCM), some Members are eligible to enjoy flexibilities under this Agreement (i.e. for the use of export subsidies for non-agricultural products). Those Members are specified in Annex VII of the Agreement in two separate categories: (i) all least developed countries (listed as Annex VII(A)) and (ii) some developing countries (listed in Annex VII(B)), as long as their GNI per capita remains below the threshold of USD 1,000 in constant 1990 US dollar terms.

7.4. It is not clear from the ASCM whether an LDC, after graduation, which remains below the same threshold of USD 1,000, should also benefit from the same flexibilities as do developing countries listed in Annex VII(B).

7.5. In the communication we are discussing now, the LDC Group proposes that an LDC after graduation, as long as its GNI 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 ASCM like the developing counties listed in Annex VII(B). Such a decision is required for clarity and predictability.

7.6. We have cited an example earlier, namely that, by mistake, Honduras was not at first included in 1994 in the Annex VII(B) list. Rather, Honduras was included only later, considering that its GNI per capita was below the USD 1,000 threshold. In other words, it is possible to clarify the provision that an LDC after graduation should also be eligible to avail itself of this flexibility and be treated as an Annex VII(B) Member as long as it stays below the threshold of USD 1,000 in constant 1990 US dollar terms. Therefore, the CTG can approve the LDC submission and recommend it to the General Council for appropriate action.

7.7. The Secretariat 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", confirms the concerns of the LDC Group. From the growth-rate trend in that note, it is evident that many LDCs may graduate from the LDC category with GNI per capita below the threshold of USD 1,000 in constant 1990 US dollar terms.

7.8. The LDC Group is grateful to all the WTO Members that have been supporting this proposal since its submission in 2018. 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 Members to achieve a positive result in this regard.

7.9. For clarification, the current communication on Annex VII of the ASCM has also been referred to as an item in Annex II to the LDC Group's proposal on Graduation submitted to the General Council in document WT/GC/W/807/Rev.2. In other words, the specific item on the ASCM in the LDC Graduation proposal will depend on the CTG decision, which will play a complementary role. We trust that this clarification is helpful in avoiding any confusion in this regard.

7.10. The delegate of Nepal indicated the following:

7.11. Nepal aligns itself with the statement delivered by Bangladesh on behalf of the LDC Group, and wishes to add the following few points.

7.12. Some LDCs are on the path to graduation from the LDC category, and it is good news to all of us. However, meeting the graduation criteria does not necessarily mean that graduated LDCs will not face trade and development challenges. On the contrary, a graduated LDC may face enormous challenges to cope in a new trade and economic environment. Nepal itself has not met the GNI criteria in the triennial reviews of 2015, 2018, and 2021 by the CDP. In this way, it is on the path to graduation only insofar as it meets the HAI and EVI criteria.

7.13. In this regard, the decision in the proposal submitted by the LDC Group is necessary for greater clarity and predictability, including that an LDC, after its graduation, and as long as its GNI remains below the threshold of USD 1,000 in constant 1990 US dollar terms, should be allowed the possibility to use the flexibility available under Article 27.2 of the ASCM, as are the developing

countries listed in Annex VII(b). Therefore, my delegation urges all WTO Members to engage constructively to expedite the proposal.

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

7.15. We thank Bangladesh and Nepal for their comments. We have reviewed the document carefully, and unfortunately the calculations confirm our concerns. There remain gaps in information that is needed for this proposal to be workable from a practical perspective. However, we remain willing to consider ideas or proposals as to how to address those gaps or otherwise address the issue raised by the proposal.

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

7.17. The European Union thanks Bangladesh and Nepal for their presentations today. The EU position on this proposal is well known, and we refer to our past statements. We also thank Bangladesh and Nepal for the clarification provided today as to how this proposal in the CTG links to the LDC proposal on graduation at the level of the General Council. We are available for bilateral contacts with the LDC Group, as they deem appropriate.

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

7.19. The Council so agreed.

TRADE CONCERNS

7.20. The Chairperson indicated the following:

7.21. We will now move to discuss the trade concerns, which are listed in the order in which they were received by the Secretariat. As you may recall, at the last formal meeting, the Council agreed to modify the agenda to separate the new trade concerns from those previously raised, so the Secretariat implemented the request in the agenda for today's meeting. However, I would like to draw your attention to the fact that no new trade concern was raised and, in fact, the 37 trade concerns that will be discussed at this meeting have been previously raised.

7.22. Given the long list of items, I would once again encourage you to keep your interventions short. As a reminder, please note that you can make shorter statements at the meeting and expressly request the incorporation of a longer statement into the Minutes. The longer statement can be submitted either through the eAgenda platform or by emailing it to the Secretariat, but please remember to indicate this during the meeting.

NEW TRADE CONCERNS

NIL

PREVIOUSLY RAISED TRADE CONCERNS

8 EUROPEAN UNION – IMPLEMENTATION OF NON-TARIFF BARRIERS ON AGRICULTURAL PRODUCTS – REQUEST FROM AUSTRALIA, BRAZIL, CANADA, COSTA RICA, DOMINICAN REPUBLIC, ECUADOR, GUATEMALA, PANAMA, PARAGUAY, THE UNITED STATES, AND URUGUAY

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

8.2. The delegate of Paraguay, addressing Agenda Items 8 and 10, indicated the following:

8.3. To save time, I will cover Agenda Items 8 and 10 in this intervention, since they are related. My delegation would like to note that we have not received answers from the European Union to the questions we presented jointly with the delegations of Colombia, Ecuador, and Guatemala, in

November 2022 at the Committee on Sanitary and Phytosanitary Measures (SPS Committee), nor in the following meetings of the said Committee, nor in the meetings of this Council. We thank the European Union for the plurilateral meeting held with my delegation, and others, to go over some of our concerns, which took place on the margins of the SPS Committee meeting last March. We hope that this dialogue can continue in the future, and that we can receive answers to our questions soon.

8.4. Regarding new developments, allow me to note that, given that the SPS Committee will only meet next week, we will present in this Council some of the new questions we have for the European Union, noting that some of them were also presented at the Committee on Technical Barriers to Trade (TBT Committee) meeting last month. According to the Minutes of the European Commission's Standing Committee on Plants, Animals, Food and Feed (SCoPAFF) of 10-11 May 2023, "the Commission presented Revision 4 of the Draft Regulation that clarifies that the Maximum Residue Limits (MRLs) for tricyclazole should be established in Annex 2 of the Regulation 396 of 2005. [The Commission] proposes to modify the MRL of tricyclazole for rice from 0.01 mg/kg to 0.09 mg/kg, according to the request for tolerance to the import based on the Good Agricultural Practices (GAPs) of Brazil, for which the European Food Safety Authority (EFSA) confirmed that the MRL proposed is totally supported by data and is safe for consumers." However, many EU member States did not support the Draft Regulation presented by the Commission and the required majority was not reached.

8.5. Some of the arguments made by these Members include: (i) that tolerances to imports should not be accepted for substances that are no longer approved in the EU; and (ii) that approving them would have a negative impact on the competitiveness of European rice producers, who cannot use the same substances as third countries to combat certain pests effectively.

8.6. In light of this, we would like the European Union to answer the following:

(a) If a tolerance for imports is proposed for an MRL which is, and I quote, "totally supported by data and is safe for consumers", according to its own scientific authority, how would it be compatible with the obligations under the SPS Agreement to reject said tolerance to imports on the basis of "a negative impact on the competitivity of European producers"?

(b) If in cases of MRLs set with the objective of protecting human health member States are not giving a favourable vote for import tolerances, how can the Commission argue that requesting import tolerances is a feasible way forward for MRLs set with environmental objectives (e.g. for neonicotinoid substances)?

8.7. In the face of repeated questioning on the excessive use of emergency authorizations by EU member States, the EU indicated, in this and other WTO Committees and Councils, that, in light of the ruling of the Court of Justice of the European Union (CJEU) of 19 January 2023 (Case C-162/21), member States can no longer grant emergency authorizations for plant protection products containing banned neonicotinoids. In this regard, we note the following:

(a) There are several emergency authorizations that were approved prior to the CJEU ruling, but whose application covers a period after the CJEU ruling. Will these emergency authorizations remain valid for the entire period for which they were approved, despite the CJEU ruling?

(b) On 4 April 2023, the Czech Republic granted an emergency authorization for the banned substance thiamethoxam for the period from 20 April to 16 July 2023, claiming as justification and as a mitigation measure that "the product will only be used on the crop intended for export to countries outside the European Union".

(c) How can the export of the crop for which thiamethoxam has been used be considered as a mitigation measure that protects European pollinators?

(d) How is the emergency authorization granted by the Czech Republic compatible with the objective that the EU claims to pursue with Regulation (EU) No. 2023/334, i.e. to protect pollinator populations worldwide?

8.8. We will circulate these and some additional questions for the European Union under the specific trade concerns in the SPS Committee, and they will be addressed next week.

8.9. The delegate of Ecuador indicated the following:

8.10. First, my delegation wishes to refer for the record to the content of its interventions on this matter that were previously made both in this Council, as well as in the SPS and TBT Committees. Ecuador once again expresses its trade concern regarding non-tariff barriers to agricultural products by the European Union. Once again, it is regrettable that the discussion on this issue has not generated any progress, despite the constant calls to consider the impact of the European Union's non-tariff barriers. These barriers hit especially hard those small and medium-sized farmers whose production seeks to serve the markets of EU member States.

8.11. We would like to recall the five objections and arguments on which the trade concerns raised under this this agenda item are based: (i) the adoption of measures without scientific evidence; (ii) non-compliance with international standards; (iii) non-compliance with the obligations of the SPS Agreement; (iv) the suspension of MRLs that go beyond the Codex Alimentarius; and, (v) the lack of reasonable adjustment deadlines in cases that prove necessary.

8.12. The five elements we have pointed out above have not been adequately addressed or have received only partial answers and explanations. The fifth point is particularly crucial: trading partners need at least five years on average to adapt agricultural practices and put processes in place to allow the use of substitutes. I would also like to recall that, with a constructive approach, my delegation and other Members have engaged in consultations related to impact assessments of these measures in tropical developing countries, as well as with small and medium-sized farmers from these countries.

8.13. The lack of authorized substances directly impacts market access for typically Andean and tropical fruits, which, being minor crops, have few defined residue limits for approved substances. On the other hand, the substitution or reduction of pesticides requires the development of new technologies and innovations, which can take more than 11 years of research and development, on average, as well as huge investment from the private sector. The approval of these substances is very strict, and the associated costs continue to increase due to the requirements for their approval. It should also be considered that any new substances require time for adaptation, as their efficiency in tropical conditions is not always certain. This reinforces our request for reasonable adjustment periods.

8.14. Finally, Ecuador renews its willingness to maintain a constructive exchange in order to find a definitive solution to this issue that addresses the concerns of the European Union and its trading partners within the principles governing the functioning of the multilateral trading system. Only a frank and committed dialogue will enable us to achieve this objective and consolidate the benefits of a rules-based multilateral trading system for all its Members.

8.15. The delegate of the Dominican Republic indicated the following:

8.16. The Dominican Republic wishes to reiterate its statement from the formal meeting of the CTG, held on 3-4 April 2023. We share the European Union's concern for the protection of human and animal health, as well as measures to protect the environment. However, we are concerned about the systemic and commercial impact that the measures on the reduction of maximum residue limits (MRLs) may have on exports from our country, considering that this type of regulation has a direct socioeconomic impact in the Dominican Republic, particularly affecting agricultural producers, who generally constitute the most vulnerable populations in LDCs and developing countries, and who suffer directly the socioeconomic consequences of these restrictions to international trade.

8.17. The Dominican Republic considers that any measure applied by the European Union should be developed in accordance with the rules agreed upon in the WTO. The regulatory project presented by the EU on MRLs should take into consideration the scientific evidence. We therefore invite the EU to adhere to the Codex Alimentarius when reconsidering the implementation of these measures.

8.18. We have a specific concern about the possible modification of MRLs of "imazalil", which is a fundamental product for fruits such as bananas and mangoes. We express the concern of the

Dominican Republic over the European Union's notification in document G/SPS/N/EU/319, of 5 April 2019, which informed Members of a proposal for a preliminary draft Commission Regulation amending Annexes II and III of Regulation (EC) No. 396/2005 of the European Parliament and of the Council as regards the revision of the MRLs of imazalil in certain foodstuffs.

8.19. The Dominican Republic recognizes the right of the European Union to adopt the sanitary and phytosanitary measures it deems necessary to achieve the level of health protection of its citizens, in accordance with Article 2 of the SPS Agreement. However, this right to adopt sanitary and phytosanitary measures to achieve an adequate level of protection entails basic obligations. In general, Members may adopt sanitary and phytosanitary measures provided that: (i) they are only applied to the extent necessary to protect life or health; (ii) they are based on scientific principles and are not maintained without sufficient scientific evidence; and (iii) they do not unjustifiably discriminate between domestic and foreign origin or between external sources of supply.

8.20. Imazalil is a key post-harvest fungicide which is of great economic and agricultural importance, widely used for the cultivation of fruits such as bananas, mangoes, and avocados, being an essential tool in the post-harvest treatment of these foods, as they are prone to experience different diseases caused by fungal pathogens that can only be prevented by the use of imazalil as part of an effective control programme. Exports of banana, mango, and avocado represent about 20% of the Dominican Republic's total annual food exports, and the main destination of these fruits is the European Union, in particular for bananas.

8.21. The reduction of MRLs for the active ingredient imazalil would cause serious problems for our industry. It is practically a zero-tolerance measure. At this time, there is no effective substitute among plant protection products with the efficacy of imazalil, especially with respect to fungal pathogen control.

8.22. In April 2015, through notification G/SPS/W/284 of April 2015, India noted the frequent practice of adopting the limit of determination as the MRL for pesticides not registered or not used in the territory of the importing Member, and the ensuing disruptions in international trade. As a consequence of this notification, the SPS Committee has held several technical workshops with the aim of reducing or eliminating this practice by some Members.

8.23. The Dominican Republic regrets that the European Union's authorities have not taken into account the recommendations of the workshops on the establishment of MRLs carried out by the SPS Committee, and made the proposal to amend Regulation 396/2005 to modify the MRLs of imazalil based on the Limit of Quantification without taking into consideration the impact on international trade.

8.24. The Joint Statements on SPS issues at the 12th Ministerial Conference (MC12); the statement on Trade in Food and Agricultural Products at the 11th Ministerial Conference (MC11); and the Declaration of the G20 Agriculture Ministers Meeting in July 2018 reinforce the European Union's commitment as a Member to the SPS Agreement and refrain from adopting unnecessary barriers to international trade.

8.25. We encourage the European Union to find an alternative solution on MRLs for imazalil, and that we address our concerns without unnecessarily undermining our economies and agriculture. The Dominican Republic notes that the EFSA risk assessment of 5 September 2017, annexed to notification G/SPS/N/EU/319, states that the MRLs for banana derived from Good Agricultural Practices (GAP) are tentative and that the toxicity of the metabolite R014821 formed in post-harvest applications is still inconclusive.

8.26. In view of the above, the Dominican Republic, as a WTO Member, expresses its concern; furthermore, it does not agree with the European Union's policy on the establishment of MRLs based on Limit of Quantification because it is not a policy that contributes to guaranteeing the health of consumers, and because it creates unnecessary obstacles in the trade of agricultural products exported from Members, in violation of Articles 2 and 5 of the SPS Agreement, respectively. Therefore, we request that the establishment of MRLs for imazalil be supported by scientific evidence.

8.27. The delegate of Panama indicated the following:

8.28. Panama would like to reiterate the importance that it attaches to this issue. The reduction of MRLs without sufficient scientific evidence restricts access to essential substances for agricultural production, especially in tropical countries such as Panama. Panama considers that the European Union's policies and practices as a whole risk nullifying and undermining the legitimate rights of WTO Members, signatories to the Agreement on Agriculture 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 dialogue mechanisms and multilateral cooperation schemes. We regret that no progress has been observed to date. We once again urge the European Union to listen to the legitimate concerns of dozens of WTO Members. In our view, a constructive, serious, and permanent dialogue, together with mutually agreed technical assistance, will lead to a mutually beneficial solution for all parties.

8.29. The delegate of Australia indicated the following:

8.30. Australia has raised or supported several specific trade concerns relating to the European Union'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 – in many aspects – does not facilitate trade and is not conducive to achieving productive and sustainable outcomes in the agriculture sector.

8.31. For imported agricultural products, the European Union's regulatory approach to agricultural inputs, production requirements, and specific measures targeted at protecting the environment has impacted third-country producers' ability to access the EU market. These concerns include the EU's recent attempts to set MRLs for certain pesticides in order to achieve environmental outcomes in third countries.

8.32. Australia does not consider that MRLs are an appropriate or efficient tool to achieve environmental outcomes. Third-country national competent authorities are the best decision maker to ensure that pesticide application is undertaken in a safe, responsible, and sustainable manner in each country, in accordance with their unique environment.

8.33. Australia also maintains concerns over the unfair competitive advantage provided to EU producers in applying EU domestic production requirements to imports, without allowing for the recognition of third-country systems that achieve equivalent outcomes. EU producers are subsidized to implement the EU production requirements, and 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.

8.34. 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 to achieve legitimate objectives. To ensure the free flow of agricultural trade without unnecessary regulatory burden, Australia maintains its request that the EU apply international standards and best practice for regulating imported agricultural products.

8.35. We thank the European Union for its ongoing engagement with Australia on these long-running issues.

8.36. The delegate of Costa Rica indicated the following:

8.37. Costa Rica shares the concerns that have been raised by other Members today, and on previous occasions in this Council, and continues to co-sponsor and support this agenda item and document G/C/W/767/Rev.1. We consider that the concerns raised over the European Union's regulatory approach remain relevant, and that the resolution of these concerns remains urgent, especially for developing countries with tropical climates, as is the case of Costa Rica.

8.38. In the area of MRLs, Costa Rica maintains systemic and commercial concerns about the European Union's hazard-based approach. In practice, this approach has led to the elimination of dozens of substances that are essential for the control of pests and diseases in agricultural production in tropical climates. To this is added the implementation of measures based, according to the EU itself, on "environmental concerns of a global nature". Beyond the eminently extraterritorial nature of this type of measure, we are concerned that such justification does not appear to be consistent with the principles of the SPS Agreement or the TBT Agreement.

8.39. We also note that the European Union is implementing measures to control deforestation and forest degradation outside its territory through policies that affect the import of certain agricultural products, including tropical products such as cocoa, coffee, and palm oil. In this regard, multiple methodological doubts arise regarding the design and implementation of a trade mechanism such as the one proposed by the EU. Regarding this policy, we urge the EU to ensure that its measures are consistent with the WTO Agreements and their fundamental principles, that they are not discriminatory, and that they do not constitute disguised barriers to trade.

8.40. Costa Rica once again urges the European Union to continue its dialogue with interested parties in order to overcome the concerns of Members expressed in this Council and its subsidiary bodies.

8.41. The delegate of Canada indicated the following:

8.42. As noted in its previous interventions on this subject, Canada emphasizes the need for transparency and predictability in international trade. Regulatory frameworks are an important aspect in achieving this. These frameworks have been developed based on scientific data and risk analysis, and have taken into account the comments of trading partners so that they may achieve desired outcomes while facilitating trade where this is feasible and appropriate.

8.43. In accordance with WTO obligations, Canada recognizes 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 and in accordance with international obligations so as to not unjustifiably restrict international trade.

8.44. The European Union is the world's leading agricultural and forest products importer and therefore plays an important role in ensuring a predictable and open trade environment. To that end, Canada would like to comment on two particular policy initiatives where the EU's approach is more trade restrictive than necessary and will likely result in increased uncertainty, higher compliance costs for importers and exporters, negatively impact trade, and further complicate international supply chains.

8.45. Firstly, I would like to comment on the European Union's recently published Regulation on deforestation-free products. While Canada shares the EU's objective of preventing global deforestation, the compliance mechanisms that have been proposed within the legislation, including the use of plot-of-land-based traceability, will result in increased costs and administrative burden for countries exporting to the EU market. Since the Regulation has already entered into force, it is imperative that the EU carry out comprehensive engagement sessions, and that it takes into account the concerns of trading partners while ensuring that the regulation, which aims to help curb global deforestation, does not unnecessarily impact trade.

8.46. Additionally, I would like to raise Canada's concerns regarding the series of measures that support the European Union's approach to regulating pesticides. Canada is particularly concerned with the apparent strategy to restrict the use of important plant protection products through the reduction of MRLs, which was most recently manifested in a restriction based on environmental concerns rather than dietary risks, which could lead to significant barriers to trade. Canada urges the EU to consider dietary risk when setting MRLs, as all countries should have the ability to use plant protection products that are appropriate to their particular circumstances and needs without unnecessarily jeopardizing trade. Canada urges the EU to consider pollen, nectar, and floral residues for pollinator exposure in its risk assessment, while adhering to its international trade obligations.

8.47. Canada also recalls that the European Union has stated that it will be changing how requests for import tolerances are established, including taking into account certain environmental impacts

in the country of origin. Canadian growers and exporters have yet to be assured of the real-world feasibility, commercial viability and compliance with international obligations of the EU's proposed approach. Consequently, Canada once again requests that the EU maintains MRLs for substances that do not pose unacceptable dietary risks to European consumers, as this would be the only means by which consumers would be exposed to these products.

8.48. For example, Canada is concerned by the European Union's decision to adopt legislation to lower the MRLs for clothianidin and thiamethoxam to the Limit of Quantification (LOQ) based on perceived environmental concerns rather than protection of consumer health. Additionally, this legislation does not take into account successful risk mitigation measures, which have been taken by exporting countries or residues in pollinator relevant matrices such as pollen and/or nectar. This type of policy and rationale restricts trade and appears to be the EU's attempt at levelling the playing field for regulations they have imposed upon their own agricultural producers. If a pesticide does not have dietary concerns and poses no risks to EU consumers, the EU should maintain the MRLs or harmonize with Codex.

8.49. 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 product type and should allow commodities to clear channels of trade where no dietary risks of concern to consumers have been identified.

8.50. In conclusion, Canada hopes that the reiteration of its concerns will emphasize 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.

8.51. The delegate of Uruguay indicated the following:

8.52. Uruguay continues to maintain its trade and systemic concern regarding the general approach followed by the European Union in its regulatory decisions related to sanitary and phytosanitary matters, and the way in which this approach interacts with other instruments of European trade and agricultural policy, such as subsidies and tariffs, to restrict access to the European market, thereby preventing third-country producers from competing with their European counterparts on equal terms, in line with what other delegations have stated.

8.53. In particular, we are concerned about the implementation of an approach whereby the European Union decided to reduce the MRLs of a growing list of active substances used at different stages of the production process of various agricultural products to levels lower than those agreed in Codex, and even to the level of detection, without necessarily carrying out a full risk assessment that would justify such a departure based on conclusive scientific evidence.

8.54. In our view, any determination in this area, particularly when it departs from internationally accepted standards and harmonization efforts made in multilateral settings such as Codex, must necessarily be based on a thorough scientific risk assessment and conclusive scientific evidence, in accordance with the provisions of 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 obstacles to trade.

8.55. Uruguay agrees with other Members that the issue of exception regimes, including the existence and implementation in practice of emergency authorizations, seems to highlight the tensions between the domestic policies of the member States of the Union and the objective of protecting health at the Community level. It generates situations in the commercial sphere that are potentially discriminatory with respect to third parties. In this regard, we would be interested to know how the European Union has been, or foresees to be, affected by the consideration of emergency authorizations for substances subject to restrictions at Community level, in light of the recent ruling of the Court of Justice of the European Union (CJEU) of 19 January 2023, which considers them illegal in certain cases. In this regard, we support the questions submitted by Paraguay to the European Union today, both on emergency authorizations and on certain import tolerances, and await a response to them.

8.56. Uruguay is also concerned that insufficient transition periods are being provided to make the necessary adjustments in production and ensure compliance of the products concerned with the modified MRLs, and that the international consultation processes opened by the European Union seem to be treated as a mere bureaucratic step and not as an effective instance of regulatory cooperation in which the contributions of third countries are taken into account.

8.57. Finally, Uruguay once again urges the European Union to reconsider the direction of its regulatory approach with a view to avoiding the unjustified proliferation of barriers to international trade in agricultural products, taking into account its WTO obligations, as well as the socio-economic consequences that these policies may have on its trading partners, particularly developing and least developed countries.

8.58. The delegate of Brazil indicated the following:

8.59. Brazil regrets that, since this issue was first raised, nearly two years ago, the European Union has not only not provided adequate answers to the many concerns raised by a large number of WTO Members, but has continued to adopt NTBs that lack scientific evidence and further imbalance the trade in agricultural goods. Brazil therefore makes reference to its previous statements on this topic, as all Brazil's concerns remain valid. Additionally, Brazil would like to note that, while the European Union has claimed that the measures being questioned have not prevented it from being a large importer of agricultural goods, nowhere in the GATT does it say that being a large importer of agricultural goods enables a WTO Member to go against the basic principles of the SPS Agreement.

8.60. Second, such imports simply reflect the reality that other regions of the world can produce more effectively and more sustainably than the European Union 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, we have never had a level playing field in the trade of agricultural goods, and the reform mandated by Article 20 of the Agreement on Agriculture (AoA) is a clear indication of that.

8.61. 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. However, after nearly thirty 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.

8.62. It is thus worrying that, twenty-five years after its adoption, the interpretation that is given to the SPS Agreement is moving away from the purposes that guided the negotiations during the Uruguay Round. It is also worrying that we have to bring debates of this nature to the CTG, while instruments that create new non-tariff trade barriers, under the guise of environmental protection, are proliferating worldwide.

8.63. 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 2,600 emergency authorizations by its member States of substances under review since 2017, some of which simply do not offer any justification, and yet were approved.

8.64. As a final comment, Brazil must stress that the world is facing an acute food security crisis, which will become even more challenging in the next decades as the world 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 we need to support the poorest in developing countries, and increase food security worldwide.

8.65. The delegate of United States indicated the following:

8.66. The United States joins Australia, Brazil, Canada, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Panama, Paraguay, and Uruguay in again raising concerns regarding the European Union's implementation of non-tariff barriers on agricultural products. As we have noted in the past, the European Union continues to lower many pesticides Maximum Residue Levels, or MRLs, to trade-restrictive levels without clear scientific justification or measurable benefit to human health. This hazard-based approach to pesticide regulation may lead to trade barriers that threaten the security of global food systems.

8.67. Further, the European Union enforces newly reduced pesticide MRLs at the point of production for domestic goods, while enforcing these MRLs at the point of importation for imported goods. This difference in the treatment of domestic and imported goods causes trade inefficiencies and disruptions for products destined for the EU market and results in an unfair advantage for EU producers, especially for those that produce products with long shelf lives.

8.68. We reiterate our concerns that the European Union appears to be following a similar approach with its new veterinary drug legislation through prohibitions on the use of antimicrobials that are not considered medically important for human health.

8.69. Like other Members, we have shared our concerns 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 EU.

8.70. Given the European Union's position as one of the largest importers in the world, EU polices affect production practices in third countries, as producers must choose between adopting European production practices or abandoning trade with the EU. The United States again requests that any EU measure allows 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.

8.71. In light of recent calls for coordinated action to ensure predictable trade flow and to 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 we call on the European Union to join with its trading partners in identifying such mutually beneficial approaches.

8.72. Separately, the United States would like to raise a systemic concern with regard to the intervention of several Members under this agenda item. We believe it is fundamentally unfair for a Member to refer back to a longer statement that is submitted on eAgenda, while only raising a few points in the actual statement that is delivered in the room. Members are then put in a disadvantageous position of appearing to respond only to those points that were raised in the room and not all the points that have been made by the Member in their posted statement. Given this fundamental unfairness, we would ask that Members give serious consideration to revising their approaches so that Members have a full and fair opportunity to respond to a Member's concerns.

8.73. The delegate of India indicated the following:

8.74. India shares the concerns raised by other Members on the European Union's application of non-tariff barriers on agricultural products. The EU's unilateral measures are increasingly undermining regulatory principles and are not founded on internationally agreed risk analysis principles. They do not take into account alternative approaches to meeting regulatory objectives. In implementing its SPS measures, as well as in its new approach to using TBT measures for environmental reasons, the European Union 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.

8.75. The delegate of Argentina indicated the following:

8.76. We would like to thank the delegations that included this item on the agenda. Argentina once again reiterates its concern and stresses the importance of ensuring that all Members implement measures based on risk assessments based on scientific criteria.

8.77. While Argentina shares the European Union's concern over strengthening the protection of human health and the environment, it would once again like to underline the importance of complying with the provisions of the WTO Agreements to ensure that measures are not more trade-restrictive than necessary to fulfil a legitimate objective.

8.78. We are particularly concerned by the number of substances banned by the EU Commission, which have been increasing with each passing day. This situation may have serious consequences for a number of WTO Members, particularly developing countries, whose populations and economies are highly dependent on agricultural exports, as highlighted in several previous statements. In addition, the approach taken by the EU to establish transition periods for MRLs is too hasty and does not take into account the needs and adaptive capacities of third parties. Lastly, we echo the remarks made by several other delegations about the need to take into account the concerns raised, and the fact that it is crucial for the EU to use a risk assessment approach in the analysis of regulatory changes and to have conclusive scientific studies to determine the various aspects that may affect human health and the environment.

8.79. The delegate of Japan indicated the following:

8.80. Japan acknowledges that the European Union is working to take specific measures that are already under way, including the lowering of MRLs to protect pollinator insects and the introduction of deforestation-free product rules in order to ensure that the EU health and environmental standards are applied to imported agricultural, livestock and fishery products within the framework of a mirror clause. However, in order to build a sustainable food system, it is necessary not only to address agricultural products imported into the European Union, but also agricultural products produced around the world. To that end, it is important for each country to work on building a sustainable food system that takes into account its own climate and other factors. Japan is of the view that EU health and environmental standards should not be uniformly applied to imported goods, but rather that the efforts of each country should be respected.

8.81. The European Commission's report on the "Application of EU health and environmental standards to imported agricultural and agri-food products" has stated that the European Union will continue to make efforts at the multilateral level to obtain a global consensus on internationally agreed standards. If the EU introduces such a new approach, Japan would like to request that it ensure that its measures are consistent with the WTO Agreements, and that it hold international discussions on this matter.

8.82. The delegate of Guatemala indicated the following:

8.83. We regret that we must continue to pursue this concern, which has been discussed countless times in this Council, as in others. However, the reason we are pursuing the matter is that there has been no change to date that would justify removing the concern from the agenda. We have previously asked the European Union for longer transition periods that acknowledge the reality of phases in agricultural production, however, the reply was negative. Some sectors are currently trialling other substances – tests began in January 2022 and the results will be available by the end of 2023 – to assess their impact and effectiveness in a production area. It should be noted that production has already fallen by 20% because of the ineffectiveness of the alternative substances. This is why we need to use these substances; because Guatemala is a tropical country with extreme temperatures.

8.84. The real impact on trade is once again measured in volume, and will continue to grow as sectors are left without any alternatives on the market. The consequences in terms of the economic, social and rural impact will be irreversible, which is why we would like to look for alternatives ahead of time. It is important to stress that, today, third-country producers lack the alternatives and options that European producers enjoy. For instance, emergency authorizations have been granted to resolve issues that European producers are faced with, despite the conditions being the same or even worse in tropical countries such as Guatemala.

8.85. In view of the foregoing, we would be grateful if the European Union could indicate the actions it is taking to ensure that this measure does not distort trade further than is necessary, and how this measure upholds the WTO principles of national treatment and non-discrimination. We thank the European Union for providing space for dialogue in March this year. However, we are looking for

genuine solutions because the issues are real; they are not merely statements made at this Organization.

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

8.87. The European Union takes note of the comments by WTO Members. The European Union provided detailed replies at previous CTG meetings. Our statements remain valid in their entirety. The European Union has engaged extensively, including on the basis of the questions raised in this Council as well as at the SPS and TBT Committees. The European Union has also engaged bilaterally, both here in Geneva and in respective capitals. Recently, on 17 March, a plurilateral meeting took place in Geneva which allowed for a frank technical discussion.

8.88. The European Union has organized information sessions and provided detailed information. Since 2019, we have circulated no less than ten communications to the SPS Committee in relation to our pesticides policy. Another communication is currently being circulated to the SPS Committee and will be available to WTO Members shortly. We refer in particular to document G/SPS/GEN/1494/Rev.2, circulated in July 2022. The latter document provides an overview of the ongoing review of MRL of pesticides in the European Union. Importantly, it describes the review process, as well as how non-EU countries can actively contribute to it.

8.89. We will address the issue of emergency authorizations under Agenda Item 10.

8.90. The European Union remains open to engage in further discussions on how we can work together in order to facilitate trade in agricultural products treated with plant protection products. The European Union continues to provide technical assistance to developing countries and LDCs in improving SPS capacity and market access, directly or through other international organizations and partnerships, such as the WTO-hosted Standards and Trade Development Facility (STDF). The EU shared detailed information on the SPS-related Technical Assistance it had provided in the period 2019-2020 at the SPS Committee (G/SPS/GEN/1139/Add.6).

8.91. The European Union remains convinced of our common interest in ensuring that pesticide residues are not present at levels presenting an unacceptable risk to human health. Finally, the first Stocktaking Moment of the 2021 UN Food Systems Summit is taking place later this month. We believe that we have a shared interest in making our food systems sustainable by tackling the issue of toxic active substances and protecting our citizens' health.

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

8.93. The Council so agreed.

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

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

9.2. The delegate of Australia indicated the following:

9.3. Australia acknowledges further positive developments in the relationship with China over recent months, including agreement to step-up dialogue under the China-Australia Free Trade Agreement (ChAFTA) and other platforms to stabilize the trading relationship. We share a mutually beneficial trading relationship through ChAFTA and the Regional Comprehensive Economic Partnership. We share the benefits, as do all WTO Members, of a stable, predictable and open global trading system. That is why Australia continues to seek the removal of trade disruptive and restrictive measures, and the return to normal trade between our two countries.

9.4. Australia's concerns are well known. Measures, applied without adequate transparency or justification, continue to affect trade in a range of Australian products. Some products, namely barley, live rock lobsters, bottled wine, hay and meat, have been impacted for well over two years. While these measures remain in place, we will continue to raise our concerns here and in other committees. We will continue to work constructively with China, in the WTO and under our

Comprehensive Strategic Partnership, to find ways to address remaining trade concerns in a timely way, in the interests of both China and Australia.

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

9.6. The United States shares Australia's concerns regarding China's trade disruptive and restrictive measures. We note Australia's report during the April meeting that, although some progress has been made, China's measures impeding trade in many other products remain. We remain deeply troubled by the information about China's ongoing measures.

9.7. As the United States has noted previously, China's actions are not isolated to Australia. There are many instances of China using economic coercion against WTO Members in apparent retaliation for unconnected bilateral issues. It is clear that there is a broader pattern of similarly coercive actions taken by China against other Members. We are all aware of many instances where China uses, or threatens to use, abusive, arbitrary, or pretextual trade actions to pressure or influence the legitimate decision-making of sovereign governments.

9.8. 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.

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

9.10. As stated in previous meetings, the European Union shares Australia's concerns with regard to the matters Australia is once again raising in this Council on China's implementation of trade disruptive and restrictive measures. Australia has reported some progress on a number of products and measures, while others have remained unresolved over a very long period of time. In this respect, the European Union wishes to reiterate the points it made before. The form, number, and wide-ranging effects which China's measures seem to have are themselves all cause for concern. Informal, unpublished, and non-transparent trade restrictions are not in line with the WTO's rules and spirit.

9.11. A separate problem is the alleged purpose of the measures in question, which seems coercive, placing those measures into incompatibility with general international law. Within the European Union, an anti-coercion instrument will come into force in due course. On 6 June 2023, the EU's legislature reached a full political agreement on this legislation. Also, the European Union pursues a WTO dispute with China in relation to a range of measures negatively affecting its trade with China, where the facts indicate that there has been such a coercive intention as well.

9.12. The delegate of Japan indicated the following:

9.13. As we mentioned in the previous CTG meeting, Japan shares the concerns expressed by Australia regarding China's trade measures, including its trade remedies. If China implements trade measures in an arbitrary manner, as reported, this conflicts with the free, fair, and rules-based international trading system. We hope that China will respond to Australia's concerns in good faith, and in a timely manner.

9.14. The delegate of New Zealand indicated the following:

9.15. New Zealand continues to hold a systemic interest in the concerns that have been expressed on this topic by Australia and other WTO Members. As New Zealand has repeatedly noted in a number of fora, the multilateral rules-based trading system provides that all Members, regardless of their size or trading capacity, are subject to the same rights and obligations. We wholeheartedly endorse the view that through the WTO we share the benefits, as do all WTO Members, of a stable, predictable, and open global trading system. This provides the predictability and certainty necessary to ensure that trade can take place efficiently and with the least friction possible. If Members step away from their commitments, or adopt remedies or other measures provided for under the WTO Agreements for unconnected purposes, this will undermine the predictability and certainty on which the system rests. The adoption of measures by WTO Members that cause widespread

disruption to trade and lack transparency have caused serious concern to New Zealand, including the actions taken by China against a range of exports from Australia – some of which remain in place.

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

9.17. The United Kingdom would like to support Australia's concerns about trade restrictive measures taken by China. We appreciate that some measures have been lifted and we welcome this. It is vital that all WTO Members adhere to the fundamental principles and objectives of free and fair trade that underpin the rules-based multilateral trading system. Actions that deliberately target against goods of certain Members for political reasons risk undermining the integrity of this system and lead to harmful consequences for business and citizens worldwide. The United Kingdom welcomes further lifting of these measures and encourages China to engage constructively and transparently on these measures to help address the concerns raised by Members.

9.18. The delegate of Chinese Taipei indicated the following:

9.19. My delegation thanks Australia for raising this agenda item and for providing updates on the latest developments. We remain concerned about certain of China's trade measures, which have impeded the trade interests of many Members. Many of the measures adopted by China seem to have been based on unrelated bilateral issues. Whether these measures are formally imposed or taken under the direction or instruction of the Chinese authorities, they have systemic implications that risk undermining the rules-based multilateral trading system and have serious detrimental impacts, not only on Australia's exports, but also on exports from all other Members. We just heard from Australia that there have been positive developments to resolve their issues bilaterally. We will be continuously monitoring the developments, especially on the systemic aspect of the measures.

9.20. The delegate of Canada indicated the following:

9.21. Canada thanks Australia for raising this issue again, and for providing an update on the situation it faces. Canada remains concerned with the long-term challenges posed by disruptive and discriminatory trade restrictions applied for political purposes. While we welcome recent positive signals from China regarding our own challenges, concerns remain with the lack of bilateral engagement and progress in resolving them. These measures are inconsistent with established international practices and continue to negatively impact Canada's exports, including for agricultural products, as described in detail during past meetings. To conclude, we encourage all WTO Members to support the rules-based trading system by abiding by their WTO commitments and applying measures in a non-discriminatory and transparent manner.

9.22. The delegate of China indicated the following:

9.23. China would like to refer to its statements made at previous meetings of this Council and the Committee on Market Access. China has taken normal inspection and quarantine measures on some products imported from Australia with a view to protecting the health and safety of Chinese consumers. These measures are in line with Chinese laws and regulations, international practices, and the China-Australia Free Trade Agreement. We also informed Australia of the measures in a timely manner. At present, as some Australia-imported products concerned have met China's inspection and quarantine requirements, we have resumed the imports of these products. We hope that China and Australia will continue working together to strengthen the bilateral economic cooperation.

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

9.25. The Council so agreed.

10 EUROPEAN UNION – DRAFT COMMISSION REGULATION AMENDING ANNEXES II AND V TO REGULATION (EC) NO. 396/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS MAXIMUM RESIDUE LEVELS FOR CLOTHIANIDIN AND THIAMETHOXAM IN OR ON CERTAIN PRODUCTS – REQUEST FROM AUSTRALIA, BRAZIL, AND THE UNITED STATES

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

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

10.3. The United States reiterates its concerns that this measure lacks sufficient technical justification to fulfil its environmental objective, challenges the expertise of national competent authorities, undermines good agricultural practices, and introduces a dangerous precedent for an unsubstantiated use of a food safety metric to achieve supposed environmental aims. Given the critical importance of these pesticides for the production of crops that are exported to the European Union from the United States and other WTO Members, we are concerned that the reduction of these MRLs to the limit of determination (LOD) may pose a significant obstacle to trade.

10.4. As the European Union has previously recognized, global environmental challenges cannot be achieved by one-size-fits-all approaches that are narrowly tailored to the conditions in one country or region. Once again, the United States urges the EU to pursue a collaborative approach to protecting pollinators, using appropriate international venues to advance a shared understanding of this global challenge.

10.5. In the most recent meetings of the SPS and TBT Committees, we continued to ask the European Union to explain how the conclusions from these risk assessments support the reduction of MRLs to the LOD for the impacted products. We further asked the EU to provide any analysis and studies that it conducted to review production systems outside the EU. Unsurprisingly, the EU has to date failed to provide either the explanation or the information we requested.

10.6. In the absence of scientific or technical information indicating how the reduction of MRLs to the LOD on the impacted products contributes to the objective of protection of pollinators, including bees, the United States requests that the European Union maintain its current MRLs for clothianidin and thiamethoxam.

10.7. The delegate of Australia indicated the following:

10.8. Australia joins other Members in expressing our concerns about the European Union's amendments to its Regulation 396/2005 arising from Commission Regulation 2023/334 regarding MRLs for clothianidin and thiamethoxam in or on certain products, consistent with our concerns previously expressed in relation to Agenda Item 8 (implementation of non-tariff barriers on agricultural products) at this and previous CTG meetings. The amendments consider environmental impacts in exporting countries when setting import MRLs and assessing requests for import tolerances. Australia has also expressed these concerns in the TBT and SPS Committees.

10.9. 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.

10.10. Australia does not support using MRLs on imported products to achieve environmental outcomes outside the EU's borders. This extra-territorial approach impacts the ability of third countries to implement environmental policies consistent with their unique environmental circumstances. National authorities of third countries are best placed to ensure that pesticide application is undertaken in a responsible and sustainable manner in each country, and in accordance with their unique environment.

10.11. Australia is concerned about the limitations of the 2018 EFSA risk assessments cited by the European Union in the draft regulation. These studies have been used to support a link between the

lowering of MRLs to the limit of determination and pollinator health. We request that the EU provide robust scientific evidence in support of this conclusion.

10.12. Australia requests the European Union to provide information on the health of pollinators in all trading countries where the new MRLs are likely to apply. The EU may wish to consider restricting the new MRLs to only those countries where it has robust evidence to support its policy objective. We look forward to continuing to engage with the European Union on this important topic.

10.13. The delegate of Brazil indicated the following:

10.14. With regard to the European Union's proposed Regulation, notified as G/TBT/N/EU/908, which withdraws the approval of active substances thiamethoxan and clothianidin and restricts the maximum residue levels in or on certain products, Brazil would like to recall Article 2.2 of the TBT Agreement, according to which each Member "shall ensure that technical regulations are not prepared, adopted or applied with a view to or with the effect of creating unnecessary obstacles to international trade. For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create." We understand that the EU's proposal goes against this commitment as it is out of the scope of the TBT Agreement to support unilateral policies aimed at protecting the environment in third countries.

10.15. Besides the need for further discussion on the sound scientific discussion about the risks that thiamethoxan and clothianidin may have on bees' population worldwide, Brazil understands that one could not expect to extend to all countries of the world trade restrictive measures that do not consider the variety of local conditions, including climate and soil. Furthermore, there are different needs and challenges posed by agricultural production in each country.

10.16. The European Union affirms that its restrictive measure would seek to avoid the transfer of adverse effects on bees from food production in the EU to food production in non-EU countries. However, for Brazil, this approach is not properly considering that many countries, including Brazil, have rigid technical procedures for approving substances.

10.17. Furthermore, Brazil believes that, due to its extraterritorial effects, the European Union's proposed regulation goes against the rules and jurisprudence of the Multilateral Trading System. To highlight how, for Brazil, it remains unclear that the EU's proposed trade restrictions could be justified, Brazil notes that thiamethoxan itself is an important substance, used in control strategies of pests, such as the citrus psyllid, an insect that transmits the greening disease, which is a pest recognized by the EFSA as a priority pest for control. Furthermore, in EFSA's List of Priority Pests of October 2019, greening is listed as a major cause of losses in orange production, not only in Brazil but worldwide.

10.18. In Brazil, the State of São Paulo is the main citrus fruits producer, and it is also where 84% of honey production is concentrated. In that State, there is no evidence of a decline in the number of pollinators. On the contrary, honey production in that region has increased by about 136% in the last 15 years.

10.19. We also have a concern that, if the current proposal for restricting the use of thiamethoxan and clothianidin becomes the basis for other similar restrictions, farmers in Brazil and worldwide can face serious problems that will affect productivity and their capacity to contribute to global food security.

10.20. Brazil calls on the European Commission to consider a more balanced approach that harmonizes with the Codex Alimentarius recommendations for clothianidin and thiamethoxan MRLs. Brazil also appreciates the opportunity to provide comments, and would be grateful if they were taken into account and replied to before the adoption of the notified Draft.

10.21. The delegate of Ecuador indicated the following:

10.22. Ecuador appreciates the interest of Australia, Brazil, and the United States in including this concern on the agenda of this meeting. My delegation concurs with their concern over this matter, in line with what we have already stated in this Council and the Committees on Sanitary and Phytosanitary Measures and Market Access. We insist that the European Union's regulatory proposal

would distort the objective of Regulation 396/2005, since it changes the focus of protection of the "European consumer", adding the unilateral consideration of "environmental factors" from countries outside the territory and jurisdiction of the European authorities.

10.23. Moreover, the approach disregards and disqualifies the adequacy of the regulatory policies of other countries, which sovereignly establish the conditions of food production and agricultural activity in their jurisdictions. These extraterritorial objectives of the European Union appear to be inconsistent with the WTO rules; furthermore, they do not seem to take into account the climatic conditions and development of its various trading partners. Several Members have warned that the contents of the Green Pact may go against the EU's obligations within the framework of this Organization, in particular, the commitments contained in the WTO Agreement on Sanitary and Phytosanitary Measures (SPS), in relation to which the EU is required to know whether a conclusive risk analysis has been established with respect to the impact on human health and pollinators.

10.24. With regard to the same SPS Agreement, the European Union's measures may go against the principles of non-discrimination against imported products (Article 2.3), transparency (Article 7 and Annex B), the need for scientific justification and the use of international standards (Articles 2, 3 and 5) and control, inspection, and approval procedures that facilitate trade (Annex C).

10.25. Sustainability rests on three pillars: social; economic; and environmental. The adoption of measures on MRLs must consider the negative effects on the other pillars of sustainability on the European Union's trading partners, particularly if they are developing countries. With these arguments, we once again urge the EU to maintain the current MRLs for third countries, as import tolerances, also taking into consideration the efforts made by our productive sectors for the economic recovery from the crisis caused by the COVID-19 pandemic.

10.26. The delegate of Paraguay, addressing Agenda Items 8 and 10, indicated the following:

10.27. My delegation would like to note that we have not received answers from the European Union to the questions we presented jointly with the delegations of Colombia, Ecuador, and Guatemala, in November 2022 at the SPS Committee, nor in the following meetings of the said Committee, nor in the meetings of this Council. We thank the European Union for the plurilateral meeting held with my delegation, and others, to go over some of our concerns, which took place on the margins of the SPS Committee meeting last March. We hope that this dialogue can continue in the future, and that we can receive answers to our questions soon.

10.28. Regarding new developments, allow me to note that, given that the SPS Committee will only meet next week, we will present in this Council some of the new questions we have for the European Union, noting that some of them were also presented at the TBT Committee meeting last month. According to the Minutes of the European Commission's Standing Committee on plants, animals, food and feed (SCoPAFF) of 10-11 May 2023, "the Commission presented Revision 4 of the Draft Regulation that clarifies that the MRL for tricyclazole should be established in Annex 2 of the Regulation 396 of 2005. [The Commission] proposes to modify the MRL of tricyclazole for rice from 0.01 mg/kg to 0.09 mg/kg, according to the request for tolerance to the import based on the GAP of Brazil, for which EFSA confirmed that the MRL proposed is totally supported by data and is safe for consumers." However, many EU member States did not support the Draft Regulation presented by the Commission and the required majority was not reached.

10.29. Some of the arguments made by these Members include: (i) that tolerances to imports should not be accepted for substances that are no longer approved in the EU; and (ii) that approving them would have a negative impact on the competitiveness of European rice producers, who cannot use the same substances as third countries to combat certain pests effectively.

10.30. In light of this, we would like the European Union to answer the following:

(a) If a tolerance for imports is proposed for an MRL which is, and I quote, "totally supported by data and is safe for consumers", according to its own scientific authority, how would it be compatible with the obligations under the SPS Agreement to reject said tolerance to imports on the basis of "a negative impact on the competitivity of European producers"?

(b) If in cases of MRLs set with the objective of protecting human health member States are not giving a favourable vote for import tolerances, how can the Commission argue that requesting import tolerances is a feasible way forward for MRLs set with environmental objectives (e.g. for neonicotinoid substances)?

10.31. In the face of repeated questioning on the excessive use of emergency authorizations by EU member States, the EU indicated, in this and other WTO Committees and Councils, that, in light of the ruling of the Court of Justice of the European (CJEU) of 19 January 2023 (Case C-162/21), member States can no longer grant emergency authorizations for plant protection products containing banned neonicotinoids. In this regard, we note the following:

(a) There are several emergency authorizations that were approved prior to the CJEU ruling, but whose application covers a period after the CJEU ruling. Will these emergency authorizations remain valid for the entire period for which they were approved, despite the CJEU ruling?

(b) On 4 April 2023, the Czech Republic granted an emergency authorization for the banned substance thiamethoxam for the period from 20 April to 16 July 2023, claiming as justification and as a mitigation measure that "the product will only be used on the crop intended for export to countries outside the European Union".

(c) How can the export of the crop for which thiamethoxam has been used be considered as a mitigation measure that protects European pollinators?

(d) How is the emergency authorization granted by the Czech Republic compatible with the objective that the EU claims to pursue with Regulation (EU) No. 2023/334, i.e. to protect pollinator populations worldwide?

10.32. We will circulate these and some additional questions for the European Union under the specific trade concerns in the SPS Committee, and they will be addressed next week.

10.33. The delegate of Argentina indicated the following:

10.34. Argentina fully shares the European Union's genuine interest in the strategic importance of pollinators for the global environment, especially bees for ecosystems and biodiversity. Likewise, as a major food producer, it recognizes the significant contribution they make to agriculture and global food security. This is why, like many other countries, we have taken extreme measures to provide producers with the tools needed for adequate plant protection, so as to enable them to continue producing food while, at the same time, through good agricultural practices, reducing the effect on pollinators from the use of certain products. However, everything seems to suggest that this EU measure will result in the creation of an obstacle undermining the ability of third-country producers to export to the EU.

10.35. Various studies from around the world show that the decline in the number of pollinators has multifactorial causes and that the neonicotinoids clothianidin and thiamethoxam are safe for bees when used following good agricultural practices (GAP), and are absolutely necessary to control certain pests in intensive farming. In this case, the notified measures are not based on a risk analysis of the toxicity levels of both neonicotinoids in all food and feed notified, and their consequent effect on human life and health within an EU member State's territory. Instead, the draft Regulation in question appears to be based on assessments of the risk of exposure of bees to these neonicotinoids when used outdoors, as the EU's stated objective is to address an environmental concern of a global nature, namely the decline in pollinators worldwide. Seen in this light, the draft Regulation would be inconsistent with the EU's obligations, as it has failed to provide a scientific assessment under the terms of the SPS Agreement (Articles 2.2 and 5.1) to justify the adoption of the measure in question.

10.36. Equally of concern to Argentina is that implementing the measure would amount to a disguised restriction on international trade, contrary to the provisions of Article 5.3 of the SPS Agreement. This observation is based, on the one hand, on the fact that the performance of pollinators does not depend solely on the two substances banned by the EU, and, on the other hand, on the many emergency uses authorized by the EU under conditions that could not be extrapolated to third countries (or countries of export).

10.37. Furthermore, Argentina is of the opinion that there is no clear justification for setting limit of quantification (LOQ) values for these neonicotinoids, and that doing so constitutes a disguised restriction on international trade under Article 2.2 of the WTO Agreement. Such a measure is disproportionate to the objective it claims to protect and unduly restricts trade as it prevents the marketing of any product that has been treated with these neonicotinoids that may exceed the LOQ, even though the EU is unable to demonstrate that MRLs at the level set by the Codex may affect the health of consumers, which ultimately is the intended purpose of an MRL.

10.38. The delegate of Uruguay indicated the following:

10.39. Uruguay would like to thank the delegations of Australia, Brazil and the United States for placing this concern back on the agenda. Uruguay regrets the approval, without substantive modifications, of Regulation 2023/334 modifying the MRLs for clothianidin and thiamethoxam, despite the substantive comments and concerns presented by numerous trading partners, from different geographical and productive conditions, and at different levels of development, in the international consultation process, as well as in recent meetings of the Goods Council and the SPS, TBT, and Market Access Committees and, more recently, in the European Union's Trade Policy Review.

10.40. Uruguay understands that the establishment of MRLs for pesticides is a tool designed to safeguard the health of consumers from the risks arising from ingestion and, therefore, that it is a type of measure that naturally falls within the scope of the SPS Agreement. For these issues, the international reference body is the Codex Alimentarius Commission, where, for the adoption of MRLs, health issues are considered exhaustively, without currently examining environmental aspects in the relevant risk analyses.

10.41. Without prejudice to what other rules of the vast and complex European regulatory framework indicate, the European Union Regulation No. 396/2005, which is the main and specific rule on MRLs for pesticides in food and feed, defines MRLs in its Article 3(d) as: "the upper legal limit of concentration of a pesticide residue in food or feed established in accordance with this Regulation, based on good agricultural practice and the lowest consumer exposure necessary to protect all vulnerable consumers". In such a legal provision, there would appear to be a convergence with the view expressed by Uruguay and many WTO Members on the nature of MRLs, which is in line with the EU's own repeated assertion, at least until March 2022, that, as a matter of principle, concerns regarding the setting of MRLs for pesticides, and any specific issues related to their application, are matters to be discussed in the SPS Committee, and not in the TBT Committee.

10.42. Uruguay has serious doubts as to the relevance and legal basis, in Community law and WTO rules, for raising reductions of MRLs to the level of determination on the grounds of "environmental issues of global concern" or issues other than human health.

10.43. As regards environmental aspects, although we recognize their importance, we understand that they are outside the process of setting MRLs, and that they are, and must be, addressed by each country in its territory through the appropriate tools, taking into account its production and regulatory system, and its environmental and political conditions. In this regard, we note that, in Uruguay, the phytosanitary products affected by this Regulation are already regulated by the competent national authority in order to have a correct, safe and judicious use, as part of a National Environmental Plan focused on good agricultural practices.

10.44. Uruguay shares the interest in promoting the protection of pollinators, in harmony with the protection of the environment and biodiversity, and supports the existence of regulatory environments based on scientific criteria, so as not to jeopardize food safety and not to constitute barriers to trade. In this regard, Uruguay reiterates its willingness to work cooperatively with other Members, including the European Union, to find mechanisms to achieve these objectives without unnecessarily restricting trade, while ensuring the conservation of the environment and the protection of human, animal and plant health.

10.45. Like other delegations, we are also concerned about the continued granting of emergency authorizations to producers in EU member States for the use of these substances, which would seem to contradict the objective expressed by the European Union for the introduction of this measure, in addition to being discriminatory in nature. Along these lines, we would be interested in receiving an

update from the EU as to how it envisages that the consideration of emergency authorizations for the use of these substances, and eventually others that may be subject to restrictions at the community level, will be affected in light of the recent ruling of the Court of Justice of the European Union (CJEU) of 19 January 2023, which considers them illegal in certain cases. We support the questions raised by Paraguay in relation to this issue, and await the European Union's responses in this regard.

10.46. In sum, Uruguay considers that MRLs should be established on the basis of a risk assessment, with the objective of protecting the health of consumers, and not for environmental protection purposes. In this regard, Uruguay wishes to emphasize that sanitary and phytosanitary measures adopted or applied by WTO Members must conform to the objectives set out in paragraph 1 of Annex A of the SPS Agreement, and the other substantive obligations of that Agreement, such as those relating to international harmonization, avoidance of unnecessarily trade restrictive approaches, and transparency, as well as the obligations under the GATT 1994.

10.47. The delegate of New Zealand indicated the following:

10.48. New Zealand refers to statements previously made to this Council on this specific trade concern. New Zealand once again shares and supports the concerns raised by other Members regarding the European Union's adoption of legislation, originally notified in document G/TBT/N/EU/908, which seeks to address pollinator decline by lowering the MRLs of the active substances clothianidin and thiamethoxam to the limit of quantification.

10.49. New Zealand, like other Members, remains concerned with the European Union's approach, including its proposed mechanism of implementation. New Zealand reiterates that unilaterally imposing prescriptive import measures, in a manner such as those notified, may not successfully achieve the intended goal, and could create unjustified trade barriers for trading partners. New Zealand encourages all WTO Members to address global environmental matters, including sustainable pesticide use, by working with trading partners in the appropriate multilateral fora.

10.50. The delegate of Costa Rica indicated the following:

10.51. Costa Rica has already made reference to its position on this issue under Agenda Item 8, and request that our earlier intervention be reflected in the minutes with reference to CTG ID 136.

10.52. Costa Rica shares the concerns that have been raised by other Members today and on previous occasions in this Council, and continues to co-sponsor and support this agenda item and document G/C/W/767/Rev.1. We consider that the concerns raised over the European Union's regulatory approach remain relevant, and that the resolution of these concerns remains urgent, especially for developing countries with tropical climates, as is the case of Costa Rica.

10.53. The delegate of India indicated the following:

10.54. India thanks the delegations of Australia, Brazil, and the United States for raising this item on the agenda. The European Union's policies on Sanitary and Phytosanitary Measures have already been discussed under Agenda Item 8. The rich discussion showed Members' wide-ranging concerns on EU policies on administering its policies related to Maximum Residual Limits. This particular agenda item has been discussed in the Committee on Agriculture, the Committee on Sanitary and Phytosanitary Measures, where we raised this as a separate item, and the Committee on Technical Barriers to Trade. It is unfortunate that the European Union is using the environment as a pretext to manage MRL-related issues, and without taking into account the unique climatic, environmental and soil conditions which prevail in different parts of the world.

10.55. The EU member States have been in the past given emergency authorizations to use the same substances as a derogation, a practice which is clearly discriminatory in nature. We also note with concern that the list of active substances which are being regulated in this unilateral fashion may also continue to grow, as may be the case after the European Union's new notification in document G/TBT/N/EU/982.

10.56. The delegate of Japan indicated the following:

10.57. The European Union's lowering of the MRLs for the two active ingredients for the protection of pollinator insects outside the region is clearly different from the previous method of setting MRLs for the protection of human life or health, and deviates from the international harmonization on MRLs. The EU claims that this measure is a TBT measure on the grounds that it is not directly related to consumer health issues and is intended to protect the environment, but we believe that when bringing in a new approach to measures that affect third countries, such as MRLs, it is necessary to have full discussions with third parties, including at the SPS Committee meetings.

10.58. The European Union states that if there is no risk to pollinators, it is possible to apply for import tolerance, but details should be clarified. Given that the environmental conditions in each country are different, and that the authorities in each country set the method of use of pesticides in consideration of those environmental conditions, the European Union should not make decisions on whether or not to use pesticides in third countries.

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

10.60. The European Union takes note of the interest by several Members on this issue. We refer to our past intervention on this issue where we provided details about our approach. As previously communicated, the European Union takes into account environmental objectives when deciding about setting MRLs for substances no longer approved in the EU due to environmental concerns of global nature, while respecting WTO standards and other international obligations. We have explained in previous meetings the rationale for the measures and refer to these explanations. The environmental objectives of global concern that this Regulation targets are those related to the protection of pollinators.

10.61. These two neonicotinoid substances, clothianidin and thiamethoxam, are known to contribute significantly to the decline of pollinator populations. Their intrinsic properties lead to adverse effects on pollinators, independent of where they are used geographically. The European Union considers that currently there is no alternative to the lowering of the MRLs of clothianidin and thiamethoxam which would be less trade restrictive and equally contribute to the objective of protecting pollinators. We have been mindful of the trade impacts that the new Regulation may have. This is why the application date of the Regulation is deferred to 36 months after entry into force (instead of six months, which is the standard period given in the EU). This means the Regulation will therefore become applicable only at the beginning of 2026.

10.62. In the meantime, the European Union has already several programmes to assist third countries, in particular developing countries, to comply with EU legislation and to build capacity and knowledge in the SPS field. We invite countries interested in receiving SPS-related technical assistance to approach the EU Delegation in their country or the relevant directorates of the European Commission.

10.63. The European Union also acknowledges that third countries may face production conditions and pest pressures different from those in mainland Europe. Therefore, import tolerances can be granted to active substances not authorized in the EU provided that the submitted information demonstrates that the use is safe to pollinators. On emergency authorizations in the European Union, the Commission is still considering the implications of the recent judgment of the CJEU for the granting of other emergency authorizations.

10.64. The European Union remains open to engage in discussions about how we can work together in order to facilitate trade of agricultural products treated with plant protection products.

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

10.66. The Council so agreed.

11 CHINA – ADMINISTRATIVE MEASURES FOR REGISTRATION OF OVERSEAS PRODUCERS OF IMPORTED FOODS – REQUEST FROM AUSTRALIA, 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 Australia, the European Union, and the United States.

11.2. The delegate of Australia indicated the following:

11.3. As part of China's Regulation on Registration and Administration of Overseas Manufacturers of Imported Food, promulgated as Decree 248, Australia appreciates the ongoing cooperation between the Department of Agriculture, Fisheries and Forestry and the General Administration of Customs of China (GACC) to work through the implementation of the China Import Food Enterprise Registration (CIFER) system. However, Australia remains concerned that China's measures have made trade more restrictive and complicated than necessary, thereby adding additional cost to fulfil China's food safety objectives where these costs might have otherwise been avoided.

11.4. Australia has previously raised its concerns on several occasions in both the Committee on Sanitary and Phytosanitary (SPS) Measures and the Committee on Technical Barriers to Trade (TBT). Australia is concerned at the resource and labour-intensive costs borne by exporters and exporting countries' competent authorities to comply with registration in the CIFER system. 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 changes to comply with the measures. It should be noted that Australia, like other Members, does not have access to the information collected in the CIFER system, thereby reducing the transparency of this listing process.

11.5. In light of the above, Australia requests that China's customs authorities continue to adopt a flexible approach to implementation and consider Australian applications in a consistent and timely manner. Australia remains willing to work collaboratively with China to ensure that food safety is upheld while facilitating undisrupted trade.

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

11.7. The European Union reiterates its concerns over the implementation of "administrative measures for registration of overseas producers of imported foods", namely Decree 248 of the General Administration of Customs of the People's Republic of China (GACC). Most recently, in May 2023, the European Union raised its concerns in a joint letter to the Permanent Mission of the People's Republic of China in Geneva. The EU co-signed the letter with five other WTO Members.

11.8. In general, EU applicants are still facing many issues in the registration process, mostly due to recurrent technical problems with the online registration system (CIFER), making the electronic submission of documents cumbersome, time-consuming and uncertain, be it to apply for new registrations and/or to amend or renew existing registrations. More specifically, over the last weeks, the European Union expressed concerns with the deadline of 30 June 2023 to provide supplementary information for existing registrations, as it continues to cause uncertainty for EU traders. As mentioned in the joint letter of May 2023, as well as in a bilateral meeting with China held on the margins of the TBT Committee meeting in June 2023, the EU has called for a pragmatic approach in the implementation of Decree 248 that will allow establishments to continue exporting beyond the deadline of 30 June 2023.

11.9. To avoid any food trade disruption due to Decree 248, the European Union urges China to simplify and facilitate the process to apply for new registrations and/or to amend or renew existing registrations. The European Union would also like to thank China for the constructive dialogue which has allowed it to address several questions related to implementation of Decree 248, and which has so far helped to avoid major trade disruptions.

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

11.11. The United States remains deeply concerned with China's lack of response to requests for scientific justification or explanation of how Decrees 248 and 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. In addition, we again note that China's General Administration of Customs (GACC) appears to require foreign competent authorities to maintain information in China's online system for each registered facility from their country producing certain categories of products. Such a requirement creates tremendous administrative burdens on foreign competent authorities without a clear connection to food safety outcomes. GACC should ensure that all facilities are able to self-register without foreign competent authority involvement or unreasonable information requirements. We maintain our availability to work with China on this issue and look forward to receiving the information that we have requested.

11.12. The delegate of Canada indicated the following:

11.13. Canada welcomes China's recent changes to the China Import Food Enterprise Registration (CIFER) system to facilitate the registration and renewal process by addressing some of the challenges, such as uncertainty and delays, faced by foreign establishments. Canada also appreciates the efforts by Chinese authorities to discuss CIFER functionality issues with us, including the information session on the margins of the June 2023 TBT Committee meeting. While Canada appreciates the efforts made to facilitate the registration and renewal process, we call on China to maintain consistent and timely channels of communication to allow for effective dialogue on this important issue, and to continue to provide flexibilities to ensure that the CIFER system does not become a barrier to trade and an unnecessary administrative burden to food exporters to China.

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

11.15. The Republic of Korea would like to reiterate its concerns with China's administrative measures for registration of overseas producers of imported foods, and refer to our statement delivered at previous meetings. Korea recognizes China's efforts to ensure food safety and its right to take measures necessary for protecting its citizens from related risks. However, Korea remains concerned about the expansion of products to be managed by the authorities of exporting Members. Accordingly, Korea once again urges China to improve the registration process for overseas producers and to provide scientific evidence for its measures introduced in accordance with the SPS Agreement. The Republic of Korea stands ready to further engage with China to resolve these issues constructively.

11.16. The delegate of Chinese Taipei indicated the following:

11.17. My delegation has persistently expressed its concerns regarding China's administrative measures on the registration of overseas manufacturers of imported food. Our concerns have been explained in detail at various occasions, including at the most recent TBT meeting. We would like to reiterate the following points.

11.18. Firstly, we urge China to designate and provide an enquiry point that those business facilities can directly engage with to address their specific concerns about the online registration system, and seek solutions to overcome them. Moreover, while China has indicated that technical guidance, regulatory interpretations and supporting documentation have already been provided, we would urge that this information be placed on a publicly accessible website so that it can be accessed directly by overseas facilities.

11.19. Secondly, we urge the GACC (General Administration of Customs of China) to comply with the requirements as set out under Article 5.2.2 of the TBT Agreement. These include transparency and the requirements for the applicants to be informed in a precise and complete manner of all the deficiencies in their applications, allowing for any necessary corrections to be made.

11.20. Thirdly, we urge China to clarify the ambiguity of HS code categorization and the scope of the products subject to this measure.

11.21. Fourthly, we would like to reiterate the concerns constantly expressed by many other Members regarding the unnecessary and unjustified burdens imposed on the competent authorities of exporting Members with respect to 18 categories of food products. We urge China to reconsider its approach based on the scientific evidence and based on the "less trade restrictive principle".

11.22. Finally, despite seeking clarification from China several times through both bilateral channels and this forum, we have yet to receive a sufficient and detailed response. We therefore urge China to engage in a constructive dialogue to resolve the above-mentioned difficulties.

11.23. The delegate of Japan indicated the following:

11.24. We note that there are many uncertainties in the registration procedures related to China's "Regulations for Management of Registration of Overseas Manufacturers of Imported Foods", which impose a significant burden on overseas authorities and business operators. For example, the online registration system may be changed suddenly without prior notice. We request that China improve the operations and the transparency of procedures related to the implementation of these regulations so that the procedures do not become an excessive burden on business operators.

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

11.26. The United Kingdom continues to support Australia, the United States, and the European Union in their concerns on China's administrative measures for the registration of overseas producers. The UK has now spoken numerous times on this concern both here and at the SPS Committee so we will keep this statement short and refer to our previous statements on this issue. The UK remains concerned that the application of these measures is disproportionate to the risk posed by many of the products and the UK would again urge China to take a proportionate approach to the application of administrative measures, taking into account the UK's own rigorous controls and processes for ensuring the safety of food destined for domestic and international markets.

11.27. The delegate of China indicated the following:

11.28. We would like to refer to the statements made in previous meetings in this Council and the latest statement we made at the 91st TBT Committee meeting in June. We would like to highlight that since the relevant measures came into effect on 1 January 2022, China has made great efforts to actively engage with the Members concerned, both bilaterally and multilaterally, to ensure the relevant measures will be implemented in a smooth manner. Up to now, more than 80,000 overseas manufacturers, from 165 economies, have been registered; and 229 overseas competent authorities, from 130 economies, have joined the China Import Food Enterprise Registration (CIFER) system. We would like to express our sincere appreciation for the strong cooperation made by the competent food safety authorities of relevant Members.

11.29. During the 91st TBT Committee meeting in June, my colleagues from the competent Chinese authorities organized an information session to further clarify the relevant measures and responded to Members' questions. We also had bilateral discussions with a few Members on this matter. We thank the relevant Members for attending the information session and having bilateral talks with us. We will continue to engage with relevant Members on this matter.

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

11.31. The Council so agreed.

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

12.1. 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.

12.2. The delegate of Australia indicated the following:

12.3. Australia respects the right of Members to implement technical measures for legitimate policy purposes and in accordance with their WTO obligations. Australia, however, remains concerned that measures under China's Cosmetics Supervision and Administration Regulation (CSAR) and various implementing regulations, which entered into force on 1 May 2021, are more stringent and restrictive than necessary for low-risk cosmetics.

12.4. Australian exporters are concerned about stringent and inflexible measures under the CSAR framework, particularly regarding testing and registration requirements, and requirements to provide detailed information on production processes and other aspects of their intellectual property. In that context, we ask that China pursue its objective of ensuring the safety and quality of imported cosmetics using less trade-restrictive measures. We also request that China clarify why it has maintained its requirement for mandatory animal testing of cosmetics products to be used on children.

12.5. We reiterate that Australia is a reliable supplier of high-quality and safe cosmetics products domestically, and to international markets. The Australian Government looks forward to working with China on CSAR implementation.

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

12.7. The European Union would like to thank the Chinese authorities for extending the deadline for registration of cosmetics' raw materials and finished products until 1 January 2024. We also welcome the announced changes in terms of providing more flexibility to producers when registering raw materials' safety information. At the same time, the EU would like to reiterate the concerns it already shared in previous meetings of this Council, since 2021, with regard to the Cosmetic Supervision and Administration Regulation in force since 1 May 2021. Because our concerns are well known, we refer to our past statements on this issue. We urge China to address these concerns expeditiously.

12.8. The delegate of Japan indicated the following:

12.9. Japan has continued to express its concerns on China's Cosmetics Supervision and Administration Regulations as well as the related Implementing Regulations. We call for the following measures to be taken to ensure that trade restrictive measures are not more restrictive than necessary in accordance with Articles 2.2 and 5.1.2 of the TBT Agreement. First, we call for the acceptance of test results of overseas inspection institutions that have the same qualifications and capabilities as the domestic cosmetics registration inspection institutions in China; and second, for the approval of test methods that are internationally recognized by OECD, ISO, etc. in order for the regulations not to be overly regulated. We request that the basis for efficacy claims evaluation be determined by cosmetics registrants/notifiers based on specific wording of claims and scientific validity, that the scope of application of the "Guiding Principles for Evaluating Equivalent Efficacy" be expanded, and that the concept of read-across be introduced. We also request that no more detailed information be required on cosmetic ingredients than necessary for cosmetics registration, even for products containing high-risk ingredients or for new products. Regarding labelling rules, we request that the labelling of cosmetics should not be required to be labelled by the manufacturing company, but by the person who registered or notified the cosmetics, and that ingredients with a content of 1% or less can be listed in no particular order, in accordance with international practice. Furthermore, we request that, in the future, when implementing relevant laws and regulations, an appropriate period of time be allowed between the publication to the implementation of each relevant law and regulation in accordance with Articles 2.12 and 5.9 of the TBT Agreement so that cosmetics registrants and notifiers can bring their products into compliance with the new relevant laws and regulations.

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

12.11. It is unfortunate that despite the United States and other WTO Members raising significant concerns with the Cosmetics Supervision and Administration Regulation (CSAR) and its implementing measures in the past 12 TBT Committee meetings and six meetings of the CTG, China has not sought to work with the United States and other WTO Members to reach resolution.

12.12. The United States maintains its serious concerns with CSAR and its implementing measures, and requests that China address specifically: unequal treatment for imports; overly burdensome and disproportionate information requirements; lack of procedures to ensure the protection of confidential and proprietary information; duplicative in-country testing; and continued challenges with transparency in the development and implementation of the CSAR measures.

12.13. We do thank China for Announcement No. 34 issued by the National Medical Products Administration (NMPA) in March 2023 on the management of cosmetics ingredient safety information, which extended the transition period for providing ingredient safety information and reduced the filing requirements for registration filings before 2024. These steps will lessen the immediate burden for companies, but do not address overarching concerns.

12.14. We find it very concerning that China, in its floor statements for the CTG and TBT Committee, continues to assert that the many long-standing concerns with CSAR raised by WTO Members are due to a misunderstanding of the requirements. As CSAR progresses into implementation, it is increasingly clear that China's requirements are burdensome, treat imports unequally, and do not address WTO Members' concerns as to the protection of companies' intellectual property. The United States asks that China discontinue its practice of reiterating CSAR's requirements and instead acknowledge and resolve concerns.

12.15. Finally, we refer China to the previous statements of the United States and many other WTO Members for our unresolved concerns, and suggestions as to how these concerns could be addressed.

12.16. The delegate of New Zealand indicated the following:

12.17. New Zealand has taken into account the response given by China at the previous CTG. We reiterate our well-documented concerns from previous meetings, as well as during our recent Joint Trade and Economic Commission meeting, regarding China's regulatory system for cosmetics. We continue to urge China to consider additional measures to allow for: the exemption of animal testing requirements through non-government regulatory authority-issued GMP certification or other trade facilitative mechanisms for providing product assurances; and providing flexibility in respect of product testing requirements. In particular, we encourage China to accept test reports from accredited laboratories situated outside of China; and further limitations on product disclosure requirements, particularly in relation to sensitive information – i.e. limited to that which is required to assure product safety in China's domestic market, so as not to compromise intellectual property. New Zealand looks forward to engaging further with China on its CSAR to address these issues.

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

12.19. The Republic of Korea shares concerns expressed by other Members regarding China's CSARs and its implementing measures, and refers to our statement delivered at previous meetings.[2] Given our mutual interest in the cosmetics industry, Korea once again urges China to resolve this issue promptly, while underlining the importance of continuing our dialogues and exchanges regarding cosmetic regulations via both bilateral and multilateral channels. The Republic of Korea stands ready to further engage with China to resolve these issues constructively.

12.20. The delegate of China indicated the following:

12.21. This issue was discussed at last month's TBT Committee meeting and I do not have any further update on it. For the sake of time, I will not repeat the same, long and technical statement we made at the 91st TBT Committee meeting. Therefore, we suggest that the relevant Members refer to our statement made at the 91st TBT Committee meeting in June.

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

12.23. The Council so agreed.

[2] See documents G/C/M/143, paragraphs 8.31-8.34, G/C/M/144, paragraphs 33.30-33-31, and G/C/M/145, paragraphs 25.21-25.22

13 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

13.1. 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.

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

13.3. As this Committee is aware, over the years, the United States and other 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, as we have now learned, these measures are not made public at all.

13.4. 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."

13.5. Several years ago, we came across references to five legal measures, two relating to fuel subsidies for fishermen, 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, we submitted a request to China's WTO enquiry point in April 2020, over three years ago now.

13.6. 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."

13.7. It has been three years now since our original request. China's refusal to provide a written response – as we have seen in several contexts over the years in the Subsidies Committee – indicates to us that China realizes that its arguments cannot withstand the light of day.

13.8. Four months after our request, a Ministry of Commerce representative did speak with the US Embassy and stated that China would not provide a copy of one of the requested measures because it was soon to be replaced by a new measure, and furthermore, none of the other measures would be provided because they are not covered by China's WTO commitments.

13.9. And, indeed, the one measure that was to be replaced was eventually replaced, but it was 18 months after our enquiry point request. Obviously, if China believes that it does not need to provide a requested measure if the measure may be replaced at some future point in time, the enquiry point obligation, as interpreted by China, would be nearly entirely meaningless.

13.10. As to the other measures, it is interesting to note that China is now arguing that the legal measures at issue are neither "laws, regulations or other measures" nor measures "pertaining to or affecting trade in goods".

13.11. As to the form of the legal measures covered, China's Protocol of Accession enquiry point commitment is written very broadly, covering "laws, regulations and other measures". It is difficult to imagine more inclusive language. Moreover, it has been observed in the dispute settlement context that "any act or omission attributable to a WTO Member can be a measure of that Member". Surely the requested measures – one of which is from China's State Council, the highest executive office in the Chinese government – is easily included under such a broad definition.

13.12. As to the substance of the legal measures, China's Protocol of Accession makes clear that all measures "pertaining to or affecting trade in goods" are covered. The two subject matters of the measures at issue are semiconductors and fisheries – two heavily traded goods. These measures

concern the development of China's fisheries and semiconductor sectors, and would certainly appear to meet the standard of "pertaining to or affecting trade in goods".

13.13. It is important to understand the historical context for the enquiry point obligation to which China agreed. According to the Report of the Working Party on the Accession of China, the creation of the enquiry point was meant to address the concerns of WTO Members at the time of China's accession with regard to "the difficulty in finding and obtaining copies of regulations and other measures undertaken by various ministries as well as those taken by provincial and other local authorities." Twenty-two years after China agreed to establish an enquiry point, we are now learning that not only is there difficulty in finding legal measures in China, but that some legal measures – even ordinary fishery subsidy measures – are not obtainable anywhere in the public domain, almost as if they were secret government documents. Is there any other WTO Member that operates in this manner?

13.14. Recently, China stated that it has faithfully fulfilled its transparency obligations and that the government has been promoting information disclosure and policy transparency. Our experience in making a very simple request using China's enquiry point demonstrates otherwise. And we can only wonder what else it is that China is not showing us, despite the transparency obligations, upon which WTO Members insisted, and to which China agreed.

13.15. The delegate of Australia indicated the following:

13.16. Australia attaches considerable importance to the WTO notification and transparency obligations, particularly relating to subsidies, which stem from both the Agreements and the obligations made by 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. It is for the subsidizing Member to promptly and comprehensively notify its measures and not a burden of discovery placed on other WTO Members. Australia therefore urges China to fulfil the transparency commitments made as part of its Protocol of Accession.

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

13.18. The European Union wishes to reiterate its support to the concerns raised by other co-sponsors regarding China's compliance with its transparency obligations under its Accession Protocol. The EU refers to its past statement on the matter. We urge China to comply fully with its Member-specific commitments by publishing all trade-related measures, as it agreed to do, and to respond to requests for information under the enquiry point without undue delay.

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

13.20. The United Kingdom continues to support concerns raised by other co-sponsors on China's compliance with its transparency obligations under its Accession Protocol. The UK has now spoken numerous times on this concern, both here and at the SCM Committee, so we will keep this statement short and refer to our previous statements on this issue. After much discussion, China is still failing to notify all trade measures on the MOFCOM Gazette, and to provide Members with clarity on how they should engage with its enquiry point. As we requested during the last meeting of the SCM Committee, we once again ask that China please provide advice to Members on what it regards as within the scope of its obligations, as well as to provide clear guidance on how Members can seek information through its enquiry point. We once again hope they will engage constructively and transparently on the concerns raised both here and at the SCM Committee.

13.21. The delegate of Japan indicated the following:

13.22. Japan has repeatedly pointed out in the Committee on Subsidies and Countervailing Measures that if transparency in subsidy disbursement is not ensured, distortions in subsidy disbursement will be encouraged, which may lead to problems such as excess production capacity. In particular, various Members have expressed concerns about the transparency of Chinese subsidies and the possibility that they may not be notified, but it is difficult to say that China is taking sufficient action in response to the points raised. We would like to request that China also fulfil its notification

obligations under the Subsidy Agreement and its transparency obligations agreed to in the Accession Protocol, and ensure the effectiveness of the mechanisms that contribute to improving transparency.

13.23. The delegate of Canada indicated the following:

13.24. Canada has repeatedly echoed the concerns of other Members regarding China's compliance with WTO transparency obligations. When it acceded to the WTO in 2001, China accepted comprehensive transparency obligations, and Canada is disappointed that China continues to not fulfil these obligations. The proper functioning of the multilateral trading system depends on Members upholding their notification and transparency requirements, and it is imperative that all Members comply with notification obligations and responses to enquiries in accordance with WTO rules.

13.25. The delegate of New Zealand indicated the following:

13.26. As noted in the April meetings of the CTG, New Zealand considers transparency as critical to the proper functioning of the WTO, and attaches considerable importance to adherence by all Members, including China, to WTO notification and transparency obligations, particularly in relation to subsidies, including under their Protocols of Accession. New Zealand therefore urges that all Members, including China, 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.

13.27. The delegate of China indicated the following:

13.28. We take note of the statements made by relevant Members. We regret that this issue has been added to the agenda multiple times despite China having already provided its explanations to the US through the US embassy in Beijing, and in this Council. China attaches great importance to compliance with the WTO rules, and its fulfilment of its WTO obligations. We would like to make a few further points on this matter.

13.29. First, China's commitment on establishing an enquiry point reflects the importance China attaches to transparency. When China joined the WTO in 2001, it was not convenient to get relevant information in China at that time due to the limited ways and channels to access information. Within this context, China made a commitment to establish an enquiry point. The commitment we made is above the general level of WTO Members' commitments in this regard, reflecting China's willingness to provide relevant information to stakeholders, including WTO Members, with the greatest sincerity and to the greatest extent possible.

13.30. Second, the Chinese government has been continuously enhancing the transparency of our policies over the years. For example, China's Government Information Openness Regulations, formulated in 2007 and revised in 2019, has stipulated the scope of government information disclosure, which includes trade policies. In recent years, with the rapid development of internet and telecommunication technology, it has become more convenient to access relevant information in China.

13.31. Third, with regard to the policy documents that the United States enquired about, and as we said in previous meetings, the fishery development policies have been published on the official website of the State Council of China. The other policies are neither laws, regulations and other measures affecting trade, nor the information which falls within the scope of information disclosure of relevant Chinese laws and regulations. My colleagues who work in the enquiry point have explained this to their US colleagues in Beijing, and we have also clarified this matter multiple times in this Council.

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

13.33. The Council so agreed.

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

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

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

14.3. The United States continues to reiterate serious concerns with India's measure mandating "non-GM (genetically modified) origin and GM free certificates" for certain agricultural imports into India, notified on 2 September 2020, as G/TBT/N/IND/168, and a later notified entry-into-force date of 1 March 2021. To date, India has not responded to our questions regarding its rationale for requiring a non-GM certificate on a consignment basis. The United States must stress that, while India's authority to regulate "GM" foods is neither new nor in question, the requirement of a non-GM certificate for import of all varieties of the 24 crops from a competent authority on a consignment basis was first ordered in 2020 and caused trade disruptions to US apple and rice shipments in 2021. The United States requests that India immediately revoke this trade restrictive Order and engage in further dialogue with the United States to find mutually agreeable alternatives that do not unnecessarily impact trade.

14.4. The delegate of Canada indicated the following:

14.5. Canada thanks the United States for placing this item on the agenda. Canada wishes to reiterate its concerns raised at previous meetings of the Council for Trade in Goods, as well as the recent SPS and TBT Committees, 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. We are 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. It remains unclear to Canada how India's non-GM certification requirement will fulfil its intended objective. We are equally concerned with the undue burden and negative commercial impact the measure creates on exporting countries through unjustified certification requirements. 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 enable India to engage with Members to discuss and consider alternate, less trade-restrictive approaches that would meet India's objectives and minimize impacts on trade.

14.6. The delegate of Argentina indicated the following:

14.7. Argentina reiterates its concern over this measure, and once again we would like to stress that there is no scientific explanation to support it. As we have explained on previous occasions in this Council and in the TBT Committee, 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 hinder trade.

14.8. The delegate of Japan indicated the following:

14.9. Japan expresses its concern that there might be a possibility that this would constitute a trade-restrictive measure that is not based on scientific evidence. We request that agricultural products exported from exporting countries that exercise proper control of their genetically modified agricultural products be excluded from this requirement.

14.10. The delegate of Uruguay indicated the following:

14.11. Uruguay wishes to thank the delegation of the United States for placing this concern back on the agenda. Uruguay recognizes India's right to take measures to ensure food safety and the health of its population. However, there should be a logical connection between the proposed measure and the objective pursued, and in this case, beyond the responses provided by India so far, there does not seem to be a technical justification for the application of the proposed certification measure, taking into account the legitimate objective cited, which is to ensure the health and safety

of imported food. In light of this objective, we wish to reiterate that, in our opinion, this measure should be notified to the SPS Committee.

14.12. We consider it appropriate to recall, once again, the international consensus that genetically modified products approved by exporting countries on the basis of Codex recommendations on risk assessment methodology are equivalent to their conventional counterparts. Likewise, Uruguay wishes to stress the importance of Members establishing measures based on scientific principles, and particularly that these be applied with the objective of minimizing negative effects on trade, in line with the provisions of the SPS and TBT Agreements.

14.13. Finally, we wish to reiterate the questions raised by Uruguay at the last meetings of this Council and the TBT and SPS Committees regarding the relationship between the measure referred to in this PCE and the one notified by India on 5 January 2023 to the TBT and SPS Committees, under G/TBT/N/IND/240–G/SPS/N/IND/290, with respect to the Draft Food Safety and Food Standards (Genetically Modified Food) Regulations, 2022, on which we are still awaiting response.[3]

14.14. We remain attentive to the comments and responses that the Indian delegation may provide in response to the concerns of Members, which have been expressed both in Geneva and in New Delhi for more than two years by numerous delegations.

14.15. The delegate of Paraguay indicated the following:

14.16. My delegation would like to thank the delegation of the United States for placing this item on the agenda. We report that there have been no new developments on this specific trade concern since the last SPS Committee meeting in March, nor at the last TBT Committee meeting last June. We hope that India will be able to report on what actions have been taken to address the trade concerns of its partners on this issue, which was first introduced at the SPS Committee in November 2020. In the event that India is unable to provide an update and answers to the specific questions presented on previous occasions, we hope that it will do so next week at the SPS Committee. We are particularly interested in understanding the relationship between the draft Standard notified on 5 January of this year under G/TBT/N/IND/240 and G/SPS/N/IND/290 and the certification requirement that is the subject of this specific trade concern.

14.17. The delegate of India indicated the following:

14.18. This issue is being discussed in the TBT Committee, and in the TBT Committee's last meeting, in June 2023, we reiterated our position on this measure. The FSSAI has notified the requirement of a non-GM certificate to accompany an imported food consignment, which is only an assurance provided by the competent authority of the exporting country that the food crops which are not approved by GEAC (Genetic Engineering Approval Committee) are not being imported into India, and that the importer has to provide the certificate as per the format notified by FSSAI.

14.19. Some countries have also established tolerance and traceability requirements for adventitious presence of GMOs, while others are in the process of developing or adopting legislation. The threshold for labelling of adventitious presence of approved GM material in non-GM grain varies from 0.9% (e.g., in the EU) to 5% (e.g., in Japan). Noting the restriction of GM foods in India, the

[3] "In this regard, we wish to recall that the Order dated August 21, 2020, laying down the requirement of certificate for import of consignments of any of the 24 crops detailed in its Schedule, states in its point 2 that such requirement is adopted to ensure that only non-GM food crops are imported into India while regulations relating to products subject to genetic engineering or modification as laid down in section 22 of the Food Safety and Standards Act, 2006 are being developed.

The draft Standard notified on January 5, 2023 refers in its recitals, among other legal provisions, to section 22 of the Food Safety and Standards Act 2006, which is the same as the one referred to in the Order of August 21, 2020. In this regard, in line with what was discussed bilaterally in the margins of this meeting, we would like to request India if it could clarify to us the relationship between the two measures, if there is one, including whether or not the recently notified draft corresponds to the Standard referred to in the Order dated August 21, 2020.

If yes, does this mean that the certification requirement under the said Order will cease to apply once the draft Standard notified on January 5, 2023, in its current or amended form, comes into force? If no, could India please inform this Committee on the status regarding the development of regulations relating to products subject to genetic engineering or genetic modification as set out in section 22 of the Food Safety and Standards Act, 2006."

tolerance limit for adventitious presence of GMOs at 1% is permissible in imported food crops, and the same was notified vide the FSSAI Order dated 8 February 2021.

14.20. Accordingly, import is permissible if the adventitious presence of GM content is less than the notified tolerance limit. To date, several of India's trading partners, like the United States, Australia, Canada, Türkiye, Iran, China, Thailand, and the European Union, including Italy, Germany, and France, are already providing the requisite certificate and trade is going on smoothly. The regulatory body, FSSAI, is open to interacting with trading partners to discuss said matter in order to facilitate the trade.

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

14.22. The Council so agreed.

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

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

15.2. The delegate of Canada indicated the following:

15.3. Since 2018, the use of trade restrictive and domestic support measures for dry peas have had a significant negative impact on exporters to India. Canada's exports of dry peas have decreased from 1.3 million tonnes before the measures were implemented in 2018, to 627 tonnes last year. Our significant concerns with India's policy measures therefore remain unchanged. Canada again calls for India to immediately cease its trade restrictive measures and to implement alternative, WTO-consistent measures that promote a predictable and transparent import regime for pulses. We will continue to closely monitor India's unjustified trade restrictive and distorting measures.

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

15.5. The United States shares the concerns regarding India's quantitative restrictions for select varieties of pulses. As we have stated previously, in the Committee on Import Licensing (CIL), the Committee on Agriculture (COA), and the CMA, we repeat our requests for information on how the measures reflect India's WTO commitments, and when and how the measures will be ended. We continue to urge India to consider less trade restrictive requirements and to notify future relevant measures and regulations in a timely manner.

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

15.7. The European Union fully shares the concerns expressed by other Members over India's quantitative restrictions on certain varieties of pulses. We call on India to review the measures and to ensure they are WTO-consistent. Last but not least, we encourage India to consider the permanent removal of its quantitative restrictions on pulses. The certainty and stability of the import regime for certain varieties of pulses would have a positive impact both on India's food security and the global pulses market.

15.8. The delegate of Australia indicated the following:

15.9. Australia thanks India for their response to Australia's questions raised during the previous meeting of the CTG, held in April 2023. Australia once again encourages India to consider the longer-term benefits to its own food security of permanently removing their quantitative restrictions on all pulses. More permanent, open trade settings would be more effective at building greater resilience in India's supply of pulses, provide greater certainty to suppliers and reduce risk-related costs. For consumers, more open trade settings would mean a more reliable supply of pulses and lower prices, with clear benefits for food security.

15.10. The delegate of Argentina indicated the following:

15.11. As we have stated on previous occasions in this Council, this measure affects two of the main pulses exported from Argentina to India: yellow peas and mung beans. As in previous statements, and as clearly articulated by Australia, Argentina reiterates its concern over the uncertainty that this measure creates for its exporters, and requests that it be reviewed by the Indian authorities.

15.12. The delegate of India indicated the following:

15.13. India would like to thank the intervening delegations for their continued interest in this issue. As previously stated, the measures adopted by India are undertaken for the purpose of maintaining food and nutritional security. This is an area of great importance to our economy and the policies on imports are regularly reviewed and updated. The trade measures applicable to pulses are in compliance with the relevant WTO agreements and specified procedures of these agreements.

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

15.15. The Council so agreed.

16 EGYPT – HALAL CERTIFICATION MEASURE, BASED ON EGYPTIAN STANDARD ES 4249/2014 GENERAL REQUIREMENTS FOR HALAL FOOD ACCORDING TO ISLAMIC SHARIA – REQUEST FROM CANADA, THE EUROPEAN UNION, AND THE UNITED STATES

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

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

16.3. The United States acknowledges and thanks Egypt for delaying the implementation of its new Halal requirements for dairy products; we understand the most recent delay is now in effect until 30 September 2023. However, the United States continues to share the concerns expressed by multiple Members regarding Egypt's implementation of the Halal certification requirements. The United States and other Members continue to call on Egypt to provide the implementing procedures needed for exporters to be able to understand and comply with the measure. Likewise, the United States continues to express concern with Egypt's intention of utilizing the services of only one Halal certifying company without allowing for other certifying companies to participate. The effects of maintaining this policy would likely hurt Egyptian consumers. The United States requests that Egypt suspend any new Halal requirements until the requested information has been made available and certifier issues have been resolved. These efforts will provide the assurance that US and other exporters need in order to confidently ship Halal-compliant dairy products to Egypt.

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

16.5. The European Union reiterates its concerns with regard to 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 to Egypt. The EU would like to invite Egypt to notify the Halal standard 4249/2014 to the WTO before its finalization, as well as the comprehensive list of products that should be Halal certified. Once the Halal standard is finalized and adopted, the EU would recommend introducing a transition period of at least six months to enable operators to adjust to new conditions.

16.6. The European Union has noted that the requirement for dairy products was suspended until 30 September by the latest Addendum of 16 June. We very much appreciate this flexibility from Egypt's authorities, which is very helpful to economic operators.

16.7. The European Union would also like to invite Egypt to reconsider the decision to grant the right to certify the 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 the international best practices. Re-certification by IS EG Halal of

products from establishments already certified by other companies is an unnecessary duplication and would lead to longer time to market and higher costs for consumers.

16.8. The European Union would like to ask Egypt to consider keeping the Halal certification and labelling voluntary for dairy products, to pursue the legitimate objective of ensuring reliable information without unduly hindering trade flows. Consumers should be able to decide whether to buy Halal-certified food or not, based on clear labelling.

16.9. Finally, the European Union would like to ask Egypt about the concrete steps envisaged to provide comprehensive information about the new measures and 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.

16.10. The European Union is ready to work with Egypt on solutions that would prevent the negative impact this measure would have on food and beverages imports to Egypt.

16.11. The delegate of Canada indicated the following:

16.12. Canada continues to be concerned with Egypt's Halal certification requirements for all imported food and beverage products. Canada understands Egypt's objective to ensure that Egyptian consumers are confident that they are buying and consuming Halal-certified products. However, such measures should not create unnecessary barriers to international trade or be more trade-restrictive than necessary to fulfil that objective.

16.13. Canada welcomes Egypt's delayed implementation of the Halal certification for dairy products to 30 September 2023. However, Canada requests that this measure be suspended until the following questions are answered. Canada requests further information on procedures to receive certification, fee structures, details on audits, and specificity on how these requirements will be implemented.

16.14. In light of these concerns, Canada refers to our previous statements made at this Council and urges Egypt to reconsider the implementation of this measure. In particular, Canada invites Egypt to consider a Halal certification system that would allow multiple, well-established certification entities, in accordance with international best practices. Canada is open to meeting with Egypt bilaterally to have an open and transparent discussion, further clarify the requirements under this new measure, and consider the impact it may have on trade. Until then, we respectfully request that Egypt suspend the implementation of the measure.

16.15. The delegate of Paraguay indicated the following:

16.16. On behalf of my delegation, I would like to thank the delegations of Canada, the European Union, and the United States for including this item on the agenda. We would like to report that, since the last SPS Committee meeting in March and the last TBT Committee meeting in June concerning this trade concern, there have been no new developments. We hope that Egypt will be able to report on what actions have been taken to address the trade concerns of its partners on this topic, which was first introduced in the TBT Committee in November 2021.

16.17. The delegate of New Zealand indicated the following:

16.18. New Zealand has taken into account Egypt's comments on this issue at the previous CTG meeting in April, and the recent meeting of the TBT Committee. However, we remain concerned about the ongoing uncertainty this measure is generating for exporters.

16.19. New Zealand notes that a final Halal standard has not yet been implemented or published. We are grateful for Egypt's recent notification to the TBT Committee regarding an extension on the implementation of Halal requirements for milk and dairy products until 30 September 2023. We further request that Egypt suspend these requirements until the implementation of a final Halal standard which clarifies the scope of dairy products covered and requests that Egypt provide a reasonable period of 6 to 12 months once this has been consulted, implemented and notified to the WTO as a final standard to allow exporters time to understand and comply with the new standard.

16.20. We look forward to receiving the document regarding implementation issues referred to by Egypt in the last CTG meeting, which we understand is being prepared by the General Authority for Veterinary Services. We also join others in calling for a draft technical measure that sets out any new requirements, including for registration, auditing and labelling that accompany Egypt's new Halal standard. We also request that Egypt specify requirements of transparency around any Halal certification fees, to provide certainty for importers and exporters, and to ensure that these are applied neutrally between producers, including domestic and foreign producers, in accordance with WTO rules. We request that these are also notified to the WTO with sufficient time to enable Members to provide feedback and for businesses to implement the new requirements.

16.21. We invite Egypt to clarify the process for new Halal certification bodies to be approved for certification of exports to the Egyptian market, in accordance with international best practice. Allowing multiple, well-established, certification bodies to certify products as Halal will make Egypt's Halal regulations less trade restrictive, reduce the impact of duplication and other unnecessary costs on consumers, help resolve supply chain issues, and promote Egypt's overall food security.

16.22. The delegate of Egypt indicated the following:

16.23. Egypt thanks the United States, the European Union, Canada, New Zealand, and Paraguay for their ongoing interest in this issue and their continuous interest in the matter. We recognize Egypt's right to adopt the Halal certification requirements, which we deem necessary and appropriate to achieve our legitimate policy objective, while remaining consistent with our obligations under the WTO Agreements.

16.24. Recognizing the comments that our trading partners raised at the last CTG meeting, and in the bilateral meetings we had with them, Egypt would like to point out that, since the introduction of the requirements with respect to milk and dairy products by the General Organization for Veterinary Services, Egypt has introduced a number of facilitating measures extending the timeline to abide by the requirements by more than a year now. This has provided the business operators an appropriate period of time to adapt to the set of requirements.

16.25. It is also important to note that, since its initial notification, Egypt has been clear that the certification body currently recognized by the General Organization for Veterinary Services, is ISEG Halal. In fact, a lot of exporters have indeed approached ISEG Halal and been issued the Halal certification successfully.

16.26. The WTO Agreements have explicit regulations on all WTO Members to protect their legitimate interests according to their own regulatory autonomy. It is also important to clarify that the Egyptian standard, ES 4249, does not, and shall not, provide for any supervision requirements for a specific certification body.

16.27. Through the ePing, Egypt has submitted addendum G/TBT/N/EGY/313/Add.5, for the purpose of extending the time-period during which imports of milk and dairy products that are not accompanied by a Halal certification were allowed to enter into Egypt, until 13 September 2023, as a trade facilitating measure, and in response to the request made in this respect. However, during the period starting from April 2023 until now, no imports of milk and dairy products have been denied entry if not accompanied by a Halal certificate. Moreover, the relevant authorities are preparing a decision on the requirements for importing Halal milk and dairy products to clarify the points and issues raised in this respect. The decision shall clarify the scope of products and the conformity assessment procedures for issuing Halal certificates.

16.28. I would also like to remind the CTG that Egypt has taken measures to ease the application of this Decision, giving particular attention to the consideration and interests of our trading partners. It is worth noting that we received specific questions from some Members, and that we have provided answers and replies to many of those questions. Our colleagues in Capital are working on the remaining questions. We will be sharing those answers in due course.

16.29. Finally, I would like to stress that Egypt is committed to continuing its bilateral exchanges on the matter with all interested trading partners, and to taking into account their concerns, as appropriate. Egypt stresses our commitment to the transparency requirements under the WTO Agreements.

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

16.31. The Council so agreed.

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

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

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

17.3. The United States continues to raise its concerns on Panama's technical regulations for onions and potatoes. Despite continued attempts to constructively engage with Panama on this issue, Panama continues to be unresponsive and has yet to provide the scientific justification for these measures. We maintain our 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, we reiterate our 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.

17.4. The delegate of Canada indicated the following:

17.5. Canada continues to be concerned with Panama's quality requirements for fresh potatoes, implemented in February 2020, which are having a direct impact on Canada's ability to export potatoes to Panama. Canada would like to refer to its previous intervention at the April 2023 CTG meeting on this item and ask it to be included in the meeting record as the situation has not changed.[4] Canada respectfully requests again 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 continue to create unintended barriers to our mutually beneficial bilateral trade in agriculture.

17.6. The delegate of Panama indicated the following:

17.7. Panama thanks the delegations of the United States and Canada for their comments. We take note of their concerns. Panama continues to carefully study the comments received from our trading partners, and we have been open to listen to their concerns. Panama reaffirms its commitments on transparency and notes that the Panamanian authorities continue to address this issue in conjunction with the relevant governmental bodies. We reiterate that any updates will be duly shared and notified to this Council.

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

17.9. The Council so agreed.

18 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 THE EUROPEAN UNION, SWITZERLAND, AND THE UNITED STATES

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

18.2. The delegate of Switzerland indicated the following:

18.3. Switzerland has raised this issue in the CTG for many years now, together with the United States and the European Union. Since the selective tax entered into force in June 2017 in the

[4] Document G/C/M/145, paragraphs 38.4-38.5.

first Gulf Cooperation Council (GCC) member State, we provided information and expressed our concerns, as well as requested more details on the next steps from our GCC partners.

18.4. Working closely with our GCC partners over several years, a first positive step was reached with the adoption of the principle to switch from an *ad valorem* excise tax to a tiered volumetric tax, as indicated by the delegation of the Kingdom of Bahrain during the CMA meeting of May 2019. Since then, we have received only little information about the concrete next steps and, in particular, on the implementation date from our GCC partners. We are fully aware that this reform is a very complex process that takes time. However, we would appreciate more transparency on the timeline and the content of the tax reform, as well as when the implementation will take place. Switzerland remains ready to hold a meeting with the delegations of Oman and the Kingdom of Saudi Arabia, as well as with the GCC authorities in charge of the reform. We encourage the GCC to be more transparent and to engage with interested Members. Switzerland hopes that this issue can be resolved in the near future.

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

18.6. With regard to the GCC "Treaty on Excise Tax" of December 2016, the European Union would like to reiterate the importance of harmonizing the implementation of the Excise Tax law and the need for a close engagement with private industry stakeholders on the process for revising the tax. The European Union welcomes information that the present GCC excise tax system is under review, and that a volumetric tax model based on international best practice is being considered based on the "Tax Reform Study". The European Union would consider it important that any transition from the present to a new tax regime include a provision to equalize the tax rate of energy drinks with other soft drinks, with an immediate effect. The European Union is ready to continue engaging with the GCC on this important issue.

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

18.8. 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 we appreciate the information provided during the last Council meeting, as well as separate discussions with member State officials since then, we note that we still have yet to receive written responses to the questions from March 2021, and ask these Members to update us as to when such responses to those questions will be provided. As we have conveyed before, we request a substantive update on revisions to the GCC excise tax model and its implementation plan under the GCC Unified Excise Tax Agreement, and note the importance of timely engagement with interested parties regarding this issue.

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

18.10. 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; I would like to thank the delegations of the United States, Switzerland, and the European Union for the interest they attach to the GCC's Excise Regime, and for their communication on the application of the Excise Tax and carbonated soft drinks, malt beverages, energy drinks, sport drinks and other sweetened beverages.

18.11. As for the timeline of the ongoing process of the new GCC Excise Tax model and its implementation, let me restate once again that the revision of the Excise Tax on beverages is a complex exercise that requires significant efforts, extensive coordination, and comprehensive studies. The GCC Working Group on Tax Issues is sparing no efforts to complete this exercise in order to submit to the GCC member States the appropriate results and high standards for the Excise Tax model.

18.12. In conclusion, the GCC member States are following the appropriate procedures and timeline for the revision of their Excise Tax Regimes. Once the process is completed, the relevant information will be shared with the WTO Members.

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

18.14. The Council so agreed.

19 UNITED STATES – TRADE DISTORTING AND DISCRIMINATORY SUBSIDIES MEASURES OF THE INFLATION REDUCTION ACT OF 2022 – 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. We would like to refer to the statements we made in previous meetings in this Council.[5] Since the IRA came into effect on 1 January 2023, it has caused significant disruptions to the industry chain and supply chain of the Electric Vehicles industry. In order to obtain the subsidies provided by IRA, a large amount of investment related to the EV industry has been allocated to Northern America, resulting in a shift of industry and technology outflows from other Members, and has triggered a transatlantic subsidy race. For example, when the European Union recently released the Net-Zero Industry Act and Critical Raw Materials Act in response to the IRA.

19.4. We believe that the "siphon effect" caused by the subsidy race will lead to distortion and a mismatch of resources in the global electric vehicle market. It would significantly reduce developing Members' opportunity and capacity to access clean energy products and relevant investment and technologies, which will not be conducive to achieving the global emission reduction targets. The subsidy race may also weaken developing Members' capacity to address global challenges and wider the gap between rich and poor.

19.5. We take note that the United States believes that the IRA is an important bill to address climate change, and that the relevant subsidies are naturally justified. We are happy to see the US increase its public investment with a view to promoting green transformation, but subsidies to address climate change should be non-discriminatory, consistent with WTO rules, and should not lead to a "race to the bottom competition", which will disrupt the supply chain and negatively impact developing Members' green development.

19.6. Finally, we call on the United States to eliminate discriminatory, distorting, and WTO-inconsistent subsidies in its IRA. We also call on the WTO to strengthen its role in monitoring this matter.

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

19.8. The Russian Federation would like to thank the delegation of China for raising this concern. The Russian Federation reiterates its statement on this issue, made during the previous meeting of the CTG. The Inflation Reduction Act introduces discriminative measures on a wide range of products originating from non-eligible WTO Members and undermines global trade in goods over the entire supply chain. The legislation aims to exclude products from certain WTO Members from participation in supply chains, provoke international trade fragmentation, as well as destabilize trade and investment flows.

19.9. What makes the law even worse is that, in order to administratively choose with whom to trade, the US Administration aims to conclude bilateral arrangements in the form of special raw materials pacts with a number of WTO Members that provide the status of a Free Trade Agreement (FTA) partner to such Members, and make their products eligible for US tax credits.

19.10. The Inflation Reduction Act is yet another US initiative that explicitly violates the WTO rules, in particular, the most-favoured-nation and national treatment provisions of the Agreement on Trade-Related Investment Measures and the Agreement on Subsidies and Countervailing Measures. Members taking such steps merely neglect fundamental WTO principles, despite their speeches in favour of supporting the multilateral system.

[5] Documents G/C/M/144, paragraphs 9.2–9.31 and G/C/M/145, paragraphs 15.2–15.4.

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

19.12. On this issue, rather than repeat our previous statements, we would simply like to refer Members back to our statements from previous meetings.

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

19.14. The Council so agreed.

20 UNITED STATES – A SERIES OF DISRUPTIVE POLICY MEASURES ON THE GLOBAL SEMICONDUCTOR INDUSTRY CHAIN AND SUPPLY CHAIN – 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. We continue to express serious concern over the disruptive and discriminatory measures taken by the United States with regard to the semiconductor industry. The United States Department of Commerce recently issued a Notice of Funding Opportunity CHIPS Incentive Program – Commercial Fabrication Facilities. We believe some measures in this notice may violate WTO rules and severely distort the market.

20.4. The notice sets the prioritization and selection factors for selecting applications for funding. One factor is to strengthen the intent to use domestically produced iron, steel, and construction materials. This may result in local content subsidies which are not consistent with the SCM Agreement. The notice indicates that an applicant must demonstrate how the CHIPS Incentives requested will incentivize the applicant to make investments in the United States that would not occur in the absence of the CHIPS Incentives. It seems that the applicant's investment decisions may not be based on market orientation and commercial logic, because those investments would not occur without the CHIPS Incentives.

20.5. As for funding, the CHIPS Direct Funding is up to USD 38 billion; and the CHIPS Loans and CHIPS Loan Guarantees are up to USD 75 billion in direct loan or guaranteed principal. For a specific project, the total amount of a CHIPS Incentives Award may reach 35% of project capital expenditures. The eligible projects may also get additional funding from the State and local Governments, and may enjoy a 25% tax credit. It is highly likely that these massive subsidies and incentives will significantly distort the market.

20.6. We also take note that the United States Department of Commerce released a Notice of Proposed Rulemaking for the guardrails, which strictly limits recipients of funding from investing in the expansion of semiconductor manufacturing in foreign countries of concern. The proposed rules define significant transactions based on a monetary level of USD 100,000 and define material expansion as increasing a facility's production capacity by 5%. If you compare these figures with the massive subsidies provided and the ambitious goal of production capacity set by the US in the CHIPS and Science Act, the double standard is clearly evident.

20.7. To protect its own interests, the United States has taken various measures to exclude China and some other Members from the semiconductor industry chain and restrict China's semiconductor development. These are typical examples of "Cold War mentality", "zero-sum game" and "trade bullying". The "small yard, high fence" approach the US is taking is detrimental not only to China's interests, but also to the interests of the US itself and other Members. It has severely undermined the global semiconductor industry chain, violated market principles, disrupted the normal order of international trade and investment, and negatively affected the rules-based multilateral trading system.

20.8. The United States has long been an advocate of free trade, and often criticizes other Members' so-called non-market practice on many occasions. However, the US action speaks for itself. The above-mentioned measures clearly show that the US is implementing non-market practice solidly now. Finally, China calls on the WTO to strengthen the monitoring of the relevant measures that may violate WTO rules.

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

20.10. We thank the delegation of China for putting this item on the agenda. The Russian Federation is deeply concerned by the protectionist course taken by the United States in the semiconductor industry. The United States is seeking to secure its own economic interests and global leadership positions by introducing a wide range of trade restrictions on semiconductor and electrical component markets. Disruptive and restrictive measures introduced by the US include, in particular, restrictions on exports from the US of semiconductors. Measures also involve anti-competitive arrangements with Japan and the Netherlands to jointly restrict advanced chip-manufacturing equipment exports to China.

20.11. US trade restrictions are not aimed only at China. The record number of unilateral measures imposed against Russia – including bans on the supply of semiconductor products – leaves no doubt about the geopolitical nature of the US' unlawful actions, aimed at putting up barriers to prevent access to innovative products as well as to undermine technological progress and development prospects for the economies of certain countries.

20.12. The unilateral imposition of politically motivated trade restricting measures clearly demonstrates the new reality that no Member is safe from the same unlawful treatment. Washington continues to abuse national security exceptions stipulated by the WTO provisions to justify discriminatory measures aimed at restricting fair competition. Such actions undermine the functioning of an open and fair multilateral trading system.

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

20.14. In the interest of time, I will not give an overview of the CHIPS Acts and the transparency that the United States has undertaken to date, but we are going to refer Members back to our previous statements from earlier meetings.[6] With regard to China's comments on the subsidies and market distortions, the United States believes that its contemplated support is consistent with US law and its international commitments. Contrary to China's speculation, the evaluation criteria do not contain a requirement to use domestically produced inputs, the Subsidies Agreement does not have obligations with regards to restrictions of entities receiving government support, and the US Department of Commerce will implement certain restrictions to ensure that those who receive CHIPS funds cannot compromise national security.

20.15. Those national security-based restrictions are described in more detail in the Act and in a Notice of Proposed Rulemaking published in the Federal Register on 23 March, which also solicited comments on the proposed rule. Entities can choose whether or not to apply for incentives through the CHIPS program and thus be subject to the national security limitations. And, for reasons that have been made multiple times in various WTO bodies, we are not providing a substantive response to Russia's intervention.

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

20.17. The Council so agreed.

21 EUROPEAN UNION – SWEDEN'S 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. We continue to express our serious concern over the Swedish Post and Telecommunications Authority's decision to ban Huawei and ZTE from supplying 5G equipment to Swedish mobile firms and remove the equipment of these companies that has already been installed by 1 January 2025. To date, Sweden has not yet provided any credible explanations and evidence to prove that the

[6] Please see documents G/C/M/144, paragraphs 10.24 to 10.29, and G/C/M/145, paragraphs 16.8 and 16.9.

5G products of Huawei and ZTE pose so-called "national security" threats to Sweden. We are deeply concerned about these discriminatory measures, which are inconsistent with WTO rules. We are also disappointed with the ruling made by the Swedish appeals court on this matter.

21.4. We would like to reiterate that Huawei and ZTE have been operating in Sweden for more than 20 years, and do not have any so-called "national security" risks being reported before. Some European countries have conducted security investigations on the products of the companies and find no back-doors on the products. Many telecommunication operators also confirm that the equipment provided by the companies poses no security risks. China urges Sweden to comply with WTO rules, and provide a fair, transparent and non-discriminatory environment for Chinese companies to operate in Sweden.

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

21.6. The European Union regrets that this matter is raised again, despite the fact that it is under legal proceedings under the bilateral investment agreement between Sweden and China. The EU reiterates that, in light of these ongoing proceedings, the EU will not enter into details on this issue in the Council today.

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

21.8. The Council so agreed.

22 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM (THE EUROPEAN GREEN DEAL OF DECEMBER 2019) – REQUEST FROM BRAZIL, CHINA, INDONESIA, AND THE RUSSIAN FEDERATION

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

22.2. The delegate of China indicated the following:

22.3. China believes that to effectively respond to climate change, realize global sustainable development, and build a community with a shared future for humankind, Members need to earnestly implement the goals, principles and requirements of the United Nations Framework Convention on Climate Change and the Paris Agreement, reduce barriers, and promote trade and investment liberalization.

22.4. We believe that the European Union's Carbon Border Adjustment Mechanism (CBAM) is a unilateral measure that deviates from the basic principles of "common but differentiated responsibilities and respective capabilities" and "Nationally Determined Contribution Arrangements" of the UNFCC and the Paris Agreement. It may not comply with the basic principle of non-discrimination of the WTO.

22.5. Numerous studies have shown that the CBAM may have a much greater negative impact on developing than developed Members. First, due to different stages of development, developing Members often lack financial resources and green technology to support energy transition. This is why the energy transition process of developing Members is relatively slow and emission intensity is relatively high. Second, the economies of developing Members are more vulnerable to carbon price increases. In particular, developing Members do not have good systems and capacity to collect, calculate and verify emission data, including the specific emission data for individual enterprises. To establish and improve such data-collecting systems, the cost will be huge for developing Members. Third, if some Members set up an exclusive carbon club based on CBAM, it would cause greater losses to developing Members' output and welfare, lead to a decline in global trade, distort the market, and widen development inequality.

22.6. We thank the European Union for publishing for public comment the draft implementation regulations on reporting obligations during the transitional period of the CBAM in June, but we believe that the four-week consulting time is not enough to conduct a detailed analysis of the CBAM and submit comments on it. We hope that the EU will further improve inclusiveness and transparency in

the subsequent process of CBAM implementation, and ensure the CBAM's consistency with WTO rules.

22.7. China made two proposals at the Committee on Trade and Environment (CTE) meetings in March and June respectively. We proposed to carry out dedicated discussions on environmental measures that could significantly impact trade from five perspectives, namely the basic operating mechanism, various elements of policy design, environmental contribution, trade impact, and the inclusiveness of the measures. We hope that the discussions will enhance the WTO's role in trade and environment based on the MC12 Ministerial Declaration and the WTO's mandate, provide opportunities to consider different Members' needs and concerns, and contribute to the UN 2030 Agenda for sustainable development.

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

22.9. The Russian Federation reiterates its statements on this issue that were made during the previous meetings of the CMA, the CTG, and the CTE. The Regulation on the establishment of the CBAM was published on 16 May 2023. Our analysis shows that the European Union has failed to make it compatible with the WTO rules.

22.10. By using this mechanism, the European Union seeks to ensure cross-border application of its emission trading system or carbon pricing methodology, to protect its domestic industry from fair foreign competition, as well as to resolve the problem of relocation of its production facilities to third countries. The CBAM will be applicable only to goods originating in the WTO Members which will not establish an emission trading system fully linked with the EU Emissions Trading System (ETS) or apply a carbon price without any rebates beyond those also applied in accordance with the EU ETS.

22.11. In this regard, we would like to point out that there is no evidence that the emission trading system is effective or that it is the only correct solution to address the problem of climate change. It should be kept in mind that agreements at the international level provide for the possibility for countries to be able to choose measures to combat climate change in the most effective way for each of them. Even at the EU level, industries continue to receive a significant share of their emission allowances for free – for many industries this free share constitutes 100%. Thus, the EU also cannot fully assess the effectiveness of its ETS in terms of its impact on addressing climate change.

22.12. The next issue that we would like to draw attention to is that the CBAM covers the most sensitive sectors of the EU economy, namely cement, fertilizers, iron and steel, and aluminium, which are those sectors where the EU usually applies anti-dumping or safeguard measures to protect its producers. It is equally interesting that the CBAM also covers hydrogen energy, which is still in development. By including hydrogen into the scope of the CBAM the EU makes it clear that this regulation has nothing to do with the problem of combating climate change. We would like to note that hydrogen is a key technology for the low-carbon transition, as it does not emit any greenhouse gas at the point of use. Thus, there is no doubt that the inclusion of hydrogen in the regulation aims to secure foreign investment for EU companies in renewable hydrogen, and to decrease the competitiveness of other kinds of energy sources, in particular those derived from natural gas, methane, and others.

22.13. With this regulation the European Union establishes not only additional charges on the importation of products, but also substantial administrative burden and import restrictions. According to the CBAM Regulation, "goods shall be imported into the customs territory of the Union only by an authorised CBAM declarant". It will also be prohibited to import goods without CBAM certificates. The European Union introduces the system of verification of embedded emissions. The Regulation provides for the principles of verification, content of verification report, and requirements for an accredited verifier.

22.14. The European Union constantly argues that the CBAM will mirror the EU ETS. However, according to the Regulation "the CBAM system has some specific features when compared to the EU ETS, including with respect to the calculation of the price of CBAM certificates, the possibilities to trade CBAM certificates and their period of validity. Those features are due to the need to preserve the effectiveness of the CBAM as a measure to prevent carbon leakage over time".

22.15. For the sake of time, we will not outline all the elements of the CBAM that are questionable from the point of view of WTO norms and international climate agreements. However, our preliminary analysis shows that the CBAM is incompatible with Articles I, II, III, and IX of the GATT 1994. We urge the European Union to bring the Regulation into line with the WTO rules.

22.16. The delegate of Brazil indicated the following:

22.17. Brazil refers to its previous statements on the topic. The proposed European CBAM appears to pose challenges to a broad array of WTO rules, including in disciplines related to tariffs, as well as in the fundamental principles of non-discrimination and national treatment.

22.18. Members have consistently highlighted worrying asymmetries between the CBAM and the European Emissions Trading System (ETS) that could put foreign products at a disadvantage before European competitors. Furthermore, the CBAM appears to adopt selective gaps in its coverage, for instance in accounting for indirect emissions, that could exacerbate its discriminatory nature. Many stakeholders have highlighted the hybrid legal nature of trade-related environmental measures and the need for those measures to comply with both trade and environmental multilateral rules.

22.19. Historical responsibilities mean that countries that industrialized first, benefiting from cheap and more polluting energy sources, should bear a larger brunt of the costs of emission reduction. In both the UNFCCC and the Paris Agreement, the European Union has agreed to take into account the principle of common but differentiated responsibilities and respective capabilities. This principle should, therefore, be correctly reflected in European trade-related climate measures, such as the CBAM.

22.20. Finally, it should be noted that the CBAM's monolithic climate approach appears to contradict the "bottom-up" spirit of the Paris Agreement, where each country establishes their Nationally Determined Contribution and the means to achieve them, particularly with regard to the distribution of the burdens between economic sectors. That spirit is crucial for the effectiveness of the environmental regime, since it allows Members to design strategies that tap into their respective climate potentials and align with their national trajectories for sustainable development. Instead, the CBAM apparently attempts to impose on other Members a European model that ignores other modalities of climate action besides direct carbon pricing and addresses only specific sectors unilaterally determined by the European Union.

22.21. Brazil urges the European Union to observe the need for its trade-related climate measures to comply with both trade and environmental multilateral rules. We remain committed to work together with the EU to shape a fair and effective multilateral treatment for the nexus between trade and sustainability that aligns with and supports the commitments made by Members in environmental fora.

22.22. The delegate of Indonesia indicated the following:

22.23. Indonesia has once again conveyed its objections to the European Union regarding the adoption of the CBAM regulation. According to Indonesia, any trade policy pertaining to the environment and climate change, including CBAM, must be implemented with extreme caution in order to prevent it from becoming an unnecessary non-tariff trade barrier that breeds protectionism.

22.24. Indonesia is aware that the CBAM will levy import taxes on a variety of goods, such as iron and steel, cement, fertilizers, aluminium, chemical base materials, fertilizers, refineries, and energy, depending on the amount of carbon emissions generated during manufacturing. Additionally, it is suggested that the range of these products be broadened to encompass a variety of additional goods, such as plastics, hydrogen, organic compounds, and ammonia. The Emission Trading System (ETS) of the European Union will then be used to alter the carbon tax price.

22.25. As a developing country, Indonesia has taken a number of significant actions as part of its commitment to combating climate change, including: (i) Presidential Decree No. 98 of 2021 concerning Carbon Economic Value (NEK) which contains efforts to achieve Nationally Determined Contribution (NDC) targets, reporting, validation and verification, as well as certification of emission reductions followed by the derivative regulations of the Minister of Environment and Forestry No. 21 of 2022 concerning Procedures for Implementing Carbon Economic Values; (ii) Permen of ESDM

No. 16/2022 concerning Procedures for Implementing the NEK in the Power Generation Subsection; (iii) Formulation of Minister of Environment and Forestry concerning Implementation of Nationally Determined Contribution (NDC), Draft Regulation of Minister of Environment and Forestry concerning Procedures for Carbon Trading in the Forestry Sector, Draft Regulation of Minister of Home Affairs concerning the Role of Regional Governments in Implementing Carbon Economic Value in the Context of achieving NDC Targets, and Preparation RPOJK regarding the Establishment and Technical Arrangement of Carbon Exchange by KLHK and OJK; (iv) Green Industry Standard System (SIH) set by the Ministry of Industry (The Ministry of Industry); and (v) several industrial sectors have started calculating carbon emissions and KADIN has formed The KADIN Net Zero Hub to mobilize the private sector to achieve net zero emission or engage with the Global Carbon Council (GCC) Protocol.

22.26. Furthermore, Indonesia has also learned that, in paragraph 70 of the CBAM Regulation preamble, it is stated that "A dialogue with third countries should continue and there should be space for cooperation and solutions that could inform the specific choices to be made on the details of the CBAM during its implementation, in particular during the transitional period." In this regard, Indonesia intends to question the form of cooperation that will be carried out by the European Union with third countries in the implementation of its CBAM.

22.27. Indonesia believes that the CBAM policy is discriminatory because it violates the WTO's most-favourite-nation (MFN) and national treatment standards. According to EU Regulation No. 2023/956, Article 2, Point 6, Letters A and B, the European Union signals that a third country may be excluded from adopting CBAM if it has implemented ETS and imposes a carbon tariff that is higher than the European Union's carbon tariff. The MFN principle of the WTO, according to which each WTO Member is expected to treat imported goods from all other WTO Members equally and without difference, may be broken by the European Union in this regard.

22.28. By paying attention to the principles of the WTO National Treatment, the European Union should provide equal treatment between imported goods that are subject to additional tariffs based on CBAM, with local goods produced domestically in the European Union. Indonesia observes that, in the ETS, operators or industries that have carbon emissions below a certain "cap" or limit are not required to purchase certificates or allowances. However, the said arrangement does not apply to industries in other WTO Members that export their products to the European Union.

22.29. In relation to Article II of the GATT 1994, Indonesia believes that CBAM has the potential to impose additional costs on producers of commodities outside of the EU, with additional levies beyond the tariffs in accordance with the EU Schedule of concessions. Indonesia requests that the European Union quickly evaluate the CBAM laws to ensure that they adhere to WTO rules, including Article II of the GATT 1994, as well as the MFN and national treatment principles of the WTO. Indonesia further requested that the European Union take into account the UNFCCC and Paris Agreement's Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC) principles when creating and implementing CBAM regulations. Indonesia believes that any trade policy relating to the environment and climate change must be supported by factual data and scientific research, or it risks devolving into unilateral and covert protectionism.

22.30. The delegate of Paraguay indicated the following:

22.31. Paraguay thanks the European Union for the briefing during the Environment week. However, Paraguay's systemic concerns were not adequately addressed, and I would like to repeat them again in this Council:

- How is the principle of common but differentiated responsibilities and respective responsibilities taken into account in the light of national circumstances and nationally determined contributions to this measure for environmental purposes?

- How are mitigation measures other than carbon pricing taken into account in the CBAM, especially in countries such as Paraguay, which are carbon sinks?

22.32. We would also like to know if the European Union is planning to implement any mechanism to provide preferential access to products that, despite coming from countries that do not have a carbon pricing mechanism, have a lower carbon footprint or come from developing countries that

are highly impacted by the negative effects of climate change and carbon sinks such as Paraguay. On this, we have already heard the EU say that the CBAM takes into account the specific emissions of imported goods, but at most this would allow not imposing the additional tariff, not providing preferential access.

22.33. The industrial sector in Paraguay and in many other developing countries is very small. Measures such as the CBAM will not contribute to green industrialization without other elements and policies, but rather impede it. Does the EU envisage redirecting proceeds from the CBAM to support green transition in developing countries, in line with its funding commitments, and to provide a means of implementation as set out in international environmental law?

22.34. The delegate of India indicated the following:

22.35. India would like to thank the delegation of the European Union for its recent engagement on the European Green Deal-related issues in the June 2023 edition of the Trade and Environment week. We also acknowledge the bilateral engagement on these issues, including in the first India – European Union Trade and Technology Council.

22.36. India has raised its concerns on the measures under the CBAM, Deforestation-Free Commodities, and other Green Deal proposals in various forums. Most recently, India submitted a paper (document JOB/TE/78) to the Committee on Trade and Environment, in March 2023, which pointed out that we are witnessing potential trade fragmentation if Members continue to take unilateral trade measures which apply extra-territorially. We also urged the need to act in accordance with the principles of common but differentiated responsibilities and respective capabilities (CBDR-RC), as well as honouring the nationally determined contributions (NDCs).

22.37. While we remain concerned with the idea of a carbon border adjustment itself, the issue is further complicated by the fact that the CBAM implementation regulation published in June 2023 comes very close to the 1 October 2023 date, when part of the regulation comes into force. This situation may lead to trade disruptions as the measure kicks in, even if the initial requirement is only for reporting.

22.38. In the Trade and Environment week in June 2023, the EU delegation stated[7] that the European Union was taking into account differences in national circumstances through the different carbon price which may prevail in different countries. This position completely disregards the fact that carbon price itself may not be the chosen policy instrument in every country precisely due to the varying national circumstances. This EU admission of extra-territoriality of the CBAM design is reflected in the choice of the policy instrument, namely carbon price, is extremely worrisome.

22.39. In the International Energy Agency event on steel decarbonization in the Trade and Environment week, representatives of many key steel-making countries participated. In that event, there was a broad recognition that development of standards like the ISO standards was important, rather than a fragmentation of standardization measures like the one reflected in CBAM.

22.40. Finally, we remain additionally concerned that other WTO Members may also implement their own equivalent CBAM measures and all these adjustment measures may not be compatible with each other, imposing huge compliance costs on developing countries and especially the MSMEs.

22.41. The delegate of Türkiye indicated the following:

22.42. Türkiye always indicated our support to global efforts to mitigate the impacts of climate change while ensuring cooperation so as to achieve a strong global response to these challenges. We also continuously emphasize that each country contributes to this effort in accordance with its own national responsibilities and capabilities, as based on international environmental law. We are pursuing our own objectives to transform the Turkish economy into a sustainable, resource-efficient, and low-carbon production structure.

22.43. In our view, the WTO could help facilitate the transformation to environmentally sustainable economic growth globally, in an inclusive and just manner. With this in mind, we have been closely

[7] https://www.youtube.com/watch?v=dfZFqc1b2NI&t=6879s (statement starting at 3:09:40).

following the ongoing legislative processes under the European Green Deal, including the CBAM. We thank the EU for its transparent approach in devising the regulatory rules, and for its openness to inputs from trade partners in the process. However, our concerns with regard to the compatibility of the CBAM with international environmental and trade law, as we have explained on multiple occasions from the beginning, still persist.

22.44. First of all, the lack of a development dimension and disregard for national responsibilities and capabilities is a general criticism with regard to this process. Furthermore, we believe that there are several discriminative aspects of the CBAM, which result in placing importers and imported goods at a competitive disadvantage compared to their counterparts in the EU. For example, there are differences between the scope of the EU ETS and that of the CBAM. As we have also mentioned in previous meetings, while CBAM applies to products identified by CN codes, the ETS applies to installations identified in terms of their activity/production process, subject to minimum capacity or total rated thermal input thresholds. Therefore, while CBAM would capture all producers of CBAM goods in third countries, EU producers of the same goods that are below the set thresholds are exempted from the EU ETS. Nor will this divergence be addressed with the initiation of the ETS-2, which will be a separate carbon pricing regime for fuel distribution for road transport and buildings, as this system will impose a much lower carbon cost than the current ETS, and will not subject industrial installations that would be affected by it to any GHG monitoring, reporting, and verification obligation. Therefore, we believe it is necessary that exemptions be provided under the CBAM to third country operators in line with the EU ETS scope thresholds.

22.45. A second issue relates to the treatment of precursors, as also explained before. The CBAM, due to its focus on embedded emissions in products, brings an additional burden on producers in third countries to account for the embedded emissions in input materials they use in the production process. The burden increases as the good becomes more complex. In our internal consultations, especially end-user product producers at SME status, inform us of the difficulty and burden of tracking input emissions, and indicate that their EU counterparts do not have similar obligations under the EU ETS. Furthermore, in the EU ETS, applications such as over-allocation of free allowances and ability to trade allowances, state aid provided by member States with regard to CO_2 costs related to electricity use, and funding opportunities, provide EU producers with a competitive advantage over third country producers with fewer resources. Hence, remedies to address these imbalances should be sought.

22.46. In this regard, we believe that the allocation of CBAM revenues to the financing of the green transformation projects of developing countries and LDCs could at least help alleviate such imbalances, and would also be more in line with the climate change mitigation objectives underlying the CBAM Regulation. In this process, ensuring that developing countries and LDCs have access to critical technologies will also be key to the CBAM's inclusivity and overall success.

22.47. The delegate of Thailand indicated the following:

22.48. Thailand would like to join others in expressing its concern over the European Union's CBAM. We would like to refer to our statement previously raised in the last meeting of the CTG.[8] Suffice it to say that we fully recognize and share the firm commitment of the international community to addressing the issue of climate change. At the same time, we also think it is important to ensure that international rules and principles are respected, including the basic principles of non-discrimination under the WTO and "Common but Differentiated Responsibilities and Respective Capabilities" enshrined in the Paris Agreement and the UNFCCC. While we look forward to receiving an update on the EU's CBAM regulations from the European Union, we urge the EU to seriously consider the compatibility of its CBAM with the WTO rules and well-established practices in the international community, and to modify the regulations accordingly.

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

22.50. The Kingdom of Saudi Arabia would like to reiterate its concerns on the CBAM. This issue has been addressed under the agenda of the Committee on Market Access, where Members discussed, and will continue to discuss in depth, their views and concerns in this regard. Moreover, unilateral trade measures that are not based on clear, WTO-consistent justifications must not be

[8] Document G/C/M/145, paragraphs 19.49-19.53.

accommodated. We support the concerns raised by the co-sponsor and other Members on the effects of such measures, and their potential inconsistency with the WTO rules.

22.51. The delegate of Kazakhstan indicated the following:

22.52. Kazakhstan reiterates its position as set out at the Council's last meeting, and continues to follow developments around the European Union's CBAM. Kazakhstan urges the European Union to fully consider the CBAM's compatibility with the WTO rules and regulations, and to ensure that any mechanism does not create obstacles to trade.

22.53. The delegate of Japan indicated the following:

22.54. Regarding the European Union's CBAM, which entered into force in May this year, Japan understands that it has been explained as being part of the EU's climate change measures. We would like to continue to emphasize that it should be an initiative that does not conflict with global emission reduction efforts, not only within the EU region.

22.55. 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.

22.56. 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. In other words, if the "carbon intensity" of a country or sector is low, this would be the result of that country or sector having taken sufficient measures, so that there are no problems in terms of the level playing field or carbon leakage. In this regard, the European Union's CBAM is designed to charge at the border based on the level of specific policy, such as an explicit carbon price at the present stage. 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.

22.57. 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, 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.

22.58. As we note that the European Union's CBAM was provisionally agreed among EU member States at the end of last year, we would like to request that the EU consult with WTO Members sufficiently through conducting an expert meeting on methods for measuring CO_2 emissions of products. We hope that the CBAM will not be introduced by the EU without it first ensuring sufficient international understanding, otherwise this could potentially lead to international trade disputes.

22.59. We are also concerned that the Draft Implementing Regulation on the application of CBAM during the transition period was only published in June of this year, and that there is not enough time to prepare before its entry into application in October, despite it imposing new reporting requirements on business operations. We would like to call on the European Union to fully discuss with each Member, including an experts' meeting on the method measuring CO_2 emissions of products, so as not to impose an excessive burden on trade, and to avoid introducing CBAM without sufficient international understanding, which may lead to trade disputes with other countries.

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

22.61. Regarding the European Union's CBAM, while highlighting the significance of establishing its Implementation Acts and Delegated Acts in a manner consistent with the WTO rules, the Republic of Korea requests the EU to consider the importance of recognizing each Member's valid methodology for emissions calculation, alongside the EU's own methodology. In particular, Korea believes that it is crucial to compare the actual reporting burdens between those subject to the CBAM and those under the EU ETS, with a view to adjusting them to proportional parity.

22.62. The Republic of Korea understands that the European Union's current draft allows for other Members' calculations by the end of 2024, provided their data coverage and accuracy are similar to that of the EU. We believe that this approach should continue beyond the aforementioned period. The Republic of Korea stands ready to further engage with the European Union to resolve these issues constructively.

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

22.64. During previous meetings, the European Union had the opportunity to provide Members with an outline of the proposal, its objectives, and its interaction with other EU policies targeted at achieving environmental sustainability and carbon neutrality. We have been transparent throughout the design stage. We will continue to engage now that CBAM will enter the transitional period. Most recently, during the WTO Trade and Environment Week, on 14 June, the EU gave a technical presentation of CBAM and answered many technical questions on the measure. As Members showed great interest, we will continue our engagement with partners in the WTO in addition to our bilateral exchanges. CBAM will be introduced gradually, from October 2023 until the end of 2025. During that transitional period, only reporting obligations under the Regulation will apply.

22.65. In that regard, the European Union circulated a communication to the Committee on Trade and Environment informing Members that, on 13 June 2023, the EU had published the text of the Implementing Regulation on the reporting obligations during the transitional period of the CBAM. The European Commission invites feedback on its "Have Your Say" website. The feedback period will run until 11 July 2023.

22.66. Feedback from the consultation will be taken into account when finalizing the Implementing Regulation on the reporting obligations during the CBAM's transitional period. Feedback received will also be published on the European Commission's "Have Your Say" website. The Implementing Regulation will be finalized at the end of July, after consultation with the CBAM Committee. That Committee will adopt an implementing act concerning the information to be reported for the transitional period of CBAM, from 1 October 2023 until 31 December 2025. We invite all interested Members to reply to the consultation by 11 July.

22.67. The European Union will also roll out an information campaign on CBAM. The campaign will feature online seminars, physical events, the distribution of guidance documents, and direct assistance. The objective will be to assist third-country operators and importers to the EU in performing all the new obligations required by the CBAM Regulation and its secondary legislation. EU Delegations around the world will be involved. The transitional period will involve extensive consultations with stakeholders, including international partners, to increase our mutual understanding of the instrument.

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

22.69. The Council so agreed.

23 AUSTRALIA – DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT – 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. We continue to express concern with regard to Australian restrictions on 5G equipment of relevant Chinese companies. To date, Australia has not provided reasonable rationale on these measures. We believe these discriminatory measures are inconsistent with WTO rules. We urge Australia to bring its measures into line with WTO rules, and to provide a fair, transparent, and non-discriminatory environment for Chinese companies to operate in Australia.

23.4. The delegate of Australia indicated the following:

23.5. Australia notes China's statement. Since China first raised this issue in the WTO in late 2018, Australia has engaged constructively with China to explain the rationale for its position on 5G networks. As Australia has previously stated, its position on 5G networks is country-agnostic, transparent, risk-based, non-discriminatory, and fully WTO-consistent. Australia also notes that other WTO Members have made similar decisions in their national interest on equipment for national 5G networks.

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

23.7. The Council so agreed.

24 MEXICO – CONFORMITY ASSESSMENT PROCEDURE UNDER MEXICAN OFFICIAL STANDARD NOM-223-SCFI/SAGARPA-2018, "CHEESE NAMES, SPECIFICATIONS, COMMERCIAL INFORMATION, AND TEST METHODS", PUBLISHED ON 31 JANUARY 2019 – REQUEST FROM THE UNITED STATES

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

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

24.3. The United States remains highly concerned with the revised measure. Could Mexico provide a timeline for when it will respond to WTO Member comments? Could Mexico also please provide an update on the status of this measure and an estimated time-frame of when the revised measure will be notified to the WTO?

24.4. The United States is concerned this measure may conflict with the ongoing redrafting of the corresponding cheese standard. How will Mexico harmonize its update to the NOM-223 cheese standard with the NOM-223 cheese CAP notified to the WTO on 8 February 2022? Has Mexico considered extending its eventual timeline for implementation of the measure to a period of 12 months or more? If Mexico proceeds with implementation of the current measure, the United States (Government and industry) would need at least one year to launch systems to comply.

24.5. The United States urges Mexico to indefinitely delay implementation of the measure and consider less trade-restrictive alternatives as previously proposed by the US Government, other WTO Members, and industry stakeholders.

24.6. The delegate of New Zealand indicated the following:

24.7. New Zealand has considered Mexico's response on this matter at the previous CTG in April and at the recent TBT Committee. However, we remain concerned that the conformity assessment procedures that Mexico has set out for cheese under NOM-223 are more trade restrictive than necessary, with some aspects of the conformity assessment procedure creating unnecessary obstacles to international trade and likely to cause difficulties for New Zealand exporters. We support the request for Mexico to consider less trade-restrictive alternatives to the measures. We look forward to receiving a response from Mexico to the concerns raised, and an update on the status of any revised version of the Conformity Assessment Procedure.

24.8. The delegate of Mexico indicated the following:

24.9. With regard to the procedure for the conformity assessment of NOM-223 of SAGARPA 2018, Mexico would like to reiterate that the competent regulatory authorities are still in the process of analysing the 174 comments from domestic and foreign proponents received during the consultation period. The Government of Mexico will be in a position to notify delegations that raised this concern, and all WTO Members, once the analysis period has been concluded. We assure Members that this process will continue to be conducted in the strictest compliance with the obligations of the TBT Agreement and its correlatives in the FTAs to which Mexico is a party.

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

24.11. The Council so agreed.

25 INDIA – IMPORT POLICIES ON TYRES – REQUEST FROM CANADA; THE EUROPEAN UNION; INDONESIA; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; AND THAILAND

25.1. The Chairperson recalled that this item had been included on the agenda at the request of Canada, the European Union, Indonesia, Chinese Taipei, and Thailand.

25.2. The delegate of Chinese Taipei indicated the following:

25.3. Chinese Taipei would like to draw India's attention again to its Notification No. 12/2015-2020, which amended India's import policy concerning new Pneumatic tyres from "Free" to "Restricted". We remain disappointed that Members' concerns have not been appropriately addressed. According to statistics from the Ministry of Commerce and Industry of India, the quantity of our tyre exports to India from 2020 to 2022 sharply decreased by 50%, compared to the exports in 2019. At the same time, according to the Indian Automotive Tyre Manufacturers Association (ATMA), India's tyre exports to the global market have surged by 70%. These figures demonstrate that India's tyres have benefited from the unrestricted markets in other Members, whereas tyre producers in other WTO Members have to face increased trade barriers to enter the Indian market.

25.4. The core issue to be addressed is the procedure for granting import licences. We urge India to abide by the relevant provisions of the WTO Agreement on Import Licensing Procedures. Specifically, India's import licence requirement should neither restrict nor distort trade, and India must publish complete information about the import licence application to ensure the required level of transparency so that foreign manufacturers are able to understand the criteria for licence approval and the detailed reasons for potential licence rejections.

25.5. The delegate of Indonesia indicated the following:

25.6. Indonesia expresses its concerns to India as it has not yet received a satisfactory response from the Indian government about the issue of banning tyre imports. Indonesian tyre exports to India are still being hindered at this time. In fact, imported tyres from India have recently made their way onto the Indonesian market. Indonesia requests India to provide more information on three issues, including the restriction on importing tyres that can be made domestically in India, the charging of a fee for the use of the Indian Standard Mark (IS Mark) on tyre products exported to third countries, and the sampling of imported tyre containers and packaging.

25.7. As contained in the Notification by the Directorate General of Foreign Trade of India's Ministry of Trade and E-Commerce, in Notification No. 12/2015-2020 on 12 June 2020, the Government of India has made amendments to the tyre import policy, from "free" to "restricted". Indonesia has learned that India has required importers to make separate statements via email regarding import restrictions for specific types and size categories of tyres that can be produced domestically in India. Any violation of these provisions will be subject to criminal penalties under the FTDR Act 1992. Furthermore, India's import policy has now become even more stringent, where every container containing imported tyres must be sampled for Indian customs purposes. Next, importers are also required to fulfil the registration requirements of the warehouse where imported tyres are stored.

25.8. The ban on tyre imports, according to Indonesia, is discriminatory because it only applies to a small number of WTO Members who could pose a threat to India's domestic tyre industry. As a result, the policy may be in conflict with one of the core WTO principles, namely the principle of non-discrimination. In addition, because India is one of the major tyre producers in the world and can create a variety of tyre kinds and sizes, the regulation restricting imports of Indian tyres has *de facto* made it more difficult for Indonesian tyre goods to access the Indian market.

25.9. Indonesia also seeks India's clarification regarding the imposition of a marking fee on tyre products marked with the Indian Standard (IS) Mark. The imposition of IS Mark marking fees on tyre products that will be exported to third countries can burden business actors and create unnecessary trade barriers in international trade.

25.10. The import of tyre products into India is a form of non-automatic licensing procedure (non-automatic import licensing), which is in conformity with the WTO Agreement on Import Licensing (AIL), according to India's statement at the last CTG meeting, on 3–4 April 2023. Indonesia requested more information from India about this problem at this CTG meeting.

25.11. Indonesia therefore requests that India's government provide details regarding the scope and timeline for implementing the policy restricting tyre imports, as well as additional explanations regarding the execution of the aforementioned policy.

25.12. Indonesia also requested India to review its import restrictions on tyre products right away to ensure compliance with the WTO's principles of transparency and non-discrimination, as well as with Articles 2.1 and 2.2 of the TBT Agreement, Articles 3.2 and 3.3 of the Import Licensing Agreement, and Article XI of the GATT 1994 regarding the general elimination of quantitative restrictions. Indonesia is also willing to continue talking with India in order to resolve this issue in any number of potential international fora, including bilaterally.

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

25.14. The European Union reiterates its concerns relating to the long-standing issue of India's import policy on tyres. We have explained our position on multiple occasions in various bodies of the WTO, including this Council, the Market Access Committee, the TBT Committee, the Import Licensing Committee, and the TRIMs Committee. This measure continues to have a negative impact on stakeholders in the European Union. The EU once again urges India to reconsider and eliminate unconditionally any implicit or explicit quantitative or other restrictions on the import of replacement tyres as these restrictions are contrary to WTO rules.

25.15. The delegate of Thailand indicated the following:

25.16. Thailand finds it necessary to bring our concern on India's import policies on tyres to the attention of the Council once again, after having done so numerous times in various WTO bodies, and yet no progress has been made. Having said that, we would like to thank India for the information about the number of the licences granted to Thailand's tyres since 2019. We also appreciate India's engagement in the bilateral consultation with us on 16 June 2023.

25.17. Thailand's tyre exports to India still suffer from this import restriction and our tyre exports to India continue to decline by 55% in the first quarter of 2023 compared to the same period in 2022, and by a staggering 80% compared to the same period in 2019, before this import restriction was implemented. Globally, India's total imports of car tyres from the whole world declined by 70% in volume for the first quarter of 2023 compared to the same period of 2022. We wonder, "How far will these import figures decline until India stops implementing that measure?"

25.18. Despite the information about the number of licences granted to Thailand's tyres, we regret to say that India has yet to provide us with the information about the administration of the restrictions, including the time-frame or period for processing applications, and the distribution of such licences among supplying countries. We urge India to provide us with the above information without delay.

25.19. The delegate of Canada indicated the following:

25.20. Canada would like to reiterate its concerns with India's non-automatic import licensing system, which effectively imposes quotas on imports of tyres. These concerns have previously been expressed by a number of Members, including Canada, in various WTO bodies, including this Council. Canada once again calls on India to eliminate this quantitative import restriction in accordance with its WTO obligations.

25.21. The delegate of India indicated the following:

25.22. India would like to thank various Members for their continued interest in this issue. We would also like to refer to our response provided in the previous meetings of the CTG, the Committee on Market Access, and the Committee on Import Licensing. My delegation would like to reiterate that the 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. We are engaging bilaterally with the concerned Members, including by providing information and data on the applications received and licences granted.

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

25.24. The Council so agreed.

26 INDIA – IMPLEMENTATION OF CONFORMITY ASSESSMENT POLICY THROUGH QUALITY CONTROL ORDERS (QCOS) IN VARIOUS SECTORS – REQUEST FROM CANADA AND THE EUROPEAN UNION

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

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

26.3. The European Union is deeply concerned by the increasing number of Quality Control Orders (QCOs) issued by India. Since 2019, more than 100 QCOs have been notified by India to the TBT Committee, and more than half of these have been subject of specific trade concerns raised by WTO Members. The EU has consistently been raising the issue of QCOs, in particular in relation to toys, automotive parts including tyres, chemical and petrochemical substances, steel, etc. The majority of QCOs introduced appear to have a protectionist orientation and consequently raise questions regarding their compliance with the TBT Agreement's obligations. The EU is particularly concerned by the visible trend of QCOs prescribing India-specific standards where international standards already exist.

26.4. Furthermore, QCOs prescribe mandatory conformity assessment procedures that are more restrictive than necessary to fulfil their legitimate objective. They cause extra burden and economic cost to the European stakeholders as a result of unnecessarily cumbersome procedures, including mandatory factory inspections by Bureau of Indian Standards (BIS) officials, sample testing in Indian laboratories to obtain necessary permissions or licences for products already tested and certified under established international standards and schemes. There is no provision for a streamlined process on the basis of existing certification from any international body. The European Union also would like to recall the importance of duly notifying all of these measures as required notably under the TBT Agreement.

26.5. The delegate of Canada indicated the following:

26.6. Canada remains concerned by the Quality Control Orders (QCOs) issued by India across a variety of sectors. As expressed in other fora, such as the Committee on Technical Barriers to Trade, Canada is concerned by the QCO objectives, notification processes and systemic issues in the framework. We hope India meaningfully engages with these concerns, and answers questions posed by many Members, including Canada. We urge India to ensure QCO implementation is consistent with its WTO obligations.

26.7. The delegate of Japan indicated the following:

26.8. Japan supports the European Union and Canada's comments on India's QCOs. Although QCOs provide for overseas factory inspections by the BIS, Japan requests that QCOs not be more trade restrictive than necessary, in accordance with Articles 2.2 and 5.1.2 of the TBT Agreement. In addition, we request that QCOs be consistent with the TBT Agreement, for example, that international standards be used as the basis for QCOs in accordance with Articles 2.4 and 5.4 of the TBT Agreement, and that an appropriate period be allowed before implementing QCOs in accordance with Article 2.12 and 5.9 of the TBT Agreement. Japan requests India to ensure that the orders comply with the TBT Agreement.

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

26.10. We thank the European Union and Canada for raising this item. The United Kingdom also has concerns with the number of QCOs being introduced by India on a number of goods which seem to be more trade restrictive than necessary to fulfil India's legitimate objectives. Notably, we have raised concerns on Indian footwear regulations in the TBT Committee and thank India for their bilateral engagement on this matter. We would encourage India to ensure that existing and incoming regulations are in accordance with international standards where they exist in order to prevent adverse impacts for foreign businesses and trade.

26.11. We look forward to continued engagement with India on this issue across WTO fora.

26.12. The delegate of India indicated the following:

26.13. In accordance with the Agreement on Technical Barriers to Trade (TBT), India is committed to facilitating international trade while taking steps to ensure the quality of the products and protection of human, animal, and plant health and life, of the environment, and prevent deceptive practices, among other objectives. The QCOs issued by India are a step in this direction to ensure the quality of products, public health and safety and protection of consumers.

26.14. India notes the importance of adequate transition time for the industry members. India is responsive to the concerns of the industry and its consumers. Wherever appropriate, India has extended dates for implementation of the QCOs in certain instances. India is continuously working towards facilitating trade and safeguarding consumer interests. In pursuit of these goals, measures have been instituted to provide alternatives to traditional physical labelling for some products.

26.15. Most of the standards formulated by the Bureau of Indian Standards (BIS), which is the body responsible for the formulation of standards in India, are based on international standards and the minor variations which might exist, are due to the specific climatic or environmental conditions and technological development in the country. BIS also undertakes regular review of the standards to ensure that the standards are not rendered redundant. The TBT Agreement recognizes the right of a Party to adopt international standards as per the appropriateness or effectiveness for the Party.

26.16. India acknowledges that while certain jurisdictions allow virtual audit for management systems, widespread adoption of virtual audits for product assessment remains limited. Virtual audits for management systems are also practised by India, demonstrating its commitment to efficient evaluation methodologies. Furthermore, India actively processes all the applications for licences or inspections by foreign manufacturers.

26.17. In the month of March, India also hosted a National Workshop on TBT, conducted by the distinguished members of the WTO Secretariat. We also invited a senior subject matter expert from the US to engage with our regulators and officials. We have been providing detailed responses for the specific trade concerns raised in the TBT Committee in relation to our QCOs and TBT notifications. Additionally, we also remain bilaterally engaged with Members raising these STCs.

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

26.19. The Council so agreed.

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

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

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

27.3. The European Union regrets that once again the Council on Trade in Goods needs to address import and export restrictive policies and practices by Indonesia. This item has been on the agenda of this Council for several years now, and despite the deep concerns repeatedly expressed by the European Union – as well as by many other WTO Members – it is worrisome that no real progress

could be registered. Rather, the number and scope of Indonesian restrictions have further expanded over time, with negative impacts on trade flows.

27.4. We took due note of the comments by the Indonesian Delegation in the last meeting of this Council about Indonesia's intention to comply with its WTO commitments, including in particular the principles of transparency and non-discrimination. We also raised this issue in bilateral contacts over the last months. However, we have unfortunately not yet seen changes in this direction in Indonesia's policies or practices, and our operators continue to face a business environment which is increasingly restrictive.

27.5. In particular, the European Union reiterates its serious preoccupations with the many issues we have already raised multiple times: Indonesia's burdensome and lengthy SPS import authorization procedures, complex rules and lack of pragmatic certification procedures for Halal labelling, mandatory use of domestic SNI standards diverging from international ones for an increasing number of products, wider use of local content requirements, and restrictive import licensing requirements or other import control measures, as well as export bans.

27.6. In addition to the concerns we continue to raise on the commodity balance mechanism (Agenda Item 36), the European Union notes the introduction of a new export regime under Regulation 18/2021, which appears to significantly expand the scope of goods subject to export prohibitions (from 39 to 275 tariff lines), creating additional obstacles to trade flows and raising doubts in terms of compliance with WTO obligations.

27.7. The European Union calls again on Indonesia to address the many trade barriers of concern to its trading partners and notify all relevant measures to the WTO.

27.8. The delegate of New Zealand indicated the following:

27.9. New Zealand echoes the concerns raised by the European Union, Japan, and others, in previous CTG meetings. We have considered Indonesia's response on this matter. However, New Zealand continues to raise this issue in the CTG because we believe 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 businesses and can lead to increased costs. Moreover, in the food and beverage sector, this uncertainty also contributes to the ongoing increasing cost of food, which can have a particularly negative effect on people on low incomes.

27.10. New Zealand would like to reiterate the following concerns and requests:

27.11. New Zealand remains concerned about the inconsistent time-frames and issuance of import licences. Uncertainty around import licences is leading to commercially significant market access issues for trading partners. We request that Indonesia provide greater clarity on the time-frames for the issuance of import recommendations for commodities not currently under the SNANK system, and how import volumes are calculated and allocated to importers. We also request that Indonesia provide further information to trading partners on the Commodity Balance Mechanism, including how the mechanism is calculated, and how Indonesia is undertaking to make the mechanism more transparent.

27.12. New Zealand welcomes that a stated objective of the Presidential Regulation 32/2022 on Commodity Balances is to improve the import licensing process and facilitate business access to imports. However, we note that the Regulation appears likely to add further complexity, as it allows for import restrictions to be applied where domestic supply is calculated to be sufficient to meet projected demand. Details of the commodity balance/import licensing system are yet to be provided, which is adding to the uncertain environment for imports.

27.13. Finally, New Zealand appreciates Indonesia's comments at the CTG meeting in July 2022 that, "in principle, Indonesia has no intention to impede the flow of international trade through our import and export policies"; that "Indonesia always pursues for simplification, transparency, and efficiency to make exports and imports easier to implement"; and that "Indonesia stands ready to engage bilaterally with WTO Members on their concerns". We join others in asking Indonesia to

make renewed efforts to address these long-standing concerns about Indonesia's import restricting policies and their impact on agricultural trade.

27.14. The delegate of Japan indicated the following:

27.15. In past CTG and TRIMs Committee meetings, Japan has continuously expressed its concerns about the various Local Content Requirement (LCR) measures implemented by Indonesia related to 4G LTE equipment, TV equipment, and the retail industry, etc., and the consistency of these measures with the WTO Agreements.

27.16. The Indonesian government has been implementing import and export restrictions on steel products, textile products and air conditioners, among other products. However, in May 2022, the Indonesian government announced that it would introduce the "Neraca Komoditas" (Commodity Balance System) for these products from 2023, based on Ministerial Decree No. 25 of 2022 of the Minister of Commerce. Japan's concerns about the commodity balance system, as we will address in Agenda Item 36, are that it violates Article XI:1 of the GATT (prohibition of quantitative restrictions), Article X (publication of trade rules), and the provisions of the Import Licensing Agreement, among others, and we call for a remedy for the situation to be found as soon as possible. In particular, imports of steel products are currently suspended, which has a serious impact on Japan.

27.17. Furthermore, with regard to textile products, safeguard measures on carpets were introduced on 17 February 2021. There are two main problems with this: 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. At the meeting of the Safeguards Committee in May 2023, it was stated that "the measures are a legitimate, albeit temporary, measure and are exceptionally necessary to remedy the serious damage to the domestic industry". As the aforementioned issues have not been addressed and the effects of import restrictions remain unchanged, Japan requests that these measures be eliminated as soon as possible.

27.18. Japan is concerned about the increasing number of trade restrictive measures in Indonesia, which are thought to be inconsistent with the WTO Agreements, and we would like to request a concrete explanation regarding the background of the introduction of these systems and their consistency with the WTO Agreements. In particular, Japan has submitted written questions to the Import Licensing and TRIMs Committees on three measures: the import regulation on air conditioners; the import licence for steel; and the import regulation for textiles. We expect a prompt response from Indonesia. We do hope that import regulations on air conditioners will be operated so as not to fall under import restrictions, and that licensing standards and procedures will be stipulated with more transparency, and that other measures will be corrected or eliminated as soon as possible.

27.19. The delegate of Switzerland indicated the following:

27.20. Switzerland shares the concerns expressed by other delegations. According to feedback from our exporters, the import of dairy products is repeatedly subject to delays or blockages that are incomprehensible. Since the previous CTG meeting in April, we would kindly remind Indonesia that we are still waiting for further specific information on its current import system. We reiterate our request for more details regarding the way in which import licences are issued, and also what the possible reasons are for difficulties faced by our exporters. Switzerland stands ready to exchange bilaterally with Indonesia in the near future.

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

27.22. As we intervened in April, we would like to take this opportunity to again underscore our concerns with Indonesia's import and export restricting policies and practices. The United States 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.

27.23. First, we again ask Indonesia to provide the Council with an update on its review of its local content policies which have been ongoing for some time. We underscore the importance of ensuring that its consultations allow for broad public input.

27.24. Second, we continue to have concerns regarding Indonesia's continued application of tariffs on multiple ICT products that appear to exceed its WTO bound tariff commitments. We have raised this issue with Indonesia bilaterally and across multiple WTO committees over the past four years, without a substantive response to our concerns. We urge Indonesia to engage constructively on this issue, and finally address these long-standing concerns to ensure the integrity of its market access commitments.

27.25. Third, we are concerned by Indonesia's continued practice of finalizing trade-related measures without sufficient opportunities for stakeholder input. Indonesia has demonstrated a pattern of issuing 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.

27.26. Additionally, we remain concerned that Indonesia has yet to respond to important questions on its Halal measures that we have circulated at the TBT Committee.

27.27. Going forward, we strongly encourage Indonesia to adopt a more transparent and consultative policymaking process as well as reconsider its trade-restrictive policies which will support its broader economic goals as well as the interest of Indonesian consumers, workers, and businesses.

27.28. The delegate of Canada indicated the following:

27.29. Similar to the United States' concerns around ICT products, Canada has also raised this issue in the ITA Committee. In particular, Canada continues to have systemic concerns with Indonesia's application of tariffs above its bound rates on ICT products. Canada calls upon Indonesia to implement import measures in a transparent and predictable manner, in accordance with relevant WTO provisions.

27.30. The delegate of Indonesia indicated the following:

27.31. Indonesia thanks Members for their continued interest in Indonesia's import and export policies and practices. Indonesia reiterates its position from the previous meetings of the CTG and TRIMs Committee regarding concerns raised by the European Union and Japan regarding the Domestic Component Level (TKDN), according to which TKDN is intended for policies relating to government procurement, policies relating to meeting needs to maintain welfare, necessities of life for Indonesians, and policies relating to strategic resources managed by the state. Indonesia is currently conducting multiple reviews of the intended policy, and these studies are still in progress. Increasing local products for government purchases, especially those made by central and provincial governments, is a current priority for the Indonesian government. Indonesia is dedicated to enhancing the business climate through streamlining rules and procedures as a destination for investment and exports. Regarding the European Union and Japan's concerns over the textile import licensing regime, Indonesia intends to repeat its statement previously delivered at the CTG, that applications for import licensing are currently being carried out electronically, and that, after all the licensing documents submitted are complete and appropriate, import permits will be processed within a relatively short period of time, in accordance with the Import Licensing Agreement. In order to comply with Indonesia's obligations under the TRIMs Agreement and other WTO rules, this goal is pursued in order to assist investors and strengthen the Indonesian economy.

27.32. In response to queries about the licensing system for Japanese imports of electronic goods and air conditioners , Indonesia has previously stated that the regulation's primary goals were to enhance the licensing system and assure the administration of product import supervision. Applications for import approval are made electronically in accordance with current requirements. Following the completion and accuracy of the paperwork, the Import Approval will be performed

quickly and in compliance with the Import Licensing Agreement. Indonesia therefore believes that there are no restrictions on the import of the aforementioned air conditioner goods.

27.33. As Indonesia stated at the previous CIL and CTG meetings, it intends to make sure that all steel products entering the Indonesian market can meet standards, specifications, and requirements related to health aspects and safety in the use of imported steel products. This is in response to concerns regarding the licensing regime for imports of steel products by Japan. Additionally, Indonesia believes that the aforementioned policy is in keeping with the WTO's principles of transparency and non-discrimination, as well as the terms of the Import Licensing Agreement, and is meant to restrict imports through the import licensing system for steel products.

27.34. Regarding issues about the licensing system for New Zealand's imports of agricultural products, which have been frequently raised at the Dispute Settlement Body (DSB) meetings, Indonesia continues to reiterate its resolve to follow the recommendations and decisions of the DSB by repealing the relevant procedures.

27.35. Indonesia reiterates its position from the previous meeting of the CTG and SPS Committee on the European Union's concerns over the import licensing procedures relating to SPS standards. As required by Articles 7 and 8 of the SPS Agreement, and to take into account EU interests, Indonesia updated the policy in a transparent way, giving justifications and policy developments, details of modifications, and the progress of implementing policies for each EU member State. In addition, Indonesia considered that the purported unjustified delay by the EU was no longer relevant because it had been two years. Indonesia has demonstrated its dedication to development, enhancement, and transparency in its approval processes. Indonesia has demonstrated its dedication to advancement, reform, and openness in its approval processes. Each EU member State has received a copy of the policy's development in preparation for the next step in the approval process.

27.36. Indonesia plans to bring up the earlier concern regarding safeguards on carpet products, raised by Japan at both the CTG and the most recent meeting of the Committee on Safeguards . Before enacting security measures, Indonesia always follows protocol, which includes announcements and consultations. Before making a decision, Indonesia carefully reviewed all the issues brought up by the interested parties. This course of action was required to repair the substantial harm done to the domestic sector. According to Indonesia, the entire process was conducted objectively, measurably, transparently, and in conformity with WTO regulations.

27.37. In essence, Indonesia wants to reaffirm its commitment to upholding all of its obligations under all agreements, rules, and WTO principles, particularly the principles of transparency and non-discrimination. Additionally, Indonesia has never meant to obstruct international trade flows through its import and export regulations, particularly those that are connected to government procurement regulations that are focused on ensuring the welfare and basic necessities of the Indonesian population.

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

27.39. The Council so agreed.

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

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

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

28.3. The European Union reiterates its well-known concerns as the United States has still not solved this unjustified barrier. This concern is long-standing. All the necessary scientific groundwork has been carried out. More than five years ago, the US scientific assessment concluded that apples and pears from the EU are safe for imports into the United States under the "accepted systems" approach. But the United States continues to not take the purely administrative step needed to

unblock the situation, namely the publication of a final notice. There is no scientific justification for such a delay. The United States is therefore not respecting its obligations under the SPS Agreement.

28.4. In previous meetings, the United States stated that its market is at present already open for apples and pears for several EU member States. However, these exports to the United States can only take place under a so-called pre-clearance procedure, which is overly costly and is not economically viable for the exporters. Under this procedure only very limited exports are taking place. This means that in reality the United States market is closed for apples and pears from the European Union.

28.5. The European Union reiterates its request and urges the United States to respect its obligations under the SPS Agreement. We urge the US to base its import conditions on science and to resolve this important matter without further delay. The EU looks forward to continuing working together with the United States with a view to resolving this issue expeditiously.

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

28.7. 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. We would again note that the EU is able to export apples and pears to the United States under the existing pre-clearance program.

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

28.9. The Council so agreed.

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

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

29.2. The delegate of Thailand indicated the following:

29.3. Thailand is compelled to raise our concern once again regarding India's import prohibition on air conditioners containing refrigerants. Despite our intervention on numerous occasions in various WTO bodies and yet absolutely no progress has been made so far. In the meantime, Thai exports of air conditioners to India continue to be adversely affected by this import measure, which is clearly inconsistent with Article XI:1 and Article XX of the GATT 1994. In this regard, Thailand refers to our statements delivered at the meeting of the Committee on Market Access of 26 April 2023[9], and the CTG of 3 April 2023[10], where the details of these inconsistencies were provided.

29.4. However, we would like to ask India once again to explain why, according to India's notification G/LIC/N/2/IND/21, the importation of hydrofluorocarbons into India is still allowed given that a non-automatic import licence is granted, yet the importation of the same substance is banned if it is contained in an air conditioner. To us, this is a blatantly self-contradictory and discriminatory action.

29.5. Last but not least, according to paragraph 4 of Article 1 of the Montreal Protocol, which reads "Controlled substance excludes any controlled substance or mixtures which is in a manufactured product other than a container used for the transportation or storage of that substance" and "Decision on Controlled Substances I/12A", paragraph (d), which reads "If a mere dispensing of the product from the containers constitutes the intended use of the substance, then that container is itself part of a use system and the substance contained in it is, therefore, excluded from the definition. Moreover, paragraph (e), subparagraph (ii), of the same Decision clearly states that air conditioner is an example of a use system to be considered as products for the purpose of paragraph 4 of Article 1 of the Montreal Protocol. All this means that refrigerants contained in an air

[9] See document G/MA/M/78 paragraphs 27.6-27.10.
[10] See document G/C/M/145 paragraphs 13.7-13.13.

conditioner are not controlled substances under the Montreal Protocol. Therefore, we are of the view that India's claim that this import restriction on air conditioners containing refrigerants is in line with the Montreal Protocol is false and unsupported by facts.

29.6. For these reasons, Thailand reiterates that India must amend or discontinue the measure as soon as possible to ensure that it is in compliance with its commitments under the WTO and the Montreal Protocol.

29.7. The delegate of Japan indicated the following:

29.8. Japan continues to express its concerns that India's import ban on air conditioners including refrigerants, introduced in October 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.

29.9. India stated in the CTG's previous meeting that, as reported in the Import Licensing Committee (G/LIC/N/2/IND/21), and as pointed out by India in Japan's recent TPR, it was of the view that, taking into account the share of Japanese air conditioners in India over the past three years, it was unfortunate that Japan was handling the matter in the CTG and related committees. India also stated that it was unfortunate that Japan treated this as a case, and that the TBT Committee had already dealt with the examination pointed out by Japan.

29.10. However, we would like to point out three things: first, the notification (G/LIC/N/2/IND/21) in the Import Licensing Committee relates to the importation of refrigerants themselves, which is a different notification from the refrigerants enclosed in air conditioning equipment, which is the subject of this agenda item, and is not related to this measure. Second, there is no relationship between the share of Japan's air conditioners in India and the fact that the measure is not consistent with the WTO Agreement. Rather, it could be considered that the share has not increased due to import restrictions. We look forward to a good faith and prompt response from India, including a response to the written questions we submitted in September 2020. Third, while we are aware of India's response to the BIS review by the TBT Committee, we reiterate our request that the significant delays in the certification process for real imports be resolved.

29.11. Finally, with regard to the IS Mark certification system based on the QCOs for air conditioners and their parts, which has been reextended to October 2023, and in order to prevent delays in the certification procedure for imported products, we would like to ask that the BIS conduct smooth overseas factory inspections, or that India consider alternative procedures for certification other than overseas factory inspection. If it is difficult to do so, we would like to ask India to again extend the date to implement the measures.

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

29.13. The Republic of Korea shares the concerns expressed by other Members regarding India's import restriction on air conditioners. Korea believes that the measure appears to be inconsistent with WTO rules, particularly Article XI:1 of the GATT 1994, thereby creating an unnecessary obstacle to trade. The Republic of Korea requests that India resolve the issue in a timely manner. We stand ready to further engage with India.

29.14. The delegate of India indicated the following:

29.15. India would like to thank various Members for their continued interest in this issue. We would also like to refer to our response provided in other WTO bodies on this issue. My delegation has already shared details of these measures, the intent and ongoing developments with the delegations. This concern has also been discussed bilaterally. We will continue to engage in these discussions and try to address the questions raised.

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

29.17. The Council so agreed.

30 CHINA — DRAFT OF CHINESE RECOMMENDED NATIONAL STANDARD (GB/T) FOR OFFICE DEVICES (INFORMATION SECURITY TECHNOLOGY-SECURITY SPECIFICATION FOR OFFICE DEVICES) – REQUEST FROM JAPAN

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

30.2. The delegate of Japan indicated the following:

30.3. Japan has expressed its concerns during the relevant committees with regard to the amendment of the Recommended National Standards of China (GB/T) for office devices, such as multifunction peripherals and printers, that are procured by the operators of critical information infrastructure. In this regard, we have been informed that the standard would compulsorily require that: (i) office devices, such as multifunction peripherals and printers, including their components, are required to be developed, designed and produced in China; and (ii) to disclose information to prove that office devices and/or their components are developed, designed and produced in China. These national standards raise concerns that foreign products, including Japanese products, will be discriminated against by other countries, that trade will be restricted more than necessary, and that technology transfer will be forced. There would be the possibility that this would be inconsistent with various WTO Agreements, including Article 2.1 of the TRIMs Agreement, Articles 2.1 and 2.3, and 5.1.2 of the TBT Agreement, Article III:4 of the GATT 1994, and also Article 7.3 of China's Accession Protocol.

30.4. We understand that a study is being conducted under the direction of the National Information Security Standardization Technical Committee (TC260), and we would like to know the status of the study of this draft National Standard and its contents. We would appreciate if China could share the facts in this regard, including: (i) the schedule up to the establishment of this National Standard, including when it will be open for public comment; (ii) the contents of the draft National Standard, in particular the scope of application of this National Standard, including the definition of critical information infrastructure operators; and (iii) the provisions requiring the development and production of office equipment and its components in China and the provisions requiring information proving that the equipment was developed and produced in China. We would like China to share the aforementioned facts with us in good faith.

30.5. We have not received any convincing explanation from China regarding the specific concerns raised by Japan and other concerned Members at the successive meetings of the TBT Committee, the CTG, the Market Access Committee, the TRIMs Committee, and the Government Procurement Committee. We hope that the concerns raised by the concerned Members at this meeting will be well-taken care of in the revised draft, and that the draft will be made available for public comment with a sufficient period of time to allow interested parties to fully express their views on the contents of the revised draft.

30.6. The measures to be taken by China must eliminate concerns that foreign products will be treated in a discriminatory manner due to ambiguities in the wording and regulations that leave room for arbitrary application. Japan strongly hopes that the draft amendment to the National Standard will not be implemented in a form that raises concerns, and that measures containing similar requirements will not be formulated and introduced, not only in the area of multifunction peripherals and printers, but also in other areas.

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

30.8. The European Union intervenes on this issue mainly because of systemic concerns. Based on the information available for this measure, the EU is concerned that the revised requirements, if enacted, would rule out the possibility for overseas office device providers to participate in government procurement in China, as most of their products rely heavily on overseas components. The EU would like to emphasize that all office equipment cannot be classified as critical information infrastructure and underline once again the importance of providing clarity on terms such as "critical information infrastructure". The EU also urges China not to take similar measures in other sectors or products.

30.9. The delegate of the Philippines indicated the following:

30.10. The Philippines shares the concerns raised by Japan and the European Union on China's Recommended National Standard for Office Devices. We also request China to provide clarifications particularly on: (i) the definition of critical information infrastructure operators; and (ii) the possible discriminatory treatment of foreign products vis-à-vis the requirement for critical information infrastructure operators to procure office devices and their components that are produced in China.

30.11. The delegate of China indicated the following:

30.12. The Standardization Administration of China has approved the revision plan of this recommended standard. During the comment period for the revision plan, we did not receive any comments from Japan and other Members, despite Japan repeatedly raising this issue in various WTO bodies. We will continue keeping the process transparent and welcome suggestions and comments from Japan, the European Union, the Philippines, and other Members.

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

30.14. The Council so agreed.

31 CHINA — DRAFT REVISION OF CHINESE GOVERNMENT PROCUREMENT LAW – REQUEST FROM JAPAN

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

31.2. The delegate of Japan indicated the following:

31.3. In July of last year, China published a draft for revision of the Government Procurement Law (a public hearing draft). With regard to the scope of the revised law, in addition to "state agencies, business units and organizations" in the current Article 2, "other procurement entities" has been added in Article 2 and Article 12. With consideration to "other procurement entities", Article 12 of the revised bill refers to "public interest state-owned enterprises that engage in public works and operate public infrastructure or public service networks to realize public purposes", and adds "other procurement entities to which this Law applies and their specific scope of procurement shall be determined by the State Council."

31.4. If the scope of application of the Government Procurement Law expands to include even procurement beyond "procurement by governmental agencies", as stipulated in Article III:8(a) of the GATT, and Local Content Requirement (LCR) is made based on Article 23 of the revised law, foreign products, including those from Japan, may be treated discriminatorily and violate Article III:4 of the GATT.

31.5. In addition to the existing local content requirements regulation, Article 23 of the revised bill, which clearly includes "support for domestic industries", adds a new local content requirement that gives preferential treatment in government procurement for products with a high added value ratio within China. Japan would like to point out that this, too, cannot be permitted under the government procurement exception of Article III:8(a) of the GATT, unless it truly falls under government procurement, and this local content requirement may also violate Article III:4 of the GATT and Article 2.1 of the TRIMs Agreement.

31.6. At the previous CTG meeting, China stated that it treats foreign and domestic Chinese companies equally in government procurement, except in matters related to security, but it continues to discriminate in the treatment of goods. In addition, at the last CTG meeting, China stated that it would like to discuss the issue within the framework of the negotiations on the accession to the WTO Government Procurement Agreement (GPA), but as previously mentioned, the issue should be addressed by the CTG, as this would leave room for local content requirement measures to be implemented in a way that would include procurement beyond "procurement by government agencies" as defined in Article III:8(a) of the GATT. In addition to this, no convincing explanation was provided by China at the Government Procurement Committee meeting held in June. These new provisions in the proposed amendments represent a move toward, rather than a

failure to meet, the standards required by the GPA, to which China has already been negotiating for accession for many years, and which it has yet to apply for accession to the GPA and other high-standard agreements.

31.7. We would like to reiterate that China's application to join the GPA and other high standard agreements cannot help but raise questions as to whether it intends to meet the standards.

31.8. The delegate of China indicated the following:

31.9. We regret that Japan has again raised this issue in this Council, as this is an issue regarding government procurement, and one that was already discussed at the Committee on Government Procurement in June. We have indicated multiple times in this Council that we are willing to discuss this issue with Japan under the framework of China's accession negotiation to the GPA. We do not believe this Council is an appropriate place to discuss this issue.

31.10. We would like to reiterate again that supporting domestic products through government procurement is a common international practice. We take note that the public procurement in some GPA parties also covers the procurement of public utility State-owned enterprises. With regard to adding "other procurement entities" into the scope of government procurement, the main purpose is to facilitate the future implementation of international rules after China's accession to the GPA. Japan's concern will be addressed when China joins the GPA, as China will consider the products of GPA parties as domestic products after joining the GPA.

31.11. China is making great efforts in accelerating the process of its accession to the GPA. We hope that GPA parties, including Japan, could actively engage with China and provide realistic and pragmatic requests with a view to reaching agreements with China at an early date. Finally, China's government procurement law revision is still in process. We welcome constructive comments from all Members.

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

31.13. The Council so agreed.

32 CHINA — NEW EXPORT CONTROL LAW IN DRAFT – REQUEST FROM THE EUROPEAN UNION AND JAPAN

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

32.2. The delegate of Japan indicated the following:

32.3. Japan continues to have concerns over China's Export Control Law, which entered into force in December 2020. The details of export-controlled items and the details of regulations and operations are still unclear. In relation to that, 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 disclosure requirements of techniques, and we will continue to request explanations of the details of the regulations related to the law.

32.4. In this regard, China stated in the last CTG that "we are currently conducting a comprehensive review based on the said comments and will continue to work with Japan and interested countries." We would like to know the schedule for future enactment and specific details based on the comments.

32.5. As we have stated in past CTG meetings, taking into consideration the objective of the law to safeguard national interests, we would like to reiterate our concerns on the following points in particular. First, we are concerned there might be a possibility that the scope of products subject to export control is excessive. Second, we are concerned there might be cases that require unnecessary disclosure of its technical information during classification and end-user or usage investigations. Third, we are also concerned that the provisions on countermeasures against export regulations by other countries have been maintained in the law. We are concerned that the aforementioned export

restrictions stipulated in this law may constitute an overly stringent export regulation or be unnecessary. They may therefore fall under the export restrictions prohibited in Article XI of the GATT and consequently be inconsistent with the WTO Agreement.

32.6. In addition, we continue to have concerns about the Unreliable Entities List (UEL) measure and the Export Prohibited and Restricted Technology List under the Foreign Trade Act, including the unclear relationship between the UEL and the Export Administration Act Entity List and Item and Technology Lists. In particular, the "Unreliable Entity List" is not clear. In particular, there are concerns about whether fairness and transparency in application can be ensured with respect to the identification of foreign entities to be included in the "List of Unreliable Entities" and the content of measures to be taken against foreign entities, as well as the possibility of non-conformity with Article X of the GATT, etc, because the predictability of its operation is extremely low. In addition, since the predictability of the operation of the measures is extremely low, the possibility that the measures will be inconsistent with Article X of the GATT, etc, is noted.

32.7. In relation to this, we would like to reiterate that we have concerns with regard to the fact that the draft regulations on rare earths published in January 2021 mentioned a plan to set out strategic reserves. We believe that this plan could mean there is a possibility that China might introduce controls on exports of rare earth-related products in accordance with the aforementioned Export Control law.

32.8. We would like to ask about the status of consideration within the Chinese government regarding the proposed revisions to the "Inventory of Export Prohibited and Export Controlled Technologies in China" enacted in accordance with the Foreign Trade Law and the Regulations on the Management of Export and Import of Technology, which were published in December 2022. In addition, we would like to express our concern about the fact that the proposed revisions include items such as silicon manufacturing technology for solar panels, which are subject to restrictions, and that exports with little risk of military diversion are excessively restricted.

32.9. Finally, on 3 July, China's Ministry of Commerce announced the introduction of a measure to restrict exports of gallium and germanium-related items by means of a permit system, for reasons of national security and protection of interests. Japan is concerned about the intention of this measure. We therefore request detailed information from China, in particular on what China claims to mean by "national security and protection of interests", and the detailed procedure of operation of the measure.

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

32.11. At the April CTG meeting, the European Union took note that China is conducting a comprehensive review of public comments to the "Draft Regulation on the Export Control of Dual-Use Items", published in May 2022. The European Union would like to ask China when the review will be completed and when the Regulation will be published. The European Union reiterates the concerns it previously expressed in previous meetings of this Council over China's export control regime, notably as regards its extra-territorial application, its rules on deemed exports and re-exports, its objectives and scope of controls, and its risk assessment with regard to destination countries or regions and control lists.

32.12. The European Union would also like to once again convey its concerns with regard to China's plan for revision of the catalogue of technologies restricted or prohibited for export, as stated in the comments previously submitted by the EU Delegation in China to MOFCOM. The European Union urges China to address these concerns in upcoming implementing measures. On 3 July, China's Ministry of Commerce announced that exports from China of items containing gallium and germanium will require a dual-use export licence as of 1 August 2023, on the alleged basis of "national security and interests". The scope of the announced export restrictions is very broad: China has not defined any technical parameters for these items that would relate to their use in military applications. Instead, China seems to restrict all exports of products containing gallium and germanium regardless of any specific dual-use concerns. The European Union is particularly concerned about the timing of these new measures and that these export restrictions are unrelated to the need to protect international peace and stability or the implementation of China's non-proliferation obligations arising from international treaties.

32.13. The European Union invites China to provide information on the scope, including on the technical parameters for these controls, and the security-related rationale of the measures.

32.14. The delegate of Canada indicated the following:

32.15. Canada would like to reiterate its concerns expressed at the three CTG meetings in 2022 on this agenda item, including in respect of the notable differences between China's Export Control Law (ECL) and standard international practice related to export controls. Canada also thanks the European Union and Japan for bringing to the attention of the Council the 3 July 2023 announcement by the Chinese Ministry of Commerce and the General Administration of Customs on the Export Control of Gallium and Germanium-Related Items on the grounds of protecting national security and interests. Canada would appreciate clarification from China on the specific national security and interests these provisions are meant to address. Canada will closely monitor the implementation of these new measures, in particular their consistency with WTO commitments.

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

32.17. The Republic of Korea thanks the European Union and Japan for placing this item on the agenda. Korea shares concerns expressed by other Members regarding China's Export Control Law. Korea is closely monitoring the potential ramifications of China's recent announcement of export restrictions on gallium and germanium, key materials for manufacturing semiconductors, with regard to global supply chains and the multilateral trading system. Korea expresses its desire for this measure to be implemented in a fair and transparent manner in accordance with WTO principles, ensuring that it does not undermine bilateral and multilateral trade relationships.

32.18. The delegate of Australia indicated the following:

32.19. We note the statements by Japan and the European Union in relation to China's Export Control Law. As we set out in Australia's submissions to China's consultations on these then proposed laws and regulations, we welcomed efforts to codify the regulatory framework for defence export controls. However, Australia still has concerns about the broad scope of the export control law, including China's recent announcement on the implementation of export controls on gallium and germanium-related items on the basis of "national security". Australia is closely monitoring this latest measure in regard to its WTO-consistency and its impact on global supply chains.

32.20. We encourage China to continue to provide greater clarity in relation to key elements of the law, including jurisdiction, the scope of administrator powers, how these measures safeguard China's national security, and confirmation that the law is consistent with China's international commitments, including WTO rules and the China-Australia Free Trade Agreement (ChAFTA). We continue to urge China to take account of the concerns of foreign businesses and Members in the implementation of this law and development of any associated measures.

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

32.22. The United Kingdom thanks Japan and the European Union for tabling this item on the agenda today and would again reiterate the concerns regarding China's Export Control Law measure. We continue to seek any further clarification possible on what China would define as its "national interest" for the purposes of this law; how this law would relate to any export restrictions arising from it; as well as further information on how China would decide which "other goods, technologies, services" would come within the scope of this law and what the limitations are.

32.23. Export restrictions on goods inevitably disrupt global supply chains. The UK joins the calls for further transparency from China around their Export Control Law's implementation. We would welcome China setting out timelines for their response to comments on the Draft Regulation on the Export Control of Dual-Use Items and any further guidance they intend to publish that will affect the use of the Export Control Law.

32.24. Further, noting the recent reports of China's intention to place export controls on germanium and gallium, we ask China for further clarification on the nature of these policies, the rationale and extent to which China intends to apply them.

32.25. The delegate of Switzerland indicated the following:

32.26. Switzerland would also like to refer to the recent announcement made by the Chinese authorities with regard to the export control of gallium and germanium for reasons of national security. This measure is likely to have a strong impact on the global supply chains and the multilateral trading system. Switzerland will therefore analyse the measure and its implementation and welcomes further clarifications, especially with regards to its WTO-compatibility.

32.27. The delegate of China indicated the following:

32.28. We refer to the statements made at previous meetings in this Council and would like to update the Members concerned that the Daft Regulation on the Export Control of Dual-Use Items has been included in the Legislative Work Plan of the State Council for 2023.

32.29. With regard to China's latest export control on gallium and germanium, we stress that China is always committed to keeping the global industrial and supply chains secure and stable. China's export control measures have always adhered to the principles of fairness, reasonableness, and non-discrimination. Industrial products and materials containing gallium and germanium can apparently be used for both military and civilian purposes. China's export control on the relevant items is a common international practice. Some Members have also imposed export controls on the relevant products and materials.

32.30. China's export controls on the relevant items do not target any specific Member. It is not a ban on relevant exports. Permits will be granted if exports comply with China's relevant laws and regulations.

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

32.32. The Council so agreed.

33 EUROPEAN UNION – RENEGOTIATION OF TARIFF RATE QUOTA COMMITMENTS IN RESPONSE TO BREXIT: SYSTEMIC CONCERNS – REQUEST FROM URUGUAY

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

33.2. The delegate of Uruguay indicated the following:

33.3. Uruguay wishes to reiterate its position and trade and systemic concerns on the issue of unilateral modifications of concessions in the form of tariff rate quotas by the European Union under Article XXVIII of the GATT 1994 after Brexit, in particular with respect to the lack of necessity and legal basis under the WTO Agreements to proceed in this regard.

33.4. Uruguay reiterates its disagreement given that so far, notwithstanding the numerous instances of bilateral discussions, the European Union has not been open to consider even the most modest and reasonable requests from my country, despite the damage studies opportunely submitted, and the special relevance and sensitivity for Uruguay of the conditions and concessions of access to the markets under discussion, which require a commensurate consideration.

33.5. Uruguay takes advantage of the presentation of communication G/L/1385/Add.4, whereby the European Union extends the deadline for concluding the relevant negotiations and consultations until 1 January 2024, to reaffirm once again its openness and willingness to seek a mutually agreed solution. In this regard, my delegation reiterates its call on the EU to recognize the specific conditions and needs of Uruguay and to demonstrate the political will required to reach an agreement.

33.6. Finally, without prejudice to the commitments bilaterally agreed between the European Union and the United Kingdom, Uruguay once again requests the EU to unequivocally omit the UK from the potential users of its tariff rate quotas in its Schedule of Concessions in the WTO. At the same time, Uruguay continues to expect that the EU will proceed to adjust downward the authorized levels of Final Bound AMS in its Schedule of Concessions, in line with the announcements made at the time.

33.7. The delegate of Paraguay, addressing Agenda Items 33 and 34, indicated the following:

33.8. Paraguay would like to thank the delegation of Uruguay for including this item on the agenda. In the interest of time, I will refer to Agenda Items 33 and 34 in this same intervention.

33.9. I would like to highlight the following points of interest to my delegation. In the case of the European Union, we wish to know when we will see an equivalent reduction in its list of AMS commitments that has been reflected in the United Kingdom's list of commitments as a result of its exit from the EU. In the case of the UK, we reiterate our systemic concerns about the approach taken with respect to a number of entitlements that belonged to the EU. This includes the allocation of an AMS without a corresponding reduction in the EU's Schedule of commitments, quota partitioning, and the allocation of SSG duties without minimum access commitments to justify them.

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

33.11. The European Union is negotiating with its WTO partners in full respect of the provisions laid down in Article XXVIII of the GATT 1994 as regards the modification of the Schedule. The European Union has been open to discuss with its WTO partners the proposed TRQ apportionment. Whenever the WTO partners have presented valid data and arguments justifying a modification of the proposed TRQ volumes, the EU has been open to meet such requests.

33.12. WTO partners have also asked the European Union to exclude the United Kingdom from access to its WTO *erga omnes* TRQs (and vice versa). The EU has fully met this request. This provision is laid down in Article 33 of the EU-UK Trade and Cooperation Agreement.

33.13. The efforts of the European Union to seek mutually agreed solutions with its WTO partners have given very good results. The EU is pleased to report excellent progress achieved so far with the majority of our partners. Agreements have been formally signed with 10 partners, initialled with another three partners, and negotiations and consultations are close to reaching an agreement with other partners.

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

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

33.16. The Council so agreed.

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

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

34.2. The delegate of Uruguay indicated the following:

34.3. First, Uruguay wishes to reiterate once again its position and concerns with respect to the United Kingdom's claim to have a significant Total Consolidated AMS of GBP 4,949.3 million, the proposed currency conversion in that Member's draft Schedule of Concessions and its implications for the proposed levels of domestic support and market access commitments, and the UK's intention to replicate the rights to invoke the special agricultural safeguard in Article 5 of the Agreement on Agriculture for all products and under the same criteria and conditions as those set out in the European Union's Schedule.

34.4. Secondly, with respect to the ongoing Article XXVIII process, my delegation takes advantage of the submission of communication G/L/1386/Add.4, by which the United Kingdom extends the deadline for concluding the relevant negotiations until 1 January 2024, to reaffirm Uruguay's openness and willingness to continue working with the United Kingdom with a view to reaching a mutually advantageous agreement, which would allow that Member to have an independent

Schedule of Concessions formally established in the WTO, while safeguarding the legitimate rights and interests of our country.

34.5. The delegate of Paraguay indicated the following:

34.6. Paraguay would like to thank the delegation of Uruguay for including this item on the agenda. In the interest of time, I will refer to Agenda Items 33 and 34 in this same intervention.

34.7. I would like to highlight the following points of interest to my delegation. In the case of the European Union, we wish to know when we will see an equivalent reduction in its list of AMS commitments that has been reflected in the United Kingdom's list of commitments as a result of its exit from the EU. In the case of the UK, we reiterate our systemic concerns about the approach taken with respect to a number of entitlements that belonged to the EU. This includes the allocation of an AMS without a corresponding reduction in the EU's Schedule of commitments, quota partitioning, and the allocation of SSG duties without minimum access commitments to justify them.

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

34.9. The United Kingdom would like to thank Uruguay and Paraguay for their continued interest in this process and indeed to thank those Members who have concluded discussions with the UK in recent months. As set out under Agenda Item 3, the new deadline ensures that those Members who have agreed to conclude these talks have sufficient time to progress through their internal procedures. The UK has now been operating on the basis of its own Goods Schedule since January 2021, and since that time we have worked with partners to protect existing rights, obligations, and the continuity of trade. We are pleased with the overarching successes this approach and our discussions have achieved.

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

34.11. The Council so agreed.

35 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

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

35.2. The delegate of New Zealand indicated the following:

35.3. New Zealand refers the European Union to its previous statements on this matter. New Zealand has considered the EU's response on this matter. However, New Zealand continues to raise this item in the CTG because we still see a conflict in the European Commission's approach to protecting the cheese names "Danbo" and "Havarti", for which there are existing CODEX standards. We remain concerned that the EU's approach undermines the integrity of the standards-setting system that promotes reliability and consistency in international trade rules, which we would expect the EU to support.

35.4. The delegate of Uruguay indicated the following:

35.5. Uruguay regrets having to include this item on the agenda again, and wishes to refer to its previous interventions, while reaffirming its commercial and systemic concern regarding the European Union's decision to register the term Danbo as a protected geographical indication in favour of Denmark, despite the objections raised by several Members, such as Argentina, Australia, the United States, Kenya, New Zealand, and Uruguay, as well as producer organizations, in recent years.

35.6. In systemic terms, Uruguay is concerned that recognized international standards are being disregarded, calling into question the integrity and value of the international harmonization efforts undertaken in the Codex Alimentarius. It seems counterintuitive that the international community should have made the effort to agree multilaterally 57 years ago, and renew on several occasions since then, a Codex standard aimed at ensuring the quality and uniformity of Danbo cheese, only to

have a Member of that international community, which participated in the preparation and renewal of that standard, decide unilaterally to arrogate to itself the exclusive right to use the corresponding term.

35.7. As Uruguay has been pointing out for a long time, Codex Stan 264 establishes the characteristics, method of production, and labelling of the type of cheese known as Danbo, stating that this name may be applied to cheese made in accordance with this standard, and that the country of origin of the product must be declared, clarifying that it is the country where the cheese was made, and not the country of origin of the name. The general interpretation of this Codex standard is that Members recognize Danbo as a generic term used to refer to a product that can be produced in various locations, as long as it complies with the requirements of the standard.

35.8. In terms of trade, Uruguay is concerned about the creation of unnecessary barriers to the marketing of this type of cheese in the EU market, and their extension to third markets through trade agreements. This situation generates uncertainty about the legitimate expectations of small-scale producers to place their products in third markets, ignoring the fact that these same producers, or their predecessors, gained access to the know-how related to cheese production through cooperation programmes offered by Denmark more than 50 years ago.

35.9. Uruguay considers that the registration of the term Danbo as a protected geographical indication not only contradicts this historical policy of cooperation in cultural matters, but also constitutes a negative precedent of the *de facto* establishment of a monopolistic use of a term defined in a Codex standard.

35.10. By virtue of the foregoing, and despite the time that has elapsed, and the facts that were consummated by turning a deaf ear to the legitimate commercial and systemic concern raised by Uruguay and other Members, my delegation continues to keep this item on the Council's agenda.

35.11. The delegate of Argentina indicated the following:

35.12. Argentina wishes to register its support for this trade concern and thanks Uruguay and New Zealand for including it on the agenda. Argentina also wishes to reiterate that the Codex standard for Danbo cheese is the international reference standard for the identity and quality of this product in the context of the TBT Agreement. As this is the international reference standard for the identity and quality of "Danbo" cheese, no country basing its technical regulations on this standard should encounter trade restrictions due to misappropriation of the term. For Argentina, it is not comprehensible that efforts should be made to agree at the multilateral level on a Codex standard for "Danbo" cheese if the use of the term is then to be the exclusive privilege of Danish producers. In essence, registering the term "Danbo" as a geographical indication constitutes an undue restriction on international trade in Danbo cheese. In any case, as Argentina has stated on previous occasions, its concerns are not purely commercial, but also encompass systemic aspects, in particular the impact on international harmonization efforts.

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

35.14. 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. The EU would like to underline that its previous statements remain relevant, and we therefore refer to these.[11]

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

35.16. The Council so agreed.

36 INDONESIA – COMMODITY BALANCE MECHANISM – REQUEST FROM THE EUROPEAN UNION AND JAPAN

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

[11] Document G/C/M/145, paragraphs 11.9-11.12.

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

36.3. Government Regulation 5/2021, and Ministry of Trade Regulations 19/2021 and 20/2021, established a commodity balance system, which continues to raise concerns, including because its scope of application keeps expanding. At the last CTG meeting, the Indonesian delegation commented that the commodity balance is aimed at improving the business environment and providing certainty for economic operators.

36.4. We welcome efforts to ensure a coordinated and streamlined approach on the management of import and export licences. However, the European Union regrets that the design and implementation of the mechanism so far may lead to further restrictions to trade flows – in turn raising questions as to the WTO compatibility of the scheme. Furthermore, we lack clarity as to the actual implementation of the commodity balance, including on its scope and timelines for the application to different groups of products. This creates additional challenges for economic operators in terms of legal certainty and predictability.

36.5. The European Union again asks Indonesia to clarify the measures that it intends to take for the implementation of the "commodity balance" system as the basis for issuing import (and export) approvals. We also encourage Indonesia to clarify how it will ensure that this mechanism will be compliant with Indonesia's WTO obligations, and how it delivers on the stated objective of facilitating free trade flows – rather than creating a more restrictive business environment.

36.6. Finally, the European Union reiterates that imports remain necessary as a part of Indonesia's ambition to develop its domestic industry, and that raising barriers to trade would hamper its economic growth, which cannot be achieved through export promotion alone.

36.7. The delegate of Japan indicated the following:

36.8. Under the "Commodity Balance System," an SPI (Import Permit) is required to be obtained for the import of subject products, and the issuance of export and import permits to businesses is to be conducted through the "National Commodity Balance System (SNAS-NK)" based on the government-determined commodity supply and demand balance, thus it put the existing import application and permit system out of operation in December 2022. However, in January 2023, there were delays and glitches in the operation of SNAS-NK, which is compliant with the system, resulting in major disruptions, such as import permits being delayed in the case of steel products.

36.9. In the case of iron and steel products, the system has been severely impacted, with import applications themselves being blocked for a period of time, inventories have been exhausted, and local related industries are facing a situation in which production stoppages are a real possibility. In addition, the number and timing of approvals after applications, including for air conditioners and textiles, has been making it impossible to ensure trade stability and predictability, and obstacles to imports persist, such as approvals for only a small portion of the applied volume.

36.10. We understand that "textile products" are included in the scope of this system, but question whether carpets and rugs have been covered by this system in duplicate. If so, we would like to know what requirements are in place, and we would be grateful to obtain further details on the timetable and arrangements for the application of the commodity balancing system to textile products.

36.11. Indonesia explained in the previous CTG that the system "is not intended to impede imports by WTO Members, but to improve the business environment for free trade". However, as seen in the actual operation of the system as described before, the commodity balancing system is highly likely to violate Article XI:1 of the GATT and others, as a measure that has a trade-restrictive effect on imports. In addition, the specific formula for calculating the commodity balance and the specific method for determining the volume of imports allowed are not specified in the law, which is inconsistent with the obligation to publish trade rules under Article X of the GATT, and in light of the significant obstacles to import licensing that have arisen in actual operation, we are concerned that the Import Licensing Agreement may also be violated. We are concerned about this and request that the situation be remedied as soon as possible.

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

36.13. The Republic of Korea shares concerns expressed by other Members regarding Indonesia's Commodity Balance Mechanism. It has been reported that many businesses are encountering issues such as undue delays in the issuance of the recommendations and limited quantity of import quotas, stemming from the implementation of the Commodity Balance Mechanism. In particular, Korea believes that Indonesia's measures, based on its own projections of domestic supply and demand, serve as import restrictions and significantly contribute to trade distortions. This appears to be inconsistent with Article XI:1 of the GATT 1994. Accordingly, the Republic of Korea requests that Indonesia improve the functioning of the mechanism so that the system may not operate as a means to restrict import quantity virtually. Korea stands ready to deepen our engagement with Indonesia to fully resolve this matter.

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

36.15. The United States joins the European Union and Japan in again raising concerns regarding Indonesia's commodity balance policy. Since the policy was implemented, importers have reported experiencing significant delays in obtaining import licences for certain agricultural products, as well as reductions in the volumes received.

36.16. Please explain how the Government of Indonesia is addressing these administrative delays.

36.17. Please explain whether importers are entitled to receive a licence covering whatever volume they request and why there are reports that this is not happening.

36.18. The commodity balance policy appears to be stipulated for certain commodities in different stages. For example, in 2021, the first stage stipulated that commodity balances would exist for rice, sugar, beef, salt, and fisheries, but it has since been expanded to include non-agricultural products. Please explain how the Government of Indonesia determines to which products the policy will apply.

36.19. Finally, while Indonesia has previously explained that this policy was designed to build better trade governance and transparency, we strongly urge Indonesia not to expand its policy to other products, and to rethink this counter-productive and trade-disruptive goal of import substitution.

36.20. The delegate of Switzerland indicated the following:

36.21. As indicated in previous meetings of the Council, Switzerland shares the concerns raised by the European Union, Japan, and other Members, regarding Indonesia's commodity balance mechanism, in particular the rationale for this measure and the implementation details of the commodity balance system. We further remain interested in receiving more information on how Indonesia intends to ensure the consistency of these measures with its WTO obligations.

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

36.23. The United Kingdom shares the concerns raised by Japan and the European Union. Although we support Indonesia's effort to be more transparent, it appears that Indonesian regulations related to commodity balance could be trade restrictive. UK businesses already experience procedural delays in entering the Indonesian market, particularly in agricultural and food and drink sectors. The UK also continues to request that Indonesia reconsider its import substitution programme and reduce local content requirements across all sectors. The UK would welcome further information from Indonesia on any future developments regarding this policy and looks forward to future engagement on this subject.

36.24. The delegate of Indonesia indicated the following:

36.25. The goal of commodity balances is to serve as a vehicle for providing complete, accurate, and trustworthy information through an integrated national database system. Indonesia wishes to restate its position as set out in the CTG's previous meeting. Additionally, a better business climate, corporate certainty, and the free flow of goods are goals of the commodities balance.

36.26. Commodity balance will not be an additional burden for Indonesia's import regime, but it will accelerate Indonesia's import licensing procedures. This is primarily due to the emphasis on the principles of simplification and transparency in the Commodity Accounts. The Commodity Balance will provide complete, detailed, transparent and accurate data, which will be implemented by the relevant Ministries and institutions.

36.27. Indonesia continues to believe that the commodity balance will streamline import approval procedures, increase the ease of doing business, and facilitate transparent trade and forecasting for business development.

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

36.29. The Council so agreed.

37 US-JAPAN-NETHERLANDS – AGREEMENT ON EXPORT CONTROLS ON SEMICONDUCTOR MANUFACTURING EQUIPMENT – REQUEST FROM CHINA

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

37.2. The delegate of China indicated the following:

37.3. In February this year, several media reports indicated that the United States, Japan, and the Netherlands had reached an agreement on restricting exports of advanced semiconductor manufacturing equipment to China. A relevant enterprise also mentioned the agreement in its press release.

37.4. In April's CTG meeting, the United States said, in its statement under this item, that "[T]he United States takes issue with the agenda item description as put forward by China".[12] The European Union also said that "[T]he European Union takes issue with the description of the agenda point by China, as a factual matter".[13] However, after April's CTG meeting, there were some new developments which lead us to further believe that it is highly likely that there is an agreement among the three Members on this matter.

37.5. We note with concern that, following the US export control measures on semiconductor products against China, issued on 7 October 2022, Japan and the Netherlands also introduced new export control measures on semiconductor manufacturing equipment, respectively on 23 May and on 30 June 2023. Our question is, if no such agreement exists among the three Members, could the three Members explain why, within such a short period of time, the three Members all revised relevant laws and regulations in a synchronized manner to introduce new export control measures on the same sector, which is the semiconductor industry.

37.6. It appears to us that the agreement was made under the US' coercion. The US' coercive practice is not new to this Council. As early as 1995, which was the first year of the operation of this Council, one Member called the US' practice *de facto* coercion, when the United States requested this Member to open up its domestic automobiles market. In recent years, we have seen more US coercive practice, ranging from steel, aluminium products to semiconductors. The United States has continuously abused export control measures and coerced other Members to suppress and contain China's semiconductor development to serve its own interests at the expense of others. The export control has become a tool for the US to achieve its ideological and geopolitical goals.

37.7. With regard to Japan's export controls on 23 types of chip-making equipment, we take note with concern that the scope of products subject to new export controls is clearly excessive, as it covers the products that have long been removed from the Wassenaar Arrangement. Despite Japan's claim that the objective of the measures is to prevent technology from being diverted for military use, and to safeguard international peace and security, and that it does not target any specific country or region, many products and related technology among the 23 types of chip-making equipment are civilian devices and technology. In addition, the classification of export licensing and

[12] Document G/C/M/145, paragraph 23.6.
[13] Document G/C/M/145, paragraph 23.10.

groupings of country or region under this export control reflect that the measures adopted by Japan are discriminatory and are targeted against China.

37.8. With regard to the new export controls on semiconductor equipment issued by the Dutch government, we take note with concern that certain semiconductor equipment will be subject to the new export controls, although these products are not covered by the EU dual-use export control list. The measures taken by the Dutch government go beyond the scope of the control list of items of the Wassenaar Arrangement and expand the application of the EU Dual-Use Regulations.

37.9. We believe that the latest export control measures taken by the United States, Japan, and the Netherlands clearly deviate from the export control objective and practice widely shared by the international community, and are contrary to the purpose of the peaceful use of science and technology.

37.10. Finally, the agreement among the three Members is not in line with the WTO principles of openness and transparency. It also undermines the authority and effectiveness of WTO rules. We request the three Members to notify the agreement and its follow-up measures to the WTO, and call on the WTO to strengthen its monitoring of these measures.

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

37.12. The United States reiterates that it takes issue with the way the issue has been described by China. Also, the United States believes that the Council for Trade in Goods is not the appropriate forum to discuss national security issues, including export controls.

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

37.14. The European Union recalls the statement we made in the previous meeting of the CTG. The EU continues to take issue with the description of the agenda point by China, as a factual matter. Moreover, the type of measures regulated by the GATT are those adopted by individual Members. The EU's statement therefore relates to the latter only.

37.15. The matter raised by China concerns national export control measures by the Netherlands relating to advanced semiconductor manufacturing equipment adopted by Regulation of the Minister for Foreign Trade and Development Cooperation of 23 June 2023, no. MinBuza.2023.15246-27 which was published on 30 June 2023.[14]

37.16. This measure falls under the dual use and export control framework of the European Union. This framework allows EU member States to impose additional national export controls based on essential security interests. The measure was adopted, in the same way as all existing restrictions of this type, in full conformity with the applicable WTO rules. Most notably, the exceptions of the GATT permit Members to take action which they consider necessary for the protection of their essential security interests relating to traffic in goods carried on directly or indirectly for supplying military forces.

37.17. The delegate of Japan indicated the following:

37.18. On chip export restrictions, Japan has long been conducting strict export controls based on the Foreign Exchange and Foreign Trade Act, which Japan considers necessary from the perspective of maintaining international peace and security and in a manner that is consistent with the WTO Agreement. We will continue to take action in accordance with the aforementioned policy.

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

37.20. The Council so agreed.

[14] https://zoek.officielebekendmakingen.nl/stcrt-2023-18212.html

38 UNITED STATES – DISRUPTIVE AND RESTRICTIVE MEASURES IN THE NAME OF NATIONAL SECURITY – REQUEST FROM CHINA

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

38.2. The delegate of China indicated the following:

38.3. We refer to the statement made in previous meeting in this Council. As the Council is aware, since 2018, the United States has taken a large number of trade restrictive measures in the name of national security against China and other Members. These measures can be placed into eight categories: (i) tariff measures, such as Section 232 tariff measures against imported steel and aluminium products; (ii) rule of origin measures, such as discriminatory application of origin marking; (iii) direct export restrictions, including extensive export controls on commercial products exported to China; (iv) extra-territorial application of export restrictions, which restrict third-countries from exporting products to China even if the products do not contain any "US content"; (v) procurement prohibition – for example, the US prohibits federal government agencies from procuring or using telecommunications products and services from certain Chinese companies; (vi) discriminatory subsidies policies – such as restricting semiconductor companies receiving US government subsidies from expanding their relevant investment in China; (vii) market authorization prohibitions, which prohibit some Chinese telecommunication equipment from obtaining certificates necessary for market access; (viii) ICTS transaction reviews – such as the US review of commercial transactions for a very broad range of ICT products and services.

38.4. We believe that the large and growing number of measures taken by the United States in the name of national security reflects how the US is abusing "national security". The US believes that the application of the "security exemption" provisions is solely "self-judging" and is not subject to review by WTO dispute settlement panels. However, as indicated by several dispute settlement panels, neither the negotiating history of the GATT, the text of the GATT, nor the interpretation of the relevant provisions by many other Members agree with the US claim.

38.5. The US export controls exceeds international practice, and its extraterritorial use clearly reflects the extreme of this unilateral approach. We have witnessed how the United States raised tariffs based on groundless, so-called "national security", and then selectively lowered tariffs only for certain Members. This practice shows the discriminatory and arbitrary nature of the US in implementing its trade policy.

38.6. Procurement prohibition and ICTS transaction reviews on Chinese telecommunication equipment covers all sales and imports, including those commercial ones. We note with surprise that the United States even considers China-made EV battery components a potential threat to US national security, therefore requiring discriminatory treatment in its subsidies policy.

38.7. The United States believes that the WTO is "on thin ice" in challenging national security-based trade decisions. In fact, it is the US abuse of national security that really puts the WTO on thin ice. By abusing "national security", the US has broken one window after another of the mansion of the multilateral trading regime, and would give rise to the "broken window theory", where exemptions become the rule and put the rules-based multilateral trading regime in danger.

38.8. Finally, China believes that it is necessary to enhance review and monitoring of the practice of abusing security exemptions under the WTO framework.

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

38.10. As we have stated previously, we do not believe that the Council for Trade in Goods is the appropriate forum to discuss issues related to national security.

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

38.12. The Council so agreed.

39 EUROPEAN UNION – DEFORESTATION FREE COMMODITIES – REQUEST FROM BRAZIL, INDONESIA, AND THE RUSSIAN FEDERATION

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

39.2. The delegate of Indonesia indicated the following:

39.3. Indonesia again conveys its concern regarding the European Union's DFC regulation. Indonesia has noted that the DFC regulation will prohibit the import and sale of seven commodities, namely cattle products, cocoa, coffee, rubber, soybeans, wood, palm oil, and their derivative products, which have the potential to have an impact and originate from deforestation and forest and land degradation. In addition, the intended DFC regulation will also impose mandatory due diligence on the seven products. Importers are required to carry out due diligence to show that their products are legal and free from deforestation and forest degradation.

39.4. In essence, this DFC law imposes stringent traceability standards, links the commodity in question with the agricultural land where the commodity was produced, and will be challenging for SMEs, particularly small farmers, and have a significant impact. Although MSMEs and large industries have been given a grace period to implement the European Union Deforestation-Free Regulation (EUDR), Indonesia understands that this will still make it challenging for Indonesian farmers, who make up the majority and are smallholders, to comply with the rules and be free from deforestation and forest degradation and the required due diligence.

39.5. Indonesia thus hopes that the European Union will adopt EUDR indicators that are more sensible and well-liked by developing nations like Indonesia, as well as LDCs. In this instance, Indonesia also wants to let the European Union know that it has made significant progress (far more progress) in terms of sustainability, both through laws and corporate practices that support sustainable agriculture and industry. This is true for both for the government and for business players in Indonesia. There are several government initiatives in Indonesia that have backed sustainability, such as: Several Indonesian Government policies that have supported sustainability, including: (i) Sustainable Jurisdiction Indicators compiled by the Ministry of National Development Planning/Bappenas (The Ministry of National Development Planning/National Development Agency) which can accommodate sustainability principles; (ii) Minister of Agriculture No. 98/2013 concerning Guidelines for Plantation Business Licensing; (iii) Minister of Agriculture No. 38/2020 concerning the Implementation of Indonesian Sustainable Palm Oil Plantation Certification Articles 28 and 29, which regulate traceability; and (iv) activities to strengthen the governance of smallholder oil palm plantations and the formation of a Task Force (Satgas) to Improve Governance of the Palm Oil Industry, which aims to improve governance of the palm oil industry with a focus on smallholders, carried out by the Ministry of Agriculture. In addition, Indonesia wishes to ask the European Union for clarification of the existence of a high/standard/low-risk assessment of WTO Members based on an assessment completed by the European Union under Article 29 of the EUDR regarding assessment of countries. Information provided by non-governmental organizations (NGOs), as well as other stakeholders, including indigenous peoples and civil society organizations, as well as WTO Members and corporate actors (operators), will also be used in the intended assessment. Indonesia wishes to seek clarification in this instance regarding the standards for third parties permitted to submit the assessment as well as the format of the assessment methodology to be applied, given the vast array of assessment sources the European Union is permitted to employ.

39.6. Indonesia believes that the intended DFC regulation has the potential to provide different treatment between European Union domestic products and imported products, creates unnecessary barriers to international trade, and threatens the livelihoods of small farmers, such that it can disrupt product market access and agriculture in developing countries and LDCs that are not compliant with Article 4.2 of the WTO AoA concerning agricultural market access.

39.7. Indonesia also believes that the EUDR's Article 1 definition of the "7 (seven) products and their derivatives" is not supported by sufficient scientific evidence and that the majority of the goods it covers are imports that are not made domestically by the European Union. The MFN and national treatment principles, as well as the less favourable treatment outlined in Article 2.1 of the TBT Agreement, may be violated, as well as other WTO norms and principles.

39.8. In relation to this issue, Indonesia emphasizes that the European Union needs to consider the CBDR-RC principles in the process of formulating and implementing trade policies related to the environment and climate change, including DFC regulations, as contained in discussions at the UNFCCC and the Paris Agreement. In addition, Indonesia also plans to remind the European Union that any trade policy relating to the environment and climate change must be supported by objective research and scientific data in order to avoid devolving into covert protectionism and to be consistent with the objectives of achieving sustainable development by taking into account social and economic factors.

39.9. The delegate of Brazil indicated the following:

39.10. Brazil refers to its previous statements on this topic and reiterates its concerns regarding the European Regulation on Deforestation and Forest Degradation-Free Supply Chains. We believe that the European regulation establishes an illegitimate obstacle to international trade, is strongly discriminatory in nature, and will have little impact on its alleged goal of reducing deforestation and forest degradation.

39.11. The Brazilian Government considers curbing deforestation a first order priority. In our Nationally Determined Contribution to the UNFCCC Paris Agreement, Brazil pledged to strive to end illegal deforestation in the Amazon by 2028. Last month, the Brazilian Government has launched a new phase of our Action Plan for Prevention and Control of Deforestation in the Amazon that steps up even further the ambition of our efforts through a vast array of different measures, with the goal of achieving net zero deforestation by 2030.

39.12. Our experience shows that deforestation is a multivariable problem that should be tackled through comprehensive public policies in the short, medium and long term. Law enforcement against illegal deforestation is absolutely crucial, and – in the first five months of 2023 alone – the Brazilian Government has applied more than USD 400 million dollars in fines and severely increased seizure of goods related to environmental violation and embargoes. But, on the other hand, alternative means of livelihood must be made available to the millions of people that live near forests.

39.13. Sustainable development only materializes through the improvement of its three core dimensions: economic, social, and environmental. International trade has a proven beneficial effect by providing opportunities for medium and small 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 a necessary step to enable those stakeholders to improve their environmental practices. These effects have been repeatedly acknowledged and demonstrated by several UN agencies, the WTO, and the European Union itself.

39.14. Nevertheless, the European proposal focuses solely on restricting trade. It envisages a ban on the trade of several commodities based on a concept of "deforestation-free products" which 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.

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

39.16. The European regulation also sets up a country-based benchmarking system with a tiered classification that would impose different treatments to Members according to criteria unilaterally set by the European Union. By mandating "enhanced scrutiny" over products originating from high-risk areas, it could stigmatize entire countries and penalize even producers within those areas effectively adopting sustainable practices. More than that, it could promote trade diversion, as operators interested in avoiding heavy compliance burdens would have an incentive to reduce exchanges with countries deemed as "high risk".

39.17. Finally, the criteria used to evaluate the risk of non-compliance with the regulation are not sufficiently clear and objective. They may be applied in a discretionary manner by the Commission.

In addition, those criteria are not internationally agreed and there is no harmonized methodology to assess and evaluate them.

39.18. Throughout the years, we have consistently voiced our concerns to the European Union without having them addressed and without being able to debate this measure on a meaningful basis. We look forward to cooperating with the European Union on shaping an effective and inclusive response to deforestation. In Brazil's view, that can only be accomplished by a cooperative framework that engages producers with positive incentives for change towards better and more sustainable production practices.

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

39.20. The Russian Federation reiterates its position regarding this issue, which was stated during the previous meetings of the CTE, CMA, and CTG. The Regulation constitutes yet another example of the protectionist policy conducted by the EU under the cloak of climate change. It introduces a prohibition to make products available on the EU market or to export products from the EU, unless all the following conditions are fulfilled by the products covered by the Regulation, namely: (a) they are deforestation-free; (b) they have been produced in accordance with the relevant legislation of the country of production; and (c) they are covered by a due diligence statement.

39.21. With this regulation, the European Union not only seeks cross-border application of its regulation, but also seeks to determine if an imported product complies with the legislation of the country of its origin or not. The role of judge is assigned to the operator, who shall verify and analyse the collected information, as well as to carry out a risk assessment in order to determine if there is a risk that the relevant products intended to be placed on the market are non-compliant, including with the relevant legislation of the country of production.

39.22. The risk assessment should include, *inter alia*: (i) the presence of indigenous peoples in the country of production or parts thereof; (ii) the consultation and cooperation in good faith with indigenous peoples in the country of production or parts thereof; and (iii) concerns in relation to the country of production and origin or parts thereof, such as level of corruption, prevalence of document and data falsification, lack of law enforcement, violations of international human rights, armed conflict or presence of sanctions imposed by the UN Security Council or the Council of the European Union.

39.23. In this context, we are wondering: how do these criteria relate to climate change? On what international agreements does the European Union base these requirements to be met by the WTO Members? Has the EU considered other options for resolving the issue of deforestation at relevant international platforms? If so, has it led to any results?

39.24. The Regulation, up to the present moment, covers trade in live cattle, meat and meat products, cocoa, coffee, oil palm, rubber, soya, and wood. However, this list might be extended in the future. In our view, this Regulation provides a simple quantitative restriction violating the WTO rules. Thus, we urge the European Union to bring its measures into consistency with the WTO norms.

39.25. The delegate of Ecuador indicated the following:

39.26. First of all, my delegation would like to thank you for including this item on the agenda of this meeting. Ecuador considers that the European Union's deforestation-free regulation has discriminatory features, because it addresses specific products, qualified as "drivers of deforestation and degradation", in order to stop the expansion of agricultural land. These products include palm oil, cocoa, coffee, rubber, cattle, timber, and soybeans, as well as some of their derivatives such as chocolate, furniture, tyres, printed products, etc. These crops are basic products of several developing economies, including Ecuador.

39.27. My country has worked for the fulfilment of the commitments of the Paris Agreement with the objective of achieving a balance between economic development, social development, and environmental sustainability. However, the European Union's deforestation-free proposal lacks this balance. The new EU deforestation regulation would create barriers for small farmers, as it imposes obligations such as those concerning the geolocation of their crops. As we can anticipate, there will

be additional production costs to comply with this new regulation. This new regulation would not affect EU companies or local consumers to a great degree, but the greatest impact will obviously be on the Ecuadorian production and export sector.

39.28. In conclusion, Ecuador considers that this regulation poses a great risk to the global commodity market, especially considering that developing countries are still struggling to recover from the effects of the COVID-19 pandemic.

39.29. The delegate of India indicated the following:

39.30. India would like to thank the delegation of the European Union for its recent engagement on the European Green Deal-related issues in the June 2023 edition of Trade and Environment week. We also acknowledge the bilateral engagement on these issues, including in the first India–European Union Trade and Technology Council.

39.31. India has raised its concerns on the proposed European Union measures under the CBAM, Deforestation-Free Commodities and other Green Deal proposals in various forums. Most recently, India submitted a paper in document JOB/TE/78 to the March 2023 meeting of the Committee on Trade and Environment , which pointed out that we are witnessing potential trade fragmentation if Members continue to take unilateral trade measures which apply extra-territorially. We also urged the need to act in accordance with the principles of common but differentiated responsibilities and respective capabilities (CBDR-RC), as well as honouring the nationally determined contributions (NDCs).

39.32. The measure as proposed right now will hurt agriculture exports in the chosen commodities to the European Union. Its worst effects will be felt by small and marginal farmers in developing countries. The agriculture sector in developing countries, including India, is a key driver for employment, as well as the economic well-being of a large part of the population, especially women and those associated with MSMEs. It is unfortunate that the EU is making policy choices which directly harm the economic interests of these socio-economic groups.

39.33. The delegate of Peru indicated the following:

39.34. Peru would first like to thank the delegations that have raised this agenda item. In this regard, we would like to share our concern over the recent approval of this regulation and its prompt entry into force, since we believe it could result in major disruptions to trade flows in products that fall under its scope, especially in those chains involving small-scale producers.

39.35. We believe a multilateral setting is the appropriate space in which to develop this kind of initiative, since unilateral actions such as the one in question do not take into account the different realties and efforts of different countries, whose producers and exporters will ultimately be the ones required to comply with this measure. In the case of Peru, exports of the products covered by the European Union's regulation form a significant share of Peru's agricultural exports to the world, which meet high quality and sustainability standards.

39.36. Palm oil, cocoa, coffee and timber have value chains with Europe, North America and Asia as their primary markets. More specifically, the total export value of these four products reached USD 2,095 million, a 39% increase compared to total exports in 2021, with the European Union being one of the main destinations and the primary driver of this export growth. These value chains include thousands of small-scale producers (200,000 for coffee and 90,000 for cocoa, for example). This is why policies that impact products like these have major repercussions for exports from our country overall and, ultimately, for our economy, affecting thousands of producers whose livelihoods depend on the sale and export of such goods.

39.37. Furthermore, we are concerned that there are still many aspects of this European regulation that remain unclear or require supplementary regulations. In practice, this means that the actual time-frame operators and exporters have to bring themselves into line will be far shorter than the 18-month time-frame set out for implementation. For example, the EU regulation does not specify what documents operators will require for exporters to be able to prove their products are deforestation-free and that they comply with the legal parameters established. The time-frames for

all the procedures envisaged by the regulation are also not specified, which will result in significant discretion and ambiguity in their implementation that may affect trade.

39.38. Our concerns are based on our first-hand experience of implementing the EU regulation on a due diligence process for timber exports, which will soon be replaced by the regulation on deforestation-free products. Both the regulation currently in force and the regulation set to enter into force in 2025 lack clarity with regard to the documents required by customs authorities and the time-frames for procedures. This has resulted in Peruvian containers being held in Belgium for over one year and four months, for instance, without us being informed of the reasons for this, exactly what documents were required to release the containers, or how long it would take the customs authorities to resolve the matter. Even the Commission itself was unable to obtain this information and share it in a bilateral setting.

39.39. Moreover, this regulation appears to favour European Union member States and nationals over third countries given that it establishes an ample time-frame of six months for EU members to simply provide notification of the competent authorities responsible for complying with the obligations under the regulation, while third countries are expected to implement complicated processes within 18 months, including in relation to traceability, geolocation and the monitoring of agricultural chains involving hundreds of thousands of producers. Furthermore, it establishes a special time-frame of 24 months to implement the regulation in SMEs within the bloc, whereas MSMEs and small-scale producers from third countries that are suppliers to the chains will have to comply with all the requirements within the aforementioned 18-month time-frame.

39.40. Under this regulation, countries will unilaterally be assigned a deforestation risk rating, the specific criteria and methodology for which have not been communicated or coordinated with the countries potentially affected. In this respect, if the rating is based on general indices and does not take into account the specific circumstances that may arise in each country, it could have a negative effect on producers and exporters from low-risk areas, putting them at a disadvantage in relation to like products from other countries.

39.41. We believe there are many ways to tackle deforestation, and we find it regrettable that the EU regulation selects only one particular option that does not, for instance, encourage the adoption of reforestation measures, since it will not allow exports from reforested areas. As a result, small-scale producers that have struck a harmonious balance between farming and taking care of forests will be deprived of the opportunity to continue pursuing economic activities to lift themselves out of poverty.

39.42. All WTO Members are committed to addressing the threat of climate change, global warming and deforestation; however, the decision on how to tackle these issues should not be taken unilaterally if it depends on the actions of third parties, and we should not adopt measures that impose needless restrictions on trade, which is a tool for growth and sustainable development. Additionally, we cannot lose sight of the fact that one of the main drivers of deforestation is poverty, which international trade offers us tools to combat, for instance through trade in several of the products affected by this European regulation, and that, in the case of Peru, some of the products concerned also serve as alternative crops to illicit crops.

39.43. In conclusion, we believe this regulation should be implemented only once an in-depth discussion on the matter has been held in a multilateral setting, there is clarity on the requirements and time-frames laid down, and we have certainty that the proponents of the regulation, i.e. the Commission, have the necessary capacity to resolve any issues its implementation may cause.

39.44. The delegate of Paraguay indicated the following:

39.45. Allow me to thank the delegations of Brazil, Indonesia, and the Russian Federation for including this topic on today's agenda. Paraguay thanks the European Union for the briefing held during the Trade and Environment Week, the recent publication of a document with frequently asked questions, and the bilateral discussions. However, Members' concerns and queries persist, as evidenced by the trade concerns and discussions on the European Regulation for deforestation-free commodities in the various WTO committees.

39.46. The issue was addressed at the last meeting of the Committee on Agriculture held last June. On that occasion, the delegations of Brazil and China presented questions under AG IMS ID 105034. The European Union responded that farmers receiving CAP payments under environmental programmes must set aside at least 4% of their arable land as non-productive areas and conditions that benefit biodiversity. In this regard, we note that under Annex II, Item 10 of the AoA, "Structural readjustment assistance provided through drawdown programs," the EU has notified EUR 152.3 million in subsidies for afforestation of agricultural land. We deeply regret the lack of equivalence measures in the European Regulation. Chair, allow me to remind you that in Paraguay, in the lands where land use change is still allowed, our farmers must maintain 40%, not 4%, of forests, and this they must do by legal obligation, not because they receive subsidies.

39.47. Additionally, Chair, on that occasion, the European Union indicated that it maintained two cooperation programmes for the five-year period 2021-2024 in order to facilitate the just transition of developing countries, for a combined amount of EUR 3.5 billion. This would be equivalent to about EUR 700 million per year for all developing countries. Let me contextualize the numbers to put them in perspective. In one year, the EU provided voluntary coupled aid and transitional national aid to the milk and dairy sector of EUR 919.1 million, while reporting a current total AMS for butter alone of almost EUR 3 billion. However, EUR 700 million per year is expected to be sufficient to finance the transition for all developing countries.

39.48. In addition to these shortfalls, there are also some questions about the restoration obligations included, for example, in the Kunming-Montreal Global Biodiversity Framework. The Framework established the objective of protecting 30% of the planet's surface, which to some extent could imply an additional obligation to developing countries, as they are home to the remaining ecosystems, but at the same time it sets the objective of restoring 30% of degraded ecosystems, which implies a relative burden on developed countries, as their development processes involved massive deforestation processes that we can still observe today. However, we see that in the European Parliament the proposal to restore damaged ecosystems and recover nature throughout Europe[15] does not even have the required majority in the Committee on the Environment. With this it would seem that the EU is enlisted to fulfil its restoration obligations but at the same time demands greater conservation commitments from its trading partners than those agreed internationally and assumed autonomously by them.

39.49. How is this consistent with the objective pursued by the European Union with this measure? And how is it consistent with the principle of common but differentiated responsibilities and respective responsibilities in light of national circumstances and nationally determined contributions?

39.50. The European Union has previously responded that the obligation and requirements are not discriminatory as they apply equally to products originating in the EU. However, most of the products covered are not produced in the EU, and most of the deforestation in the EU was prior to the selected cut-off date, so we again request clarification as to how it avoids discrimination in its application.

39.51. This, added to the resistance to restore ecosystems, would seem to indicate at least a great inconsistency between the stated objectives of the measure and the European Union's actions, if not a disguised restriction on trade, especially for products that are produced in the EU, or those not produced in the EU (e.g. palm oil), but for which there are similar domestic products (rapeseed oil).

39.52. The delegate of Türkiye indicated the following:

39.53. Companies that use products that fall within the scope of this regulation as inputs in their production or that trade in these products are obliged to show that the products are produced in a way that does not cause deforestation to be able to enter into the EU market. The strictness of demonstration responsibilities will be determined in accordance with the risk classification made by the EU. Therefore, it is crucial that the EU work with its partner countries in making these categorizations, and that it base its determinations on solid scientific data.

39.54. Türkiye also believes that the technical requirements of the proposed regulation, like certification or verification, that third country operators will face should not be so overburdensome as to discourage small producers from supply chains because of the resulting administrative burden.

[15] https://www.europarl.europa.eu/news/es/press-room/20230626IPR00847/no-majority-in-committee-for-proposed-eu-nature-restoration-law-as-amended

Moreover, in order to ensure that this regulation is not unnecessarily restricting the trade of any product, possible extensions in scope of the legislation should be determined on the basis of solid data showing that the products covered are indeed the biggest contributors to global deforestation.

39.55. The delegate of Argentina indicated the following:

39.56. Argentina wishes to place on record its support for this trade concern and thanks the delegations that included it in the agenda. Argentina is closely following the European Union's legislative process, and we would like to express our concern about the concept of a single model that the EU intends to impose, which does not take into account the different characteristics of the production models of the various countries. We also reiterate that the regulations must be compatible with the WTO rules. Argentina considers that it is necessary that the new regulations derived from the European Green Pact respect the commitments of the EU before the WTO, and be based on scientific evidence, in order to ensure that its measures do not constitute a means of arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.

39.57. Argentina shares Europe's concerns about climate change, and especially shares the objective of sustainable food production, taking into account the current challenges of safeguarding food security under changing climatic conditions. At the same time, it should be taken into account that there are regional and national differences in natural resources, environmental challenges, and the impacts of climate change, so that best practices in one region of the world may be different from those in another.

39.58. Within this framework, Argentina is convinced that there is no single model for achieving environmental protection, and that environmental degradation, including climate change, must be combated respecting the central principle of common but differentiated responsibilities. Therefore, solutions must be adapted to local realities, and the policies and initiatives proposed for the legitimate purpose of environmental protection must be flexible, pragmatic, implementable and realistic, as well as the most effective in achieving the desired objective and the least trade restrictive to that end.

39.59. Particularly with respect to the regulation on deforestation, we are concerned that it does not contemplate measures that could be less restrictive in commercial terms to achieve the environmental objective sought. On the contrary, the regulation applies the same EU standards at a global level, without clarifying the criteria established by the EU or the scientific basis for determining "high", "medium" and "low" risk countries, given that there could be different local and regional realities in each country with respect to forest conservation, and therefore generalizations should be avoided. Similarly, by imposing mandatory and more onerous due diligence requirements on countries classified as high risk than on others, the EU will apply more demanding and more trade restrictive criteria to certain countries classified by the EU itself as "high risk", which could be inconsistent with the WTO rules. Furthermore, the proposed approach is inconsistent with the historical responsibilities for environmental degradation of developed countries, including the EU, by setting a baseline of 2020, without considering the changes in land use and deforestation that have occurred since the Industrial Revolution in these countries, effectively penalizing developing countries, inconsistent with the principle of common but differentiated responsibilities.

39.60. In summary, Argentina wishes to emphasize the importance of avoiding unilateral actions without due legal or multilateral support, or the necessary scientific basis, which result in covert restrictions on international trade in the name of the environment.

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

39.62. The EU Regulation on deforestation-free supply chains entered into force on 29 June 2023. It will enter into application on 29 December 2024, with an additional 6-month flexibility for SMEs. The Regulation aims at addressing the main driver of deforestation and forest degradation: the expansion of agricultural land, linked in particular to the production of a series of commodities of which the EU is a major consumer, namely beef, wood, palm oil, soya, coffee, cocoa, and rubber. The final text of the Regulation has now been published in the Official Journal.

39.63. The European Union held an information session on 14 June during the WTO Trade and Environment Week to explain the practical implications of the Regulation, and answered the various

technical questions that Members and Stakeholders had. We will continue our engagement in the WTO in the future, in addition to the bilateral exchanges we are having with the countries that are most affected. The European Union would also like to inform Members that last week the Commission issued a "Frequently Asked Questions" document to support the compliance by operators and traders, in particular SMEs, with the requirements of this Regulation. We invite partners to consult that document.

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

39.65. The Council so agreed.

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

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

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

40.3. The Russian Federation reiterates the statements made during the previous meetings of the CTG. Under the umbrella of the Green Deal, the European Union is implementing many measures aimed at restricting trade, including the CBAM, the Regulation on deforestation, Chemical Strategy, additional requirements for new batteries, and a new proposal on packaging and packaging waste, etc. Under the Green Deal, the European Union establishes new charges, quantitative restrictions, including import and export prohibitions, and new technical requirements in the absence of international standards. All these measures are subject to discussions at the relevant WTO working bodies. We would like to note that these measures lead to a growth in protectionism and undermine the multilateral trading system. We would be grateful for the European Union's explanation of whether or not there is a scientific justification for the proposed measures. What effect will they provide in terms of combating climate change? Does the EU consider any other alternatives to the proposed measures? To conclude, the Russian Federation would like to urge the European Union one more time to respect the WTO rules and international agreements in the field of environmental protection.

40.4. The delegate of Uruguay indicated the following:

40.5. Uruguay would like to thank the delegations of Brazil, China, Indonesia and Russia for raising various STCs regarding EU policies within the framework of the European Green Deal. These concerns are addressed under Agenda Items 22, 39 and 40. My delegation agrees with several of the points raised in the statements of a number of delegations, including Brazil and Paraguay, in particular under item 22 of the agenda.

40.6. 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 at the 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 local characteristics and specific conditions of different countries and regions, the realities of their production systems and their relative contributions to the problems that need to be addressed.

40.7. Also cause for concern are the excessively restrictive effects that the practical implementation of several of the strategies and policies announced in the European Green Deal, such as those mentioned under previous agenda items, may have on international trade and production beyond the borders of the European Union, as well as the possible inconsistencies between those strategies and policies and the WTO rules.

40.8. In view of the above, Uruguay urges the European Union to ensure the compatibility of its trade and environmental measures with the principles, commitments and obligations of both the WTO Agreements and the multilateral environmental agreements.

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

40.10. For well-known reasons, we will not be responding to the Russian Federation and refers to the statement we will deliver under Agenda Item 44. In response to the comments by Uruguay, we have set ourselves ambitious targets in the Paris Agreement. We have made significant progress this December in the Kunming-Montreal Global Biodiversity Framework and are continuing to engage in multilateral environmental agreements tackling pollution (Basel, Rotterdam, Stockholm and Minamata conventions). This requires all of us to step up efforts, internationally and through national policies to put our commitments into action.

40.11. Non-action is not an option. The question is not "if", but how we design policies while ensuring their WTO compatibility and minimizing the negative spill-over effects.

40.12. The European Union has laid out the path in the European Green Deal. The initiative comprises many policy actions tackling reduction of carbon footprint and halting biodiversity loss from a number of angles. Boosting circular economy, creating sustainable food systems, greening our Common Agricultural Policy, and investing in renewable energy are just a few examples of the policy initiatives taken in this context.

40.13. Conscious about the potential relevance of these measures for the European Union's trading partners and the need to comply with WTO rules, the EU has designed all its European Green Deal measures very carefully. We have also developed an external strategy for design and implementation stages that is based on the principles of transparency, engagement, and respect of international commitments. We have engaged with third countries already in the very early stages – through public consultations, bilateral meetings, and engagement in the WTO. And we are continuing all these efforts at the implementation stage. We have organized two information sessions during the recent WTO Trade and Environment Week to hear the concerns and answer all technical questions our trading partners may have.

40.14. We are further considering how to work together, including on how to facilitate the implementation through all possible tools and mechanisms, such as: guidelines to operators; approaches to recognize the efforts that third countries (or companies) make; and to give third-country stakeholders a voice in the development of implementation tools for instance through the Deforestation Platform or CBAM methodologies expert group. We are also working with our international partnership colleagues to see how capacity building can help countries meet EU requirements.

40.15. To conclude, we can only deliver on our international commitments if we take national action. But we also need to work together to ensure we preserve a liveable planet for future generations.

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

40.17. The Council so agreed.

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

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

41.2. The delegate of Thailand indicated the following:

41.3. Thailand would like once again to raise our concern on Sri Lanka's import bans according to the Imports and Exports (Control) Regulations No. 02/2020 and No. 03/2020 which still have significantly impacted Thailand's exports to Sri Lanka, especially small passenger vehicles. Having said that, Thailand keenly follows the economic situation in Sri Lanka and understands that the balance-of-payments problems of the country still necessitates the continued implementation of such import bans. Nevertheless, we congratulate Sri Lanka on the successful negotiation with the International Monetary Fund that secured an approximately USD 3 billion economic relief package, which should help set the country on the path towards economic recovery and the relaxation of its import control measures. In this regard, we welcome the Imports and Exports Regulations

No. 09/2023, dated 9 June 2023, discontinuing the import control of 286 product items, which unfortunately do not include small passenger vehicles.

41.4. In light of this, Thailand would, therefore, like to request Sri Lanka to further relax its import restrictive measures, especially the small passenger vehicles, that has been in effect since June 2020. In addition, Thailand encourages Sri Lanka to inform Members of the timeline for the removal of its import restrictions in the future. Finally, we urge Sri Lanka to notify the measures to the WTO as soon as possible.

41.5. The delegate of Sri Lanka indicated the following:

41.6. Sri Lanka thanks Thailand for its continuous interest in Sri Lanka's import trade policy measures, which have been introduced on a temporary basis to curb the adverse impact of the COVID-19 pandemic. At the meeting of the Committee on Market Access held on 27 April 2023, my delegation mentioned that positive steps would be taken by Sri Lanka to remove the restrictive import policy measures in a progressive manner. Accordingly, through Gazette No. 2335/26 of 9 June 2023, Sri Lanka made arrangements to remove restrictive import policy measures on 286 items with effect from 9 June 2023.

41.7. Sri Lanka will arrange to remove restrictive import policy measures on other products in a progressive manner as well. We are currently making arrangements to notify the restrictive import policy measures to the WTO. We have taken good note of the concerns expressed by Thailand today, and we will arrange to provide responses to such concerns in consultation with our Capital.

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

41.9. The Council so agreed.

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

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

42.2. The delegate of Thailand indicated the following:

42.3. Thailand would like to express our concern once again regarding Nepal's import ban on caffeinated mixed energy drinks and flavoured synthetic drinks from Thailand since 2019, which understandably aims to alleviate the balance-of-payments difficulties the country has been facing. In this regard, Thailand would like to remind Nepal that WTO Members facing balance-of-payments difficulty may apply import restrictions subject to the provisions under Article XII of the GATT 1994, provided that they do not exceed those necessary, are progressively relaxed, and are maintained only to the extent that the conditions still justify their application.

42.4. Thailand would also like to encourage Nepal to enter into a consultation with the Committee on Balance-of-Payments Restrictions as per the provision by Article 6 of the Understanding on the Balance-of-Payments Provisions of the GATT 1994 that obliges Members applying new restrictive import measures taken for Balance-of-Payments purposes to do so within four months of the adoption of such measures. We encourage Nepal to take this important step towards greater transparency in its import restriction policy.

42.5. The delegate of Nepal indicated the following:

42.6. Nepal would like to thank 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. In response to the concern raised today, Nepal wishes to refer to its statement delivered at the previous meeting of the CTG, in April 2023. Furthermore, I would also like to assure you that my delegation will update the Council as soon as possible once we receive further communication from Capital.

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

42.8. The Council so agreed.

43 EUROPEAN UNION – REGULATION (EU) 2017/2321 AND REGULATION (EU) 2018/825 – REQUEST FROM THE RUSSIAN FEDERATION

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

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

43.3. The Russian Federation 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. Once again, we would like to point out the discriminatory nature of these amendments, which can be illustrated by the following. First, the European Commission can punish the exporters twice for the same situation labelled by the amendments as "significant distortions" and "raw material distortions". Second, the European Commission has issued only two "reports" on so-called "significant distortions" in two particular exporting countries. It clearly shows the discriminatory nature of the EU's approach regarding the application of anti-dumping measures. Without going further into detail, we would like once again to reiterate our systemic concern about the WTO-inconsistency of the amendments. We urge the EU to refrain from their application and not to violate its WTO obligations.

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

43.5. The European Union refers to the statement it will deliver under Agenda Item 44.

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

43.7. The Council so agreed.

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

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

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

44.3. The Russian Federation reiterates its statements made with regard to the unilateral trade restrictive measures during the previous CTG meetings. The number of anti-Russian measures imposed by Australia, Canada, the European Union, Japan, New Zealand, Switzerland, the United Kingdom, and the United States continues to grow rapidly. The EU alone has already introduced 11 packages of measures. Under the new 11th package, the EU restricts the sale, supply, transfer or export of certain goods not only to Russia, but also to third countries whose jurisdictions are considered to be at continued and particularly high risk of circumvention of measures introduced earlier. It also extends the prohibition of export, import and transit of certain goods.

44.4. Despite the enormous number of unilateral trade restrictive measures introduced, we have witnessed a number of attempts to accuse Russia of triggering the global food and energy crisis. Such an active disinformation campaign is carried out to persuade the global community that Russia is solely responsible for the increase in the global prices for food, fertilizers, and energy resources.

44.5. A clear example of speculation on the needs of the poorest countries is the situation with the implementation of the "Black Sea Initiative" for the export of Ukrainian food and Russian ammonia and the Russia-UN Memorandum on the normalization of agricultural exports. These agreements were presented as aimed at reducing the threat of famine and providing assistance to the neediest countries in Asia, Africa and Latin America. In reality, their implementation resulted in the commercial export of Ukrainian grain to "well-fed", primarily European, markets.

44.6. These conclusions are based on the quantitative data of the fulfilment of the Black Sea initiative. Since 1 August 2022, over 32.5 million tonnes of grain have been transported from the ports of Odessa, Yuzhny, and Chernomorsk. The biggest share of grains (more than 26 million

tonnes, or 81%) is sent to the countries with high and upper middle income, including the EU, which accounted for about 40% of supplies. Such significant imports of grain have led to another problem in the EU – certain EU member States, based on their producers' demands, pleaded for a closure of their markets even to Ukraine grain transit. But what about Asia, Africa and other countries? Countries in need, like Ethiopia, Yemen, Afghanistan, Sudan, and Somalia account for only 832,086 tonnes, or 2.6% of cargo.

44.7. The other part of the package of the Black Sea Initiative has never been implemented by the collective West. The systemic issues related to the exportation of Russian agricultural products, as well as fertilizers, are still not resolved. Such issues involve the reconnection of Rosselkhozbank – which is the main agricultural bank in Russia serving domestic and foreign trade transactions – to SWIFT; supply of spare parts for agricultural machinery; restarting Togliatti-Odessa ammonia pipeline; lifting restrictions on insurance and transportation; and "unfreezing" assets.

44.8. In respect of the energy crises, we would like to note that the collective West uses the demand for energy resources as a "political weapon", of which it attempts to accuse us. The Russian fuel and energy sector was chosen as one of the immediate targets of the unilateral restrictive measures. Contrary to the traditional rhetoric about the adherence to market mechanisms, the collective West made a choice to introduce anti-market measures (ban on the import of Russian coal, oil and oil products; creation of "cartel of buyers" and establishment of the so-called "price ceiling" for crude oil and petroleum products; and limiting the supply of oil and gas equipment). This has led to a break in historical value chains, a redistribution of global energy flows, and an increase in transaction costs. Illegitimate restrictions and anti-market measures in the energy sector set a dangerous precedent for international trade, pose a serious threat to global energy security, and disrupt the stability of energy markets.

44.9. In this context, the Russian Federation calls for the immediate lifting of unilateral trade restrictive measures, including those with extraterritorial implications, and the termination of their coercive actions aimed at forcing other WTO Members to follow suit.

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

44.11. The European Union reiterates its resolute condemnation of the Russian Federation's war of aggression against Ukraine, which deliberately violates the UN Charter and disregards the rules-based international order. The European Union reaffirms that its support for Ukraine's sovereignty, territorial integrity, and right of self-defence is unwavering. The European Union remains committed to maintaining and increasing collective pressure on Russia, as demonstrated by the adoption of the eleventh package of sanctions on 23 June 2023.

44.12. At the same time, the European Union is committed to stepping up its efforts to ensure the effective implementation of sanctions at European and national level. The EU also continues its engagement with third countries whose jurisdictions are considered to be at continued and particularly high risk of sanctions circumvention.

44.13. We strongly condemn Russia's disinformation attempts which blame international sanctions for rising food insecurity. We must repeat again that EU sanctions do not target trade in agricultural, food or medical products, nor the trade of Russia with third countries. Russia, by weaponizing food in its war against Ukraine, is solely responsible for the global food insecurity that this war has provoked.

44.14. The continued availability and affordability of agricultural products for the countries most in need is essential. The EU will continue its efforts through, *inter alia*, the UN Black Sea Grain Initiative, the EU's Solidarity Lanes, and the Ukrainian "Grain from Ukraine" initiatives to bolster global food security.

44.15. Additionally, the Commission has recently proposed to set up a dedicated Facility to support Ukraine's recovery, reconstruction, and modernization, together with the implementation of key reforms on its EU accession track.

44.16. The European Union has taken all its measures in a fully transparent manner. The relevant EU measures are publicly accessible. The European Union calls on Russia to stop its acts of

aggression and fully respect Ukraine's territorial integrity, sovereignty, and independence within its internationally recognized borders.

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

44.18. 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 United States will spare no efforts to hold President Putin and the architects and supporters of this aggression accountable for their actions. We underline our resolve to impose severe economic and financial consequences on Russia. As we have said before, Russia is complaining about a situation that it has created, and is trying to shift the blame for the death and destruction that it has caused.

44.19. Russia started this war; Russia perpetuates this war; Russia illegally tried to annex parts of Ukraine; Russia continues to destroy Ukraine's agricultural and energy infrastructure; and Russia continues to spread disinformation that western sanctions are causing food insecurity when we have made it quite clear that banks, insurers, shippers, and other actors can continue to bring Russian food and fertilizer to the world. In short, Russia, with support from Belarus's complicity, is responsible for much of the devastation and disruption being felt around the world.

44.20. 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.

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

44.22. The United Kingdom continues to reject the lies that Russia keeps recycling in the CTG and other bodies. Indeed, Russia's transparent attempts to divert, disinform, and blame others for the impacts of their own, illegal, unprovoked, and barbaric invasion of Ukraine – a sovereign country – are farcical. Because let us be clear, Russia and only Russia continues to be responsible for the global food shortages, rising inflation, and supply chain disruptions that they have caused through invading another country. Russia's fictional narrative is as unconvincing as it is implausible; the facts speak for themselves.

44.23. Turning to the facts on the consequences of Russia's invasion: Since our last CTG statement, the global consequences of Russia's chosen war have continued to come into increasingly sharpening focus. Their actions are having catastrophic worldwide impacts on food prices. The impact of Russian tanks preventing Ukrainian farmers sowing hundreds of square miles of wheat – and we are talking about an area the size of Belgium – continues to be felt.

44.24. Russia has also kept disrupting vital operations like the Black Sea Grain Initiative by delaying ships and blocking inspections, this has resulted in a 29% decrease in food exports by weight compared to March 2023, and a 66% decrease in May. Russian obstructions of these operations harm global food security by restricting supplies and keeping prices high around the world. This makes it even harder for people in developing countries to afford the food they need.

44.25. The explosion of the Kakhovka Dam, another catastrophe exacerbated by this war, will also have far-reaching consequences on food security, putting at risk the production of vital grain, causing a knock-on effect on grain supply and inflation.

44.26. Russia's Domestic Policies: Against these supply chain implications of their war, we have already outlined that Russia is taking an active choice to make a bad situation worse by continuing to take unilateral steps that further increase global prices of agri-food. Russia's own autonomous export restriction measures have covered numerous agricultural goods – including fertilizer, white sugar, raw cane sugar, wheat, rye, meslin, barley, corn, rice, sunflower oil and seeds, and rapeseed oil and seeds.

44.27. The actions we just outlined are clear proof that Russia is continuing to weaponize food and making the situation even worse by unilaterally cutting global supply and stimulating price hikes in global food prices.

44.28. Turning to our own sanctions and next steps more broadly: On the other hand, the United Kingdom has specifically not targeted food or fertilizer exports from Russia to third countries. We have only introduced sanctions as a way of targeting Putin's war machine. The UK will continue to shine a light on the far-reaching consequences of this war, and we will continue to support those across the world who are on the sharp end of the consequences of Russia's illegal and unprovoked attack on Ukraine. The UK will continue to stand with Ukraine, against this attack on their sovereignty and territorial integrity, for as long as it takes.

44.29. The delegate of New Zealand indicated the following:

44.30. New Zealand continues to condemn, unequivocally, Russia's ongoing war of aggression against Ukraine. Russia's actions have already caused thousands of deaths, a massive humanitarian crisis, and untold suffering. Russia's egregious disregard for the principles that underpin global peace and prosperity have serious implications for global order, security, and economic stability. Let us be clear: It is Russia's invasion of Ukraine that has created uncertainty and volatility in world food pricing and supply.

44.31. New Zealand has joined the international community in applying sanctions in a transparent manner. Information on the Russia Sanctions Act that was passed by the New Zealand Government on 8 March 2022 and all subsequent regulations that implement sanctions are publicly available on the New Zealand Ministry of Foreign Affairs and Trade website. Sanctions under the Act are a direct response to Russia's illegal war of aggression, and are not intended to disrupt trade in essential goods like food. They include prohibitions on dealing with assets and services, travel bans on individuals from entering New Zealand, tariff increases on imports of Russian origin, a luxury goods import and export ban from/to Russia, and a prohibition of certain goods intended for use by military or security forces from being exported to Russia and Belarus.

44.32. New Zealand remains united with the international community to 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. We continue to stand in full solidarity with Ukraine and its people and reaffirm our unwavering support for the independence, sovereignty, and territorial integrity of Ukraine.

44.33. The delegate of Switzerland indicated the following:

44.34. Switzerland condemns Russia's military aggression against Ukraine in the strongest terms and calls on Russia to take military de-escalation measures, to end hostilities and to immediately withdraw its troops from Ukrainian territory. The continuation of this military attack blatantly violates international law, most notably the prohibition on the use of force, the principle of the territorial integrity of States and the obligation to protect the civilian population. In response to Russia's military aggression, Switzerland has taken a number of economic measures, which are exceptional in nature and have been taken on account of the violation of international law by Russia. The measures taken by Switzerland are in accordance with international law, including WTO law. Switzerland also remains committed to combating the world food and energy crises, and none of the sanctions against Russia target agricultural or food products.

44.35. The delegate of Canada indicated the following:

44.36. No amount of misinformation can hide that Russia is solely responsible for this crisis it describes. The Russian invasion of Ukraine was a major shock to an already strained food system resulting in record-setting food, fuel, and fertilizer prices. Global food prices remain historically high and domestic food prices continue to rise sharply in most countries. High prices disproportionately affect the poor, who spend most of their income on food and other basic needs.

44.37. High fertilizer and energy prices are likely to result in a decline in agricultural productivity, reducing future food availability, undermining farmer livelihoods and impacting economies of the

Global South. The evolving food crisis remains a top priority for Canada and other donors, as demonstrated by continued prioritization within G7 and G20 agendas in 2023.

44.38. Canada will continue to support humanitarian partners, such as the World Food Programme, to help meet the emergency food and nutrition needs of the growing number of acutely food insecure people. Canada is also supportive of efforts to mitigate export shortfalls from Russia's unprovoked and unjustifiable invasion of Ukraine and reduce global food prices, including through the EU Solidarity Lanes and the Black Sea Grain Initiative. Canada firmly believes that Russia must end its obstruction of operations and confirm its participation in the Black Sea Grain Initiative as long as it is needed.

44.39. We will continue to take actions that we consider necessary to protect our essential security interests, and we will work closely with like-minded partners to promote peace and security for all states and their citizens. Canada's support for Ukraine and its people is unwavering, and we will work to find ways to use trade to support Ukraine in rebuilding its economy and its society. We once again call for Russia to immediately cease all hostile actions against Ukraine.

44.40. The delegate of Australia indicated the following:

44.41. As other Members who have spoken, Australia again condemns, in the strongest possible terms, Russia's illegal and immoral invasion of Ukraine. This invasion is a gross violation of international law. Australia strongly supports Ukraine's sovereignty and territorial integrity.

44.42. Australia has imposed a comprehensive suite of measures against Russia in response to its invasion of Ukraine, including more than 1,100 targeted financial sanctions and trade measures. Australia has notified these trade measures to the WTO to ensure transparency, which is an important obligation on all Members that Australia takes seriously. These measures are justified given Russia's unprecedented invasion, and are justified under WTO rules, in particular Article XXI of the GATT 1994. Food and agricultural commodities (aside from a limited number of luxury goods, such as lobster and caviar) are not sanctioned by Australia. Rather, it is Russia's own decisions that are constraining its contribution to global food stocks, including through the imposition of restrictions on its own exports.

44.43. Australia is committed to strengthening the global rules-based order and is a ready and able partner for all countries that seek a peaceful and prosperous world, where sovereignty is respected.

44.44. The delegate of Japan indicated the following:

44.45. 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 the unilateral attempt to change the status quo by force, and it is an extremely serious situation that shakes the very foundation of the international order. Japan condemns Russia's actions in the strongest terms. In response to Russia's aggression, Japan is implementing strict sanctions in close cooperation with the international community, including the G7. We continue to work with our partners, including international organizations, to proactively address the impact of Russia's aggression of Ukraine on areas such as energy and food, among others, across many countries. Japan and other countries have been carefully addressing the situation by imposing sanctions in a manner that does not hinder the provision of humanitarian assistance or the operation of global agricultural trade.

44.46. The delegate of the Republic of Moldova indicated the following:

44.47. From the first day of the war, the Republic of Moldova has condemned Russia's aggression in Ukraine in the strongest terms – a war that causes destruction and suffering in our neighbouring country on a daily basis. Referring to this agenda item, we would also like to add our voice of support and solidarity with Ukraine and the Ukrainian people, along with other Members who have spoken before us.

44.48. The economic and social repercussions caused by Russia's war have been strongly felt in and around Ukraine, including in the Republic of Moldova. Since the beginning of this war we have been facing multiple challenges: amplified security threats and unprecedented influx of people

fleeing this war; massive trade disruptions; economic slowdown, which has affected all our economic sectors, with an inflation rate exceeding 30% in 2022; and a severe energy crisis which was also caused intentionally by Russia. From the market access perspective, it should be noted that, due to this aggression against Ukraine, Moldova's economic agents have lost access to an important share of markets and transit routes to Asian partners.

44.49. This invasion is a gross violation of international law and the multilateral legal framework established within the WTO, affecting the majority of our Members. The Republic of Moldova, like other Members, believes that it is essential to focus on the very origin of this aggravated situation, which poses a significant threat to the multilateral trading system. The solution is obvious and well known. The aggressors have to stop this war, stop the propaganda, and withdraw their troops from the Ukrainian territory immediately and unconditionally.

44.50. The delegate of Norway indicated the following:

44.51. Norway implements the restrictive measures mentioned by other Members under Agenda Item 44. These restrictive measures have been taken as a reaction to Russia's unprovoked military invasion of Ukraine and its illegal attempts to annex Ukrainian territory, which Norway condemns in the strongest possible terms. We refer to our earlier statements in this regard.[16]

44.52. The restrictive measures are directed at Russia's war machine. We are appalled by Russia's continuous war of aggression, which is a gross violation of international law and the UN Charter. The blame for the global consequences of this aggression, such as food and security, lies with Russia. Norway reiterates its full solidarity with Ukraine and the Ukrainian people.

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

44.54. The Republic of Korea has been strongly condemning Russia's armed invasion against Ukraine. Regarding the current item, Korea believes that it is essential to focus on the very origin of the sharply aggravating situation on 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 the stopping of Russia's military action in Ukraine. Importantly, Ukraine's sovereignty, territorial integrity, and independence should be respected.

44.55. The delegate of Ukraine indicated the following:

44.56. Ukraine would like to express its sincere gratitude to Australia, Canada, the European Union, Japan, the Republic of Korea, the Republic of Moldova, New Zealand, Norway, Switzerland, the United Kingdom, and the United States, for their continuous support of Ukraine's sovereignty and territorial integrity, and for their commitment to the rules-based international order.

44.57. Russia reiterated its statement on the so-called unilateral trade restrictive measures, complaining about the issue that it has created itself, and is trying to shield the blame for the death and destruction that it has caused on others. At the same time, solely Russia continues terrorizing Ukrainian civilians by attacking critical infrastructure and residential areas with missiles, guided aerial bombs, and Iranian-made attack drones – and the most recent attack happened last night, which has led to the deaths and injuries of at least 40 people in the city of Lviv.

44.58. The destruction of the Kakhovka Hydroelectric Power Plant by the Russian occupiers was another heinous crime of ecocide. This man-made ecological disaster will have far-reaching and long-term consequences not only for Ukraine but also for many other countries of the world, also because of the ecosystems destroyed, the destruction of crops, livestock, and fish, which will lead to even greater global food shortages. Russia cynically continues to blame international sanctions for the rise in food insecurity and the global crisis, although the sanctions are exceptional in nature and not intended to disrupt trade in essential goods. They do not hinder trade in agriculture, food and medical products; rather, they are targeted at ending Russia's illegal, unprovoked and unjustified war of aggression. The sanctions that have been imposed are the result of Russia's

[16] See, for example, documents G/C/M/144, paragraphs 14.33-14.34 and G/C/M/145, paragraphs 31.40-31.41.

violation of international law, and have been imposed in full accordance with the respective provisions of International Law, including WTO Law.

44.59. We are confident that the sanctions regime against Russia should not only be maintained, but also strengthened, as the Russian state still manages to circumvent the international sanctions regime, and still acquires technologies through a network of suppliers. The strengthening of sanctions is needed to reduce Russia's ability to fund its war, and to ensure that Russia is not able to manufacture and maintain high-tech weapons. And for your information, every calibre missile includes over 44 components.

44.60. Regarding the Black Sea Grain Initiative, we cannot help but once again to attract the attention of Members to Russia's sabotage and deliberate slowdown of works that have persisted for eight months, resulting in the world missing out on at least 20 million tonnes of food. There are currently more than 50 vessels waiting for inspection in territorial waters of Türkiye, intended to be loaded with 2.4 million tonnes of food. Some vessels have been waiting for GCC inspection for over three months, resulting in losses exceeding USD 1 billion, and impacting the final cost of food for the whole world. Once again, Russia has found a way to limit global food supplies by blocking the registration of new incoming ships and obstructing the largest port of Pivdennyi for two months in a row, which is a blatant violation of the terms of the Black Sea Grain Initiative to which the aggressor country also agreed. What is more, with now less than two weeks before the expiration date of the Initiative's extension, we are witnessing another repetitive Russian attempt to inflame the situation, providing the world with another portion of uncertainty regarding the supply of wheat, maze, sunflower meal and oil soybeans in the upcoming months.

44.61. Moreover, despite today's false claims from Russia, Russia's own statistics clearly show an increase in exports of agricultural goods, as well as transhipment of mineral fertilizers in 2022 and early 2023. I provided the respective statistics, in detail, in the previous meeting of the Committee on Agriculture.

44.62. To put things all together, Ukraine sees nothing more in Russia's so-called requests, concerns, or other questions put to Members, than an attempt to distract Members, to spread false narratives among the international trade community, and to obstruct the work of this Council. We reiterate our gratitude to all our partners for their comprehensive support and call on other WTO Members to put more pressure on Russia to end its ability to wage war and undermine the rules-based multilateral trading system and its sustainable development, which is impossible without achieving peace and stability.

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

44.64. Article IV of the Marrakesh Agreement Establishing the World Trade Organization provides for the Council for Trade in Goods to oversee the functioning of the Multilateral Trade Agreements in Annex I. Hence, the substantial part of the interventions to which we listened a few minutes ago are clearly irrelevant to the mandate of the CTG.

44.65. As underlined many times in this house's discussions on the regional or global security situation, UN Charter enforcement or compliance evidently goes beyond the mandate of WTO working bodies, including this one. These discussions belong to the specialized UN bodies and agencies. It is in these bodies and agencies where Russia shares its position, in detail, on the roots and reasons for its special military operation in Ukraine, as well as on the issues that arise during its conduct, such as the Kakhovka Hydroelectric Power Plant destruction.

44.66. Given that the Kakhovka Hydroelectric Power Plant (Kakhovka dam) was mentioned today by a number of delegations, Russia condemns the disinformation campaign by Ukraine and the western media for putting the blame on Russia for the destruction of the Kakhovka dam. The dam was destroyed by Ukrainian armed forces, and its destruction has led to a devastating humanitarian and environmental disaster.

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

44.68. The Council so agreed.

45 OTHER BUSINESS

45.1 Tentative Annual Plan of Meetings – Subsidiary Bodies of the Council for Trade in Goods (JOB/CTG/31) and Evolving Tentative Calendar of Formal Meetings of WTO Bodies for 2023 (WT/INF/231/REV.1)

45.1. The Chairperson indicated the following:

45.2. I would like to draw your attention to document JOB/CTG/31, the Tentative Annual Plan of Meetings of the Subsidiary Bodies of the Council for Trade in Goods, and to document WT/INF/231/Rev.1, the Evolving Tentative Calendar of Formal Meetings of WTO Bodies for 2023. These documents were prepared in close coordination between the Secretary of the Goods Council and the Secretaries of the CTG subsidiary bodies, with the aim to avoid overlaps and to ensure an optimal scheduling of meetings. These Annual Plans are prepared to facilitate identifying any potential issues at an early stage, while at the same time allowing you to plan accordingly. In addition, and as you have surely noticed, the Secretariat has changed the way in which the calendar of meetings in the WTO webpage operates, so that it is now even easier for Members to have information about the meetings. I have been informed by the Secretariat that you need to log on to the WTO webpage to have full access to the information and functionalities.

45.3. The delegate of Paraguay indicated the following:

45.4. Paraguay thanks the Secretariat for the coordination efforts and would like to have an update on the coordination work between the CTG and other Councils, especially the General Council and the negotiating bodies, where we have noticed the most recent overlapping meetings. In particular, between the Special Session of the Committee on Agriculture and the informal meetings of this Council, as well as the last formal meeting of the TBT Committee.

45.5. The Secretariat (Mr Roy Santana) indicated the following:

45.6. In the planning of meetings, the Secretariat always does its best to abide by the "Guidelines for the Arrangement and Scheduling of Meetings of WTO bodies", document WT/L/106, which were adopted in 1995. In that year, the WTO only had four big meeting rooms where Committee meetings could take place. Since then, the WTO has added three more meeting rooms, so we now have seven such meeting rooms, most of which are constantly full. What are the rules? On the one hand, the Guidelines provide that only one Council meeting should take place at the same time, so this means meetings of the General Council, the DSB, the TPRB, the CTG, the CTS, and the TRIPS Council. The Secretariat has been quite good in respecting this rule as there is never a situation when they overlap. The Guidelines also provide that there should not be more than two simultaneous formal meetings of WTO bodies, and here the coordination has also been quite good in terms of avoiding overlaps. It is true that there are occasionally scheduling problems, but these often have to do with overlaps of formal and informal meetings. In these cases, the Guidelines provide that we should try to avoid the overlaps as much as possible. However, it should also be borne in mind that the activity at the WTO has increased considerably over the years. For example, some bodies organize meetings that take place during a whole week, followed by meetings of another body that also take place during a whole week, and there are also frequent seminars, workshops, and so on, which means that the conditions for the planning are quite challenging. I would like to apologize for those occasions when we have not been able to fully comply with the Guidelines, but I can guarantee that the Secretariat is doing its best to minimize this type of situation. Unfortunately, we cannot guarantee that it will be fully avoided.

45.7. The Chairperson thanked the Secretariat for the explanation.

45.2 eAgenda

45.8. The Chairperson indicated the following:

45.9. On 27 April, the Secretariat informed Members, through document JOB/CTG/30, of the implementation of the eAgenda on a trial basis, following the 10 February 2023 Decision (as contained in document G/L/1481). This is the first formal CTG meeting in which the eAgenda has been used. I have been informed that we did experience some minor glitches, including the

numbering issue and the names of the previously raised trade concerns, but that the Secretariat quickly identified and resolved the problems. If you would like to provide feedback on further improvements to the eAgenda or have questions, please contact the Secretariat directly.

45.3 Date of Next Meeting

45.10. The Chairperson indicated that the Council's next formal meetings had been scheduled for the dates of 30 November to 1 December 2023, with an informal meeting scheduled on 19 September. These dates would be confirmed in due course.

45.11. The meeting was closed.