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**Council for Trade in Goods**

**MINUTES OF THE MEETING OF THE COUNCIL FOR TRADE IN GOODS  
30 NOVEMBER – 1 DECEMBER 2023**

CHAIRPERSON: H.E. DR ADAMU MOHAMMED ABDULHAMID

The meeting of the Council for Trade in Goods (CTG, or the Council) was convened in documents [WTO/AIR/CTG/26](#) and [WTO/AIR/CTG/26/Rev.1](#); the proposed agenda for the meeting was circulated in document [G/C/W/840](#) and an annotated agenda was circulated in document [JOB/CTG/44](#). Following the conclusion of this meeting, a follow-up note by the Chairperson collating agreed next steps, deadlines, and actions to be taken by delegations in preparation for the next formal meeting was circulated in document [G/C/W/841](#).

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The Chairperson welcomed Deputy Director-General (DDG) Angela Ellard and noted that she was now in charge of the Market Access Division.

DDG Angela Ellard indicated the following:

Thank you, Ambassador Abdulhamid, for the introduction. It is a pleasure for me to be able to join this meeting of the Council for Trade Goods. As noted by the Ambassador, I will be the DDG responsible for overseeing the work of the Market Access Division, which serves this Council, among other matters. As you know, the CTG plays a key role at the WTO by overseeing the operation of all WTO Agreements relating to trade goods, and its 14 subsidiary bodies include many of the key technical bodies and represent the bulk of the deliberative function of the WTO. I am delighted to see that the CTG has taken a leadership role in improving the functioning of this body through "reform by doing", which has become an example for the WTO as a whole. I am eager to work with you to continue to implement these reforms. The Secretariat has built in funds to implement IT-related reform-by-doing into its updated budget request released on Monday, which we hope Members will approve shortly. I look forward to contributing to and learning from the work of this Council, and I stand ready to work with you and help any way I can.

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 8 December 2023. Finally, he asked if any delegation wished to add any other issue under the agenda item, "Other Business".

The delegate of Brazil indicated the following:

Regarding agenda item 11<sup>1</sup>, on new trade concerns, "Mexico – Sunset Review of the Anti-Dumping Duty on Brazilian Exports of Bond Paper, Cut", Brazil requests for it to be removed from the agenda. It was not our intention to raise it as a new trade concern. We take this opportunity to clarify that the matter has already been addressed at the last meeting of the Committee on Anti-Dumping Practices, and that Mexico has engaged constructively in seeking a bilateral solution.

The Chairperson informed Members that he would like to share information under "Other Business" with respect to the following three issues: (i) functioning of the Tentative Annual Plan of Meetings; (ii) the Secretariat will share information on the changes to the eAgenda; and (iii) on the date of the next meeting.

The agenda was agreed with these modifications.

## **1 NOTIFICATION OF REGIONAL TRADE AGREEMENTS**

1.1. The Chairperson indicated the following:

1.2. Under this agenda item, the Council is requested to take note of regional trade agreements (RTAs) notified under Article XXIV:7(a) of the GATT 1994 and listed in the agenda. Pursuant to the Transparency Mechanism for RTAs<sup>2</sup>, they will be considered in the Committee on Regional Trade Agreements.

1.3. The delegate of Chinese Taipei indicated the following:

1.4. With regard to the communication from El Salvador in [WT/REG283/N/3](#), my delegation would like to clarify that according to paragraph 2 of Article 18.05 of the Free Trade Agreement between El Salvador and Chinese Taipei, "A withdrawal shall become effective one hundred eighty (180) days after the Party provides written notice to the other Party, unless the Parties agree on a different period." On this matter, we have not received any written notice from El Salvador. El Salvador's unilateral declaration to terminate the said FTA is apparently inconsistent with the required procedure provided in the above-mentioned Article and, accordingly, does not have any effect contemplated by paragraph 1 of Article 18.05. The lack of written notification and the legal ineffectiveness are not changed by El Salvador's unilateral decision to circulate the aforementioned Communication. Our position on this matter had been circulated in [WT/REG283/N/2](#) on 13 April 2023.

1.5. The Council took note of the statement and information provided.

## **2 MARKET ACCESS ISSUES**

2.1. The Chairperson indicated the following:

2.2. As indicated in the Airgram, the Committee on Market Access has forwarded five items for the consideration of this Council.

### **2.1 Introduction of Harmonized System Changes into the WTO Schedules of Concessions – Extension of Collective Waiver Decisions**

2.3. The Chairperson indicated the following:

2.4. At its meeting on 16 October 2023, the Committee on Market Access agreed to forward for the consideration of this Council five draft collective requests for waiver extensions concerning the introduction of Harmonized System Changes into WTO Schedules of concessions. Since the document symbols of the notifications are indicated in the Airgram and in the Agenda, I will limit myself to noting that they concern one-year extensions of draft collective waiver decisions

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<sup>1</sup> Agenda Item 11 as indicated in the following documents: [WTO/AIR/CTG/26](#) and [WTO/AIR/CTG/26/Rev.1](#); [G/C/W/840](#); and [JOB/CTG/44](#).

<sup>2</sup> Decision of 14 December 2006, document [WT/L/671](#).

concerning HS2002, HS2007, HS2012, HS20017, and HS2022, all of which will expire on 31 December 2023. In addition, I have been informed by the Secretariat that a revision to the HS2022 draft waiver was circulated in document [G/C/W/835/Rev.1](#) to include an additional Member in the list. I propose that the Council agree to forward the draft collective waiver decisions contained in documents [G/C/W/831](#), [G/C/W/832](#), [G/C/W/833](#), [G/C/W/834](#) and [G/C/W/835/Rev.1](#) to the General Council for adoption, unless there is any comment. Would any Members wish to comment? This does not seem to be the case.

2.5. The Council so agreed.

### **3 MC12 IMPLEMENTATION MATTERS**

3.1. The Chairperson indicated the following:

3.2. I would like to begin this agenda item by reporting on the informal meeting of the Council that took place on 19 September 2023, and which was convened through document [ICN/CTG/12](#). At that meeting, the Council discussed how to proceed with the reports to the General Council on the WTO response to the pandemic and the improvement to the functioning of the CTG and its subsidiary bodies. I had informed Members of these discussions in a report that was circulated in document [JOB/CTG/37](#), which also described the manner in which Members could provide feedback and comments on the two draft reports that are being considered by the Council at today's meeting.

#### **3.1 Consideration of the Draft Report on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics ([JOB/CTG/35/Rev.2](#) and [JOB/CTG/35/Rev.2/Add.1](#))**

3.3. The Chairperson indicated the following:

3.4. The first draft report to be considered by the Council is that on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics. As you may recall, we had a first discussion of this report in September, but Section 3 on "lessons learned" remained empty. This second revision, which was circulated on 10 October 2023, incorporates inputs from an informal joint submission by Ecuador, the European Union, Japan, the United Kingdom, and Uruguay, for Section 3 of the report on lessons learned and challenges experienced in the goods area. I understand that these Members also tried to reach out to other Members in preparing these inputs, which I understand are largely based on the "Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics" ([WT/MIN\(22\)/31](#)) and the Committee on Market Access Lessons Learned from the Experience-Sharing Sessions on Trade in COVID-19-Related Goods ([G/MA/409](#)). Members were kindly requested to provide comments on the report by 17 October 2023. No comments were received, and therefore no new revision was issued. Let me now begin by opening the floor to the Members that provided these inputs.

3.5. The delegate of Ecuador indicated the following:

3.6. My delegation would like, first of all, to thank the Secretariat for the preparation of this draft report and to express our support for it. Ecuador has actively participated in these discussions given the importance it attaches to this issue. Therefore, I would also like to thank all Members for their contributions and for working together with Ecuador.

3.7. The delegate of India indicated the following:

3.8. India thanks the Secretariat for preparing this draft report on the WTO response to the COVID-19 pandemic. Many of these discussions happened under the Committee on Market Access, where India participated constructively. We made two presentations on India's trade facilitation measures and the use of technology to address the pandemic-related challenges. India also presented a detailed paper on pandemic response, which carries the CTG symbol [JOB/CTG/36](#). We hope that these discussions and papers submitted by Members can form a basis for any rapid response discussions if required in the future.

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

3.10. The European Union welcomes the work undertaken in the subsidiary bodies of the CTG on experience-sharing relating to the trade challenges that emerged from the COVID-19 pandemic. We believe that this kind of technical work was not only useful to help identify solutions and best practices during the pandemic itself, but can serve as a model for future pandemics and similar trade-disruptive events. We especially welcome the outcome document agreed in the CMA, which attempted to draw conclusions and provide a useful summary of the work done. We believe that the report by the CTG should endorse and highlight these conclusions.

3.11. The Chairperson indicated the following:

3.12. I would like to thank all Members for their constructive engagement on this draft report. Can the Council agree to adopt this report so it can be submitted to the General Council?

3.13. The Council so agreed.

**3.2 Consideration of the Draft Report on Improvements in the Functioning of the Council for Trade in Goods and its Subsidiary Bodies ([JOB/CTG/39/Rev.2](#) and [JOB/CTG/39/Rev.3](#)); Additional Proposals by the United Kingdom ([JOB/CTG/41](#) and [JOB/CTG/42](#))**

3.14. The Chairperson indicated the following:

3.15. As you may recall, the first version of this report was circulated on 28 September 2023 and included a request for inputs from Members. A first revision was circulated on 16 October, followed by a second revision on 31 October. This third revision provides information on the discussions that have been held to improve the functioning of the CTG and its 14 subsidiary bodies, which collectively implement all the agreements for trade in goods included in Annex 1A of the WTO Agreement, and represent the majority of the WTO's regular bodies. The report also reflects all the improvements introduced in these bodies since the conclusion of MC12, and is based on the reports by the subsidiary bodies, all of which are included in the Annex of the CTG report. In the case of the CTG itself, we have a total of 22 improvements that have been introduced. I am delighted to report that a total of 121 improvements have already been introduced in the functioning of the CTG and its subsidiary bodies. Allow me to emphasize that the effective functioning of the regular bodies is a necessary condition for a successful implementation of the functions of the WTO, including its deliberative function and the implementation of the existing WTO Agreements. Members may also wish to continue any relevant discussions in the future, of course, as improving the functioning of regular bodies is an incremental and ongoing process. The report also describes the process followed by the CTG in implementing this mandate, and the proposals adopted or recommended by the Council, as well as the role it has played *vis-à-vis* its 14 subsidiary bodies; finally, it reproduces, by area or category, the main outcomes of these discussions. In addition to this draft report, the United Kingdom has submitted two additional proposals for action at this meeting but, if the UK will allow me, I would first like to see if there are comments on the draft report as it stands. We will then revert back to the UK proposals after these reactions. Would any Member like to take the floor on the draft report in [JOB/CTG/39/Rev.3](#)?

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

3.17. For those of you who were around last year, or at the beginning of this year, you may recall my quote from Oscar Romero, who said that while "we cannot do everything, but it is a step along the way." We should all take a moment and appreciate the document before us. Without each and every one of us, we could not have accomplished this. Even though we may not have done everything as planned and, in some cases, better than where we started, we should all be proud of what we have done here. We proved today, with this document, that we are better when we act together and our efforts in areas such as these are what will keep the WTO going.

3.18. The delegate of Ecuador indicated the following:

3.19. My delegation would also like to thank the Secretariat for the preparation of this report and for all its work supporting the discussions held on this subject. Ecuador considers that the

adjustments made both in this Council and in its subsidiary bodies have contributed very positively to the work of delegates in Geneva and in our respective Capitals. Ecuador agrees with the comments by the United States and supports the adoption of the draft report, and would like to thank all Members for their proactive participation in these discussions, in particular the co-sponsors of document [JOB/CTG/21](#): Argentina; Brazil; Colombia; Paraguay; Peru; and Uruguay.

3.20. The delegate of [India](#) indicated the following:

3.21. India thanks the CTG Chair, Ambassador Abdulhamid, for the initiative taken on the work on improvements in the functioning of the CTG and its subsidiary bodies. We also thank the previous CTG Chair, Ambassador Etienne Oudot de Dainville, for his leadership in shaping this discourse on operational efficiency improvements. We support the adoption of this report, such that it can be presented to the General Council and also be showcased at the Abu Dhabi Ministerial Conference. India's paper [WT/GC/W/874](#), presented in the General Council, had conceptualized the idea of 30-for-30, that is, the WTO undertaking 30 operational efficiency improvements before completing 30 years of its existence by the end of 2024. We are glad to see that the CTG and its subsidiary bodies themselves have contributed to 62 improvements through formal decisions and 59 other improvements to make an inspiring total of 121 improvements. We request that our Ministers be updated on these concrete results achieved, which have been a direct result of the MC12 mandate. Additionally, we welcome the two proposals put forward by the United Kingdom in documents [JOB/GC/41](#) and [JOB/CTG/42](#). We support the ideas laid out in both the proposals. We thank the delegation of the UK for their engagement in developing these proposals. In fact, since these ideas are very pertinent, we encourage Members to agree on these ideas in this meeting itself. This will allow the Secretariat to add these changes to the [JOB/CTG/39](#) document before it is sent to the General Council.

3.22. The delegate of [China](#) indicated the following:

3.23. China would like to thank the Chairs and the Secretariat of the CTG and its subsidiary bodies for drafting this report. Since July 2022, the CTG and its subsidiary bodies have undertaken numerous discussions to improve the functioning of relevant bodies, taking into account the different nature and mandates of those bodies. We appreciate these efforts and are very pleased to see that a total of 121 improvements have been introduced in the functioning of the CTG and its subsidiary bodies. WTO Members agreed at MC12 to "work towards necessary reform of the WTO" and to "improve all its functions". In light of the significant institutional improvements made by the CTG and its subsidiary bodies, we believe that it is important to incorporate this work into the MC13 deliverables package, and to get it acknowledged and blessed by Ministers at MC13. Finally, as pointed out in this draft report, improving the functioning of regular bodies is an incremental process. We welcome the United Kingdom's new proposals and look forward to further engaging with Members on this issue.

3.24. The delegate of [Paraguay](#) indicated the following:

3.25. I would like to echo the words of those who have taken the floor before me. We should collectively congratulate ourselves on this important progress and achievement. It is not every day that we in the WTO can celebrate that we have implemented not 121, but 122 improvements, because yesterday we agreed one more in the Committee on Agriculture as part of these collective efforts and harmonization of Committee practices. We ask the Secretariat to include this in a revised version. We are aware that we did it late, but it would be good if it could be presented to the General Council. We will refer more specifically to the United Kingdom's documents when we get to them, but we would also like to support the Indian Mission to be able to include these two improvements, and have them included in a further revision. Finally, I would like to take a moment to congratulate the delegations of the United Kingdom, India, and our Latin American colleagues for their hard work in developing these improvements, as well as the enormous effort of some delegations that are not so active today but that did begin this process a few years ago, and in particular the delegations of Hong Kong, China and Canada.

3.26. The delegate of [Switzerland](#) indicated the following:

3.27. Let me thank the Secretariat for producing this draft report on improvements in the functioning of the CTG and its subsidiary bodies. The report highlights a large variety of measures



that aim at improving the functioning of the WTO deliberative function, our main objective. We are encouraged to see that many measures have been successfully adopted by the CTG and its subsidiary bodies. The reform by doing process is well under way. However, we note that very few reforms have been implemented to improve transparency or facilitate the resolution of specific trade concerns. This is where lies the greatest potential to improve the deliberative function. For our traders, improving transparency and facilitating the resolution of trade concerns would significantly enhance predictability. It is crucial nowadays to work in that direction given that exporters increasingly face consecutive shocks that enhance global demand volatility, which in turn affect market predictability. Likewise, this would enhance the resilience of supply chains, a shared objective of all WTO Members.

3.28. The delegate of Djibouti, speaking on behalf of the LDC Group, indicated the following:

3.29. We take the floor to put on record at the CTG that we have been asked to bring to the attention of the CTG our views on reform of the functioning of the committees and councils. The LDC Group supports such improvements, particularly those that had their genesis in the LDC Group submission in document [JOB/GC/223/Rev.1](#). These include the use of annotated agendas, expediting the production of minutes, mechanisms to avoid overlapping of key meetings, summary notes on the same day of the meeting itself, and translation provided for all informal meetings.

3.30. To complement the work done, we suggest that some improvements in the reform process could be considered. For example, future proposals requiring adoption that are of a cross-cutting nature that impact LDC participation in WTO bodies should be sent to the General Council for discussion and decision. LDCs and small delegations all participate at the General Council, so this is the best place to evaluate the impact of reform-by-doing proposals on their participation in the WTO.

3.31. On the adoption of some changes, for example the change of the 10-day rule to 15 days, (in the CTG, the Committee on Market Access, the Council for Trade in Services, and so on), we understand that there are two sides: (i) to receive documents earlier, which is important for specific trade concerns; and (ii) in those bodies where most LDCs bring their agenda items and documents, we need more time to prepare. Indeed, some of our Members thought that the change meant more time to prepare. However, this is not the case. We did not reverse these adoptions to avoid standing in the way of changes. However, we request the CTG to recommend to the General Council that the change of the 10-day rule to 15 days be implemented on a trial basis in order to determine the impact on our Group. This is similar to what was already agreed in certain bodies concerning the introduction of the eAgenda on a trial basis. This is a good idea that came from the process.

3.32. We also feel that, while some steps may have been taken, more effort must be made to avoid overlapping meetings. For example, there have been a number of clashes in the last three months that have posed serious challenges for LDCs. Finally, while useful in some cases, the "written procedure" and circulating proposals for adoption during summer recess should be avoided. We reiterate our applause to the Secretariat, and the CTG, for all of the great work done on several areas of reform of the functioning of the various committees and the CTG.

3.33. The Chairperson indicated the following:

3.34. Thank you, Djibouti. Before I call the next speaker, I would like to remind you that the proposal on the 15 days has already been agreed by the Council. In case you have other improvements beyond the 122 improvements that have already been implemented, we can of course come back to them next year.

3.35. The delegate of New Zealand indicated the following:

3.36. Just to echo colleagues in the room. We would like to express our gratitude to you and your predecessor, and also for the efforts of Roy and the Secretariat team in coordinating this work, as well as to my fellow colleagues for putting forward fairly useful proposals to improve the functioning of this Council and its subsidiary bodies. This has included the online tools, the website, and eAgenda, and I think that they may seem minor, but these have really resulted in significant enhancements to our ability to engage in the WTO committees as delegates. And, as you indicated, Chair, we hope that the CTG is going to charter us a way forward in setting a good benchmark for

reform by doing. Equally, I would like to thank the United Kingdom for their proposal, and we will come to that, but we would like to express our support for the suggested ideas in the report.

3.37. The delegate of Colombia indicated the following:

3.38. Let me thank and welcome your report, and echo the interventions that have mentioned the importance of including also the new and more recent points. I would also like to thank the delegations that have sponsored this process, both now and before, as well as the United Kingdom, India, the Latin American Members, as well as Hong Kong, China and Canada for their earlier efforts. In conclusion, I would also like to give special thanks to the Paraguayan Mission, as they have been a permanent leader throughout this process, which has had important under-the-radar and constructive effects on the Organization, and these efforts are worth highlighting.

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

3.40. Let me start by thanking DDG Ellard for her presence in this meeting today, and I would like to wish her the best of luck in her new portfolio. Members recognized the need to improve the daily operation of WTO bodies as an important means to enhance the Organization's capacity and efficiency. To this effect, the European Union welcomes the substantive work carried out by the CTG and its subsidiary bodies in facilitating and reporting the "Reform by Doing" work. We would like to express our appreciation to all involved for the work done, and we encourage further work in this area.

3.41. The Chairperson indicated the following:

3.42. I would like to thank delegations for their comments. Do I take it correctly that Members would be willing to adopt the report as it stands? This seems to be the case but, before we formally adopt it, let's now move to discuss the two additional proposals from the United Kingdom to see if more can be added to the report. As you may recall, my report from the informal meeting of 19 September 2023, [JOB/CTG/30](#), indicated that Members may be able to further develop and agree on some of the proposals that remain unresolved. For this reason, I urged Members to continue working with others on those proposals with a view to bridging the differences and finding mutually agreeable solutions at this formal meeting. In this regard, the UK has submitted two proposals in writing that are directly linked to those issues discussed by the Council in September. May I now give the floor to the UK so that they can introduce the additional proposals.

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

3.44. First let me open with some remarks on the last item, welcoming the 122 changes that have been agreed. I would echo my colleague from the United States: we should be proud of this. There are 122 individual proposals in that report, which have been made over many years and months. We reiterate our thanks to all delegations, including the LDC Group, for their valuable proposals, including that from April 2022.

3.45. It has been amazing to be part of these discussions, which have been driven by delegates, using their expertise in how this place works, demonstrating their deep pursuit of ways to make our own work more efficient and inclusive, including through brainstorming practical ideas to support the participation of smaller delegations. We thank DDG Ellard for her remarks on the importance of the CTG's work, and the point that our CTG endeavours are a model for the rest of the WTO and, as such, we hope our ideas percolate out of this body to inspire changes also in other areas, where appropriate.

3.46. We must make sure that these ideas do not get stuck in a silo given that some are so simple and pragmatic, and could immediately help participation. We look forward to welcoming this Report at the General Council and, as others have said, to forwarding them to Ministers and welcoming them at MC13.

3.47. Before wrapping up on this broader point of reform, let me praise our excellent Chairpersons who have guided this process. And, additionally, the outstanding, pragmatic, innovative Secretariat team that we have been blessed with in this Council. They are the machinery putting this into action, to drive the change that we have envisioned.

3.48. Turning now to these two loose ends, let me introduce these two very different proposals which are in two very different formats. The proposal in [JOB/CTG/41](#) relates to an issue we have previously discussed at length in this Council. It is about scheduling of meetings, and transparency on any rescheduling of meetings. This paper is not a request for a Decision. Instead, it relates to existing text, that already applies *de facto* to the CTG, which was adopted back in 1995. So it's not about creating something new; rather, it's an *aide-mémoire* about implementing what we already have. And this existing 1995 text helpfully encourages both the fixing of the WTO meetings calendar, and provides for the circulation of a written explanatory notice for any meetings that are rescheduled. We think both are excellent practices to be encouraged. So, in effect, this UK proposal – if the Council is amenable – would be for the Chair and Secretariat to please circulate these notices, in line with these guidelines, from this day forth in case of meetings being rescheduled. And of course, we take note of the efforts of the Chair and Secretariat to set the calendar in the CTG and its subsidiary bodies, which is so helpful, and look forward to discussing that.

3.49. Turning now to the proposal contained in document [JOB/CTG/42](#), which also relates to an issue that we have spoken about at length in this Council, but on which we have not had a text to guide us until now. At the last meeting, I said that the UK would provide a draft text. This proposal would provide for the Chair, under their own responsibility, to circulate a concise neutral overview of CTG Informal meetings within two days after the meeting. This would replicate the current helpful practice of other bodies, including the CMA and SPS Committees. The objective of providing more information on informal meetings would be to help increase their transparency, including for those delegations that cannot attend them. We hope this extra information would support the inclusion and participation of all Members in the work of this Council generally, including in the preparation for the formal agenda items that are linked to discussions in informal meetings. On that basis, this text provides a range of parameters to help guide the Chair's preparation of a factual and neutral overview of the main elements discussed by Members, as linked to the agenda of the meeting as circulated in the informal convening notice. Unlike the previous proposal, this proposal is a request for a Decision by this Council. Therefore, if the Council is amenable, and can accept this Decision, then going forth we would welcome the circulation of a note from the Chair in line with the parameters set out in this document.

3.50. The delegate of [Paraguay](#) indicated the following:

3.51. Paraguay would like to support and welcome these two initiatives. As our colleague from the United Kingdom rightly pointed out in introducing them, they are practices that have in fact already been adopted by some of the subsidiary bodies of the Goods Council. In this regard, the Market Access Committee has already adopted the practice of giving a written explanation when there is a change in meeting dates and, in fact, we have already had to implement it a couple of times. We will probably have to implement it again, and it is definitely a transparency practice that is very useful in helping delegations understand the reasons leading to these changes in the planning of our work. It is a practice that should be extended not only to this Council, but also to the other bodies, including the General Council, where we notice that there are the most changes that affect also all the other councils and committees. Also, the circulation of an informal meeting report under the responsibility of the Chair, without attributing positions to specific delegations, and in a neutral manner, is a good practice that we see in several committees, including the Market Access Committee, the Committee on Sanitary and Phytosanitary Measures, the Committee on Technical Barriers to Trade, and also the Committee on Agriculture. As the US delegation pointed out, these are practices that allow delegations that cannot be present at an informal meeting to know what was discussed and, in that sense, we note that, as the LDCs said, smaller delegations have problems being in the room, including in formal meetings. The situation worsens when it comes to informal meetings, so we think it is a very useful contribution in terms of transparency. In general, in some committees the report of informal meetings is usually circulated for comments before the Chairperson reads it out at the next formal meeting. It is a practice that we could discuss, but the important thing is that the reports are produced, and that we have information about what has occurred in meetings that we cannot attend. Despite our best efforts, duplication and overlapping of meetings continues to happen.

3.52. The delegate of [Ecuador](#) indicated the following:

3.53. Ecuador would first like to thank the United Kingdom for the submission of both documents, which Ecuador fully supports. The first document serves as a reminder of a decision already taken

in 1995, if I am not mistaken; and the second document is a decision to produce a report after informal meetings.

3.54. The delegate of Hong Kong, China indicated the following:

3.55. Hong Kong, China would like to thank the United Kingdom for their proposals. We think their suggestions are very useful and we support them.

3.56. The delegate of Uruguay indicated the following:

3.57. Uruguay is grateful for the two proposals by the United Kingdom. We echo what has already been said by Paraguay, Ecuador, and Hong Kong, China. We believe that the reports of the chairpersons after an informal meeting, on their own responsibility, are extremely important.

3.58. The delegate of Djibouti, speaking on behalf of the LDC Group, indicated the following:

3.59. We would just like to thank the United Kingdom for their great efforts in helping us advance on the reform issues. The UK has frequently met with the LDC Group, and has taken into account our concerns with their proposals. We also met to discuss these issues, and our Group is favourable to the UK's proposals.

3.60. The Chairperson indicated the following:

3.61. I thank all the Members for their comments. With this, can the Council agree to adopt these two new proposals by the United Kingdom on a trial basis? I see no objection. So, I understand that Members are ready to adopt the two proposals by the UK. We will now ask the Secretariat to circulate them as a Decision by the Council. In addition, I propose that the Secretariat modify the draft report to reflect these two new issues, for a total of 124 improvements overall. The modified version of the report will be circulated and submitted as soon as possible to the General Council. Can Members agree to this way of proceeding?

3.62. The Council so agreed.

3.63. The Chairperson indicated the following:

3.64. I would like to echo the statements made by DDG Ellard and Members on the importance of what has been achieved in this Council. It is commendable. We have heard in several meetings of this Council, and even in meetings of the General Council, about the achievements realized by this Council, and particularly now with the report that has just been adopted. We should all be happy and try to continue and keep up the momentum.

### **3.3 Enhancing Clarity and Accessibility of Information ([JOB/CTG/43](#)) – Request from Paraguay and the United Kingdom**

3.65. The Chairperson indicated the following:

3.66. This item has been included on the agenda at the request of Paraguay and the United Kingdom. I understand that this is a new submission containing three new proposals that have not yet been discussed by the Council, so I would like to invite Paraguay and the United Kingdom to present them.

3.67. The delegate of Paraguay indicated the following:

3.68. The main purpose of this document is to highlight the challenges that we are currently facing and to propose specific suggestions that could be implemented on a trial basis by this Council. The document circulated by Paraguay and the United Kingdom, with a revised version to be circulated shortly that will include Colombia and Uruguay as co-sponsors, aims at improving the clarity and accessibility of information and draws on previous submissions, including those contained in documents [JOB/CTG/21/Rev.3](#), [JOB/CTG/26/Rev.1](#) which makes reference to [JOB/GC/223/Rev.1](#) and [WT/GC/W/874](#).

3.69. I do not intend to read the introductory paragraphs of the document but would like to mention in broad terms that the motivation for these proposals is to facilitate the follow-up and participation of all delegations, especially small delegations with limited human resources, including through the improvement of the format of certain documents. The intention is by no means to reduce the amount of information, but on the contrary to modernize the format and facilitate access to it through additional information that is considered useful, such as the inclusion of hyperlinks to existing documents, for example. The CTG is already a well-functioning example of this, which we should acknowledge, while also congratulating and thanking the Secretariat for their excellent work. However, the reform of the WTO in general, and of the functioning of the WTO in particular, is not yet complete.

3.70. We all find it difficult to keep track of the wide variety of deadlines from different bodies. This is why the first part of the proposal seeks to build on a useful practice that is already implemented by the Rules Committees, where a concise "deadlines document" is published immediately after the meeting with all the key information on dates and actions in one place. This would create a quick access summary of dates and processes that are important to keep in mind, which would be particularly useful for smaller delegations, which have less capacity to attend and follow up on meetings. As I mentioned earlier, CTG delegates already have a wide range of resources, thanks to the Secretariat, so it is ultimately a matter of bringing them together in one place for ease of access.

3.71. With regard to the CTG's Information Centre, the new CTG portal, in which the Secretariat has once again put so much effort, is an excellent example of improvements that facilitate access to information. I would like to encourage all delegates to use this excellent tool which, at least in the case of Paraguay, facilitates the work of preparing for CTG meetings. Our proposal now requests the addition of two additional boxes with hyperlinks to the latest minutes, deadlines, and dates of CTG meetings, as well as when the agenda will close, to make this information even more accessible.

3.72. Regarding the convening notice (Airgram), the proposal is quite long, but in reality, it reflects current practice. The main point is actually to update the current format, which, as we all know, is rather outdated. We note that the annotated agenda is much easier to read, so we wanted to apply the same to the convening notice. We would like to keep the information already contained in the convening notices, but laid out in a format and typeface that can be copied and pasted into an email without losing the formatting or capitals when changing the typeface. Therefore, this part of our submission accommodates the contents that are in the CTG convening notices already, but requests the inclusion of other information that is already available in other tools, but that would be useful also to have in this document. I would like to stress that this is not intended to create anything substantially new, or to remove things beyond the old font and difficult formatting, and to continue with the inclusion of hyperlinks. It is simply to allow the Secretariat to make the existing information more readable (with a font like the annotated agenda, and more digitally integrated) and to add some additional useful information, such as a link to the CTG's Rules of Procedure.

3.73. Let me conclude by again thanking you for giving me the floor to present this submission, and to thank again the Secretariat for the excellent work that ultimately makes it easier for us to focus on these additional small improvements to further contribute to the reform process based on actions. With your permission, we ask if Members would agree to implement the proposals on a trial basis for the next meeting. In the affirmative, this would lead to: (i) a timeline document being distributed after this meeting; (ii) boxes being added to the already existing CTG section in the WTO webpage; and (iii) the next convening notice being issued in a more user-friendly format. We could then come back to the next Council meeting, as necessary, to see if this has been useful.

3.74. The delegate of India indicated the following:

3.75. We welcome document [JOB/CTG/43](#) submitted by the United Kingdom and Paraguay. The ideas presented in this paper are very pertinent. Implementing the proposals contained in this document will help Members get a quick and accurate understanding of what transpired in a formal meeting, including action items, if any. The idea of setting up a CTG Hub is also in line with India's proposals of using technology to better serve both Geneva and capital-based delegates. This intervention will help in easy access to CTG documents, while also enriching the CTG webpage, which can become a one-stop destination for all information on the Council. My delegation will urge Members to consider supporting these ideas on a trial basis so that they can be taken up for formal adoption. Such a decision can be taken up as per the process being followed by the CTG for improvements in its functioning.

3.76. The delegate of New Zealand indicated the following:

3.77. New Zealand would like to support the proposal put forward by Paraguay and the United Kingdom, and echo India's remarks that it is a very useful, practical way of improving some of the accessibility to information, particularly having links online to meeting information and the CTG hub, as we have also supported in the past, to have a very consolidated, one-stop-shop for the information of the CTG. And we would welcome improvements to the format of the Airgram, or the convening notice as it will be, to give us a better way of organizing our information as delegates.

3.78. The delegate of Norway indicated the following:

3.79. I thank Paraguay and the United Kingdom for presenting this proposal today, and as underlined by Paraguay, Norway likewise considers that enhancing the clarity and accessibility of information is especially important to small delegations. The Council and its subsidiary bodies have made great improvements already in this respect, and I also want to thank Roy and the Secretariat for all the work that you have done in improving the website, making it more of a one-stop-shop, as New Zealand said. Norway very much supports the proposal on a trial basis for the next meeting, and supposing that the Secretariat would be able to execute it, we think that it could be a good idea.

3.80. The delegate of Pakistan indicated the following:

3.81. Thank you for your leadership, and I would also like to thank the WTO Secretariat for all the support. We support the proposal in document [JOB/CTG/43](#), presented by Paraguay and the United Kingdom. It is an excellent proposal, particularly so because it will help smaller delegations to be in the picture and in the loop. It will improve the clarity, accessibility, and transparency of the proceedings of the Council. So we support the views that have been expressed before us, and thank Paraguay and the UK for presenting this proposal.

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

3.83. The European Union would like to thank Paraguay and the United Kingdom for the proposal. The EU is open for further discussions in the area of reform by doing. Indeed, improvements to the clarity and accessibility of online information can lead to important efficiency gains.

3.84. The delegate of Switzerland indicated the following:

3.85. I wish to thank Paraguay and the United Kingdom for their communication contained in [JOB/CTG/43](#). The paper encompasses a number of proposals that aim to improve the functioning of the CTG. In our view, the proposed good practices can be implemented without further discussions, and following the principle of reform by doing.

3.86. The Chairperson indicated the following:

3.87. I understand that Members are ready to adopt the proposal on these three points on a trial basis. Can Members agree to this? I see no objection. We will now ask the Secretariat to circulate the document with the three points as a Decision by the Council. In addition, I propose that the Secretariat modify the draft report in Rev.3 to reflect these three new issues, for a total of 127 improvements. The modified version of the report will be circulated and submitted as soon as possible to the General Council. Can Members agree to this way of proceeding?

3.88. The Council so agreed.

#### **4 PRINCIPLES GUIDING THE DEVELOPMENT AND IMPLEMENTATION OF TRADE RELATED ENVIRONMENTAL MEASURES – COMMUNICATION FROM THE AFRICAN GROUP ([G/C/W/830](#))**

4.1. The Chairperson recalled that this item had been included on the agenda at the request of the African Group. He also noted that this document had been submitted to several bodies, and that it had first been discussed at the General Council's meeting of 24-25 July 2023.



4.2. The delegate of [Djibouti](#), speaking on behalf of the LDC Group, indicated the following:

4.3. The LDC Group has the pleasure to intervene in support of the principles found in the submission by the African Group. LDCs also export products that can be impacted by unilateral environmental measures, while our countries contribute only marginally to the emissions that generate the greenhouse effect. We are also not responsible for the climate crisis. We note that the paper has indicated that WTO rules allow complementary trade measures that are conducive to effective implementation of domestic environmental policies but seek to prevent such measures from creating disguised restrictions to trade. Therefore, climate measures that restrict our market access should indeed be avoided. The African Group paper sets out important principles that should be recognized in the WTO with a view to ensuring that efforts to implement measures for trade and the environment do not result in adverse consequences, especially for LDCs and developing countries.

4.4. The delegate of [Paraguay](#) indicated the following:

4.5. Paraguay thanks the African Group for their document. In general, Paraguay agrees with the orientation and principles set out in the document. We will be approaching the African Group for further discussion and to try to have joint initiatives along these lines.

4.6. The delegate of [India](#) indicated the following:

4.7. We thank the African Group for their submission of document [G/C/W/830](#), and for bringing it to the attention of the Council for Trade in Goods. Like the African Group, India also believes that the environment-related trade measures being taken by several Members negatively impact market access for developing countries. In fact, our own concerns on this issue are well documented in document [JOB/CTE/78/Rev.1](#), presented to the Committee on Trade and Environment. This paper was jointly presented by India and South Africa. The ideas presented by the African Group and those contained in our Committee on Trade and Environment (CTE) submission have great commonality. We believe that the principles enshrined in international environmental law, like Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC), and the concept of nationally determined contributions (NDCs), to name just two, should be reflected in international trade law as well when designing trade measures rooted in environmental outcomes. We welcome further discussion on this issue in all relevant WTO bodies.

4.8. The delegate of [Türkiye](#) indicated the following:

4.9. We also thank the African Group for their document on the Principles Guiding the Development and Implementation of Trade-Related Environmental Measures. As we have also indicated in previous meetings, including meetings of the General Council, we support the main ideas underlying the arguments in this paper with regard to the need to respect the multilaterally agreed mandate of nationally determined contributions (NDCs) and the principles arising from both multilateral trade and environment agreements. We also believe that the development dimension has to be an integral part of such measures, together with consideration for access to financing and technology with the aim of levelling the playing field. We very much support multilateral discussions on the nexus of trade and the environment, and we would like to continue deeper engagement with other Members on these matters.

4.10. The delegate of [Colombia](#) indicated the following:

4.11. Colombia expresses its appreciation to the African Group for its valuable contribution through today's submission and presentation, which sets out the guiding principles that should be applied for the development and implementation of trade-related environmental measures. This effort highlights the importance of a collaborative and coherent approach to trade and environment. Likewise, we would like to recall that Colombia has presented a similar proposal in the Committee on Trade and Environment in document [RD/CTE/221](#), which addresses the importance of coherence between the worlds of trade and international environmental law. Our proposal does not mention specific principles yet, but it does draw attention to the need to have this discussion. This proposal complements and reinforces the efforts of the African Group, underlining the need for a coherent common framework between both fora of public international law.

4.12. The delegate of China indicated the following:

4.13. China shares similar views to those of the African Group on many of the guiding principles suggested in the proposal, such as Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC), Historical Responsibility, and Environmental Impact Assessment. We look forward to in-depth studies and discussions to explore how such principles could be integrated into the WTO. We also encourage Members to carry out more discussions in the Committee on Trade and Environment (CTE) on various environmental issues.

4.14. The delegate of Switzerland indicated the following:

4.15. Switzerland thanks the African Group for its paper, and we welcome its engagement on this important topic. As we all know, the whole planet is facing climate change, pollution, and biodiversity loss, and some Members may face bigger consequences. These issues require international collaboration and an approach that includes all policy fields, including trade. In other words, trade has to contribute to the solution, and we believe that these global issues need a global answer, which means all hands on deck.

4.16. In principle, we believe that some of the concepts that are being put forward by the African Group have not been agreed in other international fora, and remain controversial. We would therefore be cautious when using the term "guiding principles". Importing political polarization from other fora would not help our discussions in the WTO. In our view, this communication requires discussions in the Committee on Trade and Environment (CTE) as the relevant body to have substantial discussions on trade and environment issues, and we note that it was presented for the first time at the CTE's November meeting. However, we are not sure of the added value of presenting this paper to all committees, including in the CTG.

4.17. To conclude, we encourage further in-depth discussions on the trade and environment nexus on issues that present both challenges and opportunities for all Members, especially LDCs at the CTE.

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

4.19. The European Union would also like to thank the African Group for the paper. The EU supports more transparency and dialogue on trade-related environmental policies that Members are implementing to fulfil their international commitments. The EU sees the WTO, and particularly the CTE, as a valuable forum for engagement on trade-related environmental measures, both during the design stage and once the measures are implemented. This includes discussions on how to minimize the impact of such measures on trade while also identifying means to support developing countries in complying with such measures and facilitating trade.

4.20. The European Union has engaged with WTO Members without the WTO needing to change the rules. We do not believe that prescriptive principles for engagement are necessary in the WTO. Moreover, the principles referred to in the African Group's paper belong to different legal regimes and do not necessarily apply to every environmental policy being implemented. Yet, we fully agree that, in national policymaking, compliance with relevant international commitments must be ensured, even if they stem from different legal regimes. This is why the EU has made sure that its European Green Deal policies comply with the Multilateral Environmental Agreements (MEAs), including the UNFCCC and the WTO rules.

4.21. The European Union has walked the talk of transparency and engagement. We invite other WTO Members, including developing Members, to do the same with their measures. We would also encourage Members to move on from ideological discussions to engagement in practical action.

4.22. The delegate of Pakistan indicated the following:

4.23. Pakistan welcomes and supports the 12 guiding principles. I will not list them individually, but all the 12 guiding principles are provided in the paper. I would also like to thank the African Group for putting together this proposal. Trade and Environment is being discussed in various fora within the WTO, in different committees, and trade measures are being used in the name of the environment to increase and raise trade barriers. Therefore, it is critical that this be discussed in all



the committees. We would urge the Council to consider this paper and these guiding principles. Thank you.

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

4.25. The Council so agreed.

**5 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](#))**

5.1. 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 noted that the issue had been last discussed by the CTG at its meeting of 6 and 7 July 2023.

5.2. The delegate of Djibouti, speaking on behalf of the LDC Group, indicated the following:

5.3. The LDC Group in this case is only seeking a clarification, namely that an LDC after graduation from the LDC category would be able to avail itself of the flexibility under Article 27.2(a) of the Agreement on Subsidies and Countervailing Measures (ASCM), in a manner to be included in Annex VII(b), if its GNP per capita remained below the USD 1,000 threshold in constant 1990 US dollar terms. We do not want to change the rules; nor do we want to create any additional flexibility for us. Our only objective is to bring uniformity in the treatment under the provisions of the ASCM, which already exist in the WTO, under Annex VII(b), for those Members listed therein. Those Members, having graduated from the LDC category, should be deemed to be listed among developing countries identified pursuant to Annex VII(b) to the ASCM, if their GNP per capita is below USD 1,000 in constant 1990 dollars at the time of graduation, and they will remain in the list until their GNP per capita reaches USD 1,000 in constant 1990 dollars for three consecutive years. If any such graduated LDC Member is excluded from the list of Annex VII(b) to the ASCM because its GNP per capita reached USD 1,000 for three consecutive years, that graduated LDC shall be re-included when its GNP per capita falls below USD 1,000 in constant 1990 dollars.

5.4. The delegate of Bangladesh indicated the following:

5.5. The delegation of Bangladesh aligns itself with the statement made by Djibouti on behalf of the LDC Group. The proposal in document [G/C/W/752](#) aims to correct a technical omission regarding the use of export subsidies under the WTO Agreement on Subsidies and Countervailing Measures (ASCM). It is widely accepted that export subsidy is a policy tool that potentially can help Members in transition.

5.6. According to Article 27.2(a) of the ASCM, some Members are eligible to enjoy flexibilities under this Agreement. These Members are specified in Annex VII in two separate categories: (a) the LDCs; and (b) some developing countries, as long as their GNI per capita remains below USD 1,000 in constant 1990 US dollar terms. Paragraph 10.4 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns ([WT/MIN\(01\)/17](#)) confirms that, if a Member has been excluded from the Annex VII(b) list, it shall be re-included in the list when its GNI per capita falls back below USD 1,000. However, it is not clear whether an LDC after graduation from the LDC category that still remains below the threshold (that is, USD 1,000 in constant 1990 US dollar terms) will be able to avail itself of the flexibility contained in Article 27(a) of the ASCM.

5.7. We thank the Secretariat for its notes in [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/382](#)". The GNI trend in that document shows that many LDCs, that is, Members listed in Annex VII(a), may graduate from the LDC category with GNI per capita below USD 1,000 in constant 1990 US dollar terms. For example, Nepal is scheduled to graduate from the LDC category in 2026 with a GNI per capita below USD 1,000 in constant 1990 US dollar terms. It is unclear whether Nepal will be able to avail itself of the flexibility under Article 27.2(a) of the ASCM. This is a practical problem, and how can we solve it? Therefore, 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(a) of the ASCM. This request is also consistent with the

2001 Ministerial Decision that considered the GNI threshold USD 1,000 in constant 1990 US dollar terms as the only criterion for the re-inclusion to, and re-exclusion from, the Annex VII(b) list.

5.8. We are grateful to all those Members that have been supporting this proposal since its submission in 2018. The LDC Group also thanks the European Union and the United States for opportunities to discuss their concerns bilaterally. Concerns were raised about data availability and information on export subsidies. The LDC Group values the importance of data, but considers that it cannot be the pre-condition for the current discussion that aims to correct a technical omission without adding any new flexibility to the original agreement. An omission cannot be interpreted as a deliberate intent by Members to prevent graduating LDCs from benefiting from Article 27.2(a) flexibilities.

5.9. Before we conclude, we should like to make a clarification. The current communication on Annex VII of the ASCM has also been referred to as a component in Annex II to the LDC Group's proposal on Graduation at the General Council ([WT/GC/W/807/Rev.2](#)). This means that deliberations on this item at the CTG will complement those on the LDC Graduation proposal. We trust this clarification is helpful to avoid any confusion in this regard. 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 get a positive result in this regard.

5.10. The delegate of the [European Union](#) indicated the following:

5.11. The European Union thanks Djibouti and Bangladesh for their statements. The EU supports constructive initiatives to better integrate LDCs into the multilateral trading system and we encourage discussing this proposal. The EU is mindful of the challenges that graduating LDCs face. The EU is willing to explore a solution in the context of the discussions in the Committee on Trade and Development (CTD) on LDC graduation.

5.12. The delegate of the [United States](#) indicated the following:

5.13. As we have mentioned in previous meetings, we are reviewing the information that was put together by the Secretariat and, unfortunately, the calculations confirm our concerns that gaps remain in the information that is needed for this proposal to be workable from a technical perspective. We remain ready to discuss ideas and proposals on how to address those gaps or otherwise address the issues addressed by this proposal.

5.14. The delegate of [Nepal](#) indicated the following:

5.15. My delegation aligns itself with the statement delivered by Djibouti on behalf of the LDC Group and would like to add few points. It is our pleasure to note that, as per the tentative plan, seven LDCs will be graduating by 2026: the graduation of Bhutan will be very soon, and others are also making progress in this regard. Meeting the GNP criteria does not necessarily mean that graduated countries will be able to overcome all their trade-related challenges. On the contrary, graduated countries may face enormous challenges to cope in a new trade and economic environment. In the case of today's agenda, it is not clear whether a graduated Member will be able to enjoy the said flexibilities if their GNI is below USD 1,000 in constant 1990 US dollar terms. In this regard, the decision in the proposal submitted by the LDC Group is necessary for greater clarity and predictability, such 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 under Article 27.2 of the ASCM as are the developing countries listed in Annex VII(b). LDCs are not demanding anything new but only requesting clarity concerning graduated countries automatically falling under the list of Annex VII(b). The proposed decision is important to us from the perspective of justice, inclusiveness, equity, and equality.

5.16. The [Chairperson](#) proposed that the Council take note of the statements made.

5.17. The Council so [agreed](#).

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**6 ACCESSION OF THE REPUBLIC OF ARMENIA TO THE EURASIAN ECONOMIC UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 – COMMUNICATION FROM ARMENIA**

6.1. The Chairperson informed Members that the delegation of Armenia had requested the Secretariat to circulate document [G/L/1110/Add.9](#), relating to the extension of the time-period for the withdrawal of concessions, in connection with Armenia's accession to the Eurasian Economic Union (EAEU), until 2 January 2025.

6.2. The delegate of Armenia indicated the following:

6.3. Despite positive achievements recorded on the NAMA substance and our efforts to come up with the Agriculture package, we have to state that, due to well-known circumstances, and along with a significant number of the Members involved, the compensatory negotiations have moved much slower than was originally expected. Thus, it is obvious that additional time is required to finalize the process. In view of this, to properly organize the course of the negotiations pursuant to document [G/L/1110/Add.4](#), Armenia has indicated the following: "In connection with the Treaty of Accession of the Republic of Armenia to the Eurasian Economic Union (EAEU) [ ... ]; and in view of ensuring that Members reserve their rights pending the communication to the WTO Secretariat of the agreements reached in the context of Article XXIV:6 (GATT), Armenia believes that it is desirable to provide for an extension of 12 months (that is, until 2 January 2025)."<sup>3</sup>

6.4. It means that we express our readiness to provide for an extension of an additional 12-month period, until 2 January 2025, to withdraw substantially equivalent concessions under Article XXVIII:3 of the GATT 1994. Meanwhile, we stand ready to continue the negotiations with the interested WTO Members in a pragmatic and constructive way with a view to finalizing them in the foreseeable future. Considering the above, we request the Council to agree on the proposed extension.

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

6.6. The European Union welcomes the progress achieved in our negotiations on tariffs for non-agricultural products, where an agreement of principle has been reached. When it comes to agriculture, however, following the exchanges held in March 2022, the EU would welcome a sound commitment from Armenia to pursue these negotiations with a view to making progress and potentially concluding them within the extended time-frame.

6.7. The delegate of Armenia indicated the following:

6.8. We have taken note of the statement made by the representative of the European Union and will convey it to Capital in due course. We confirm our readiness to continue our negotiations with WTO Members in a pragmatic way with a view to finalizing them in the foreseeable future. Meanwhile, we will continue to inform the Council and interested Members of the ongoing compensatory adjustment negotiations.

6.9. The Chairperson proposed that the Council take note of the communication by Armenia and the statements made, and to agree on the extension of the deadline until 2 January 2025, as set out in communication [G/L/1110/Add.9](#).

6.10. The Council so agreed.

**7 ACCESSION OF THE KYRGYZ REPUBLIC TO THE EURASIAN ECONOMIC UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 – COMMUNICATION FROM THE KYRGYZ REPUBLIC ([G/L/1137/ADD.8](#))**

7.1. The Chairperson informed Members that the delegation of the Kyrgyz Republic had requested the Secretariat to circulate document [G/L/1137/Add.8](#), relating to the extension of the time-period

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<sup>3</sup> Document [G/L/1110/Add.9](#).

for the withdrawal of concessions, in connection with the Kyrgyz Republic's accession to the EAEU, until 12 February 2025.

7.2. The delegate of the Kyrgyz Republic indicated the following:

7.3. The Kyrgyz Republic is still in the process of analysing the qualifications and other relevant data analysis based on the initial claims of interested Members. The Kyrgyz Republic is in discussions with one of the interested Members and stands open to cooperation with others. The Kyrgyz Republic would like to recall that the term provided for withdrawal of substantially equivalent concessions expires on 12 February 2024. Considering that an additional time would be required in order to move these negotiations forward, and to ensure that Members reserve their rights pending the communication to the WTO Secretariat of the agreement reached in the context of Article XXIV:6 of the GATT, the Kyrgyz Republic requests a further extension of Members' rights to withdraw concessions pending the conclusion of Article XXVIII:3 negotiations, until 12 February 2025, as reflected in document [G/L/1137/Add.8](#). Thus, "the Kyrgyz Republic will not assert that WTO Members that have submitted a claim pursuant to Article XXIV:6 of the GATT 1994 are precluded from withdrawing substantially equivalent concessions because this withdrawal occurs later than six months after the Kyrgyz Republic's withdrawal of concessions".

7.4. On the basis of the above-mentioned, the Kyrgyz Republic expresses its gratitude for the understanding of the interested WTO Members, and for their support in demonstrating no objections on the issue of the extension of rights. The Kyrgyz Republic will continue communicating and exchanging information with the relevant parties to this process in due course.

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

7.6. The European Union welcomes the progress achieved in our negotiations on tariffs for non-agricultural products, where an agreement of principle has been reached. When it comes to agriculture, however, following the exchanges in November 2022, the EU would like to invite the Kyrgyz Republic to submit a complete offer for compensation on agricultural products, with a view to making progress and potentially concluding the negotiations within the extended time-frame.

7.7. The delegate of the Kyrgyz Republic indicated the following:

7.8. We would like to thank the European Union for their valuable comments, which will be conveyed to Capital in due course.

7.9. The Chairperson proposed that the Council take note of the communication by the Kyrgyz Republic and the statements made, and to agree on the extension of the deadline until 12 February 2025, as set out in communication [G/L/1137/Add.8](#).

7.10. The Council so agreed.

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

8.1. The Chairperson recalled that this item had been included on the agenda at the request of the United States. He also noted that the Members concerned had been listed in Annex 1 of the agenda.

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

8.3. 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. 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.

8.4. 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.

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

8.6. The Russian Federation shares the view that questions posed by the WTO Members have to be answered. The right to ask questions entails the obligation to respond. Unfortunately, some Members prefer to keep asking questions without providing any answers themselves. Our view on this issue is well-known to this Council, as well as to other relevant WTO working bodies. At previous CTG meetings we set forth our considerations in detail, hence we will not go into the details this time. However, we will highlight instances of selective transparency compliance that a number of WTO Members employ. Cases of non-responsiveness from the United States to the questions posed by the Russian Federation involve instances in the Committee on Subsidies and Countervailing Measures, the Committee on Anti-Dumping Practices, the Committee on Agriculture, and the Trade Policy Review Body. Unfortunately, certain WTO Members have decided to follow suit. Having pointed out that it would not engage in business-as-usual activity in the WTO, during its last TPR, Japan decided not to respond to written questions submitted by Russia. Several days ago, in the Committee on Agriculture (CoA), Japan reconfirmed its position that it would not engage in business-as-usual activity and refused to answer written questions posed by Russia in the Committee. Such a stance surprisingly did not prevent Japan from raising questions on Russia's trade policy under Agenda Item 16 of the current CTG meeting regarding restrictions on imports of aquatic products from Japan. Written questions to the European Union on the EU's Carbon Border Adjustment Mechanism circulated two years ago in the CMA and CTG still remain unanswered. Similarly, questions to the EU posed during meetings of the Committee on Market Access and the Committee on Technical Barriers to Trade on elements of the EU's Green Deal were likewise left unaddressed. Australia, Canada, the European Union, Iceland, New Zealand, Norway, and the United Kingdom consistently leave unanswered written questions in the Committee on Agriculture regarding their unilateral measures that affect trade in agriculture. Selective transparency compliance undermines the WTO transparency mechanism. Russia calls on the said Members to increase the overall transparency compliance rate in the WTO by improving their own transparency track record.

8.7. The delegate of Switzerland indicated the following:

8.8. Switzerland thanks the United States for putting this item on the agenda. Although there are technical and organizational ways to improve the functioning of the committees, it is first and foremost Members' responsibility to foster constructive deliberations. It is expected that Members engage in good faith in the discussions during and between committee meetings. This requires Members to answer questions that are posed to them. This is part of what we could label "good deliberative practices". The process of questions and answers contributes to creating common understanding about each and every Member's trade policy measures and is conducive to rebuilding trust amongst Members. We therefore encourage all Members to improve their responsiveness as a way to improve the deliberative function of this Organization.

8.9. The delegate of India indicated the following:

8.10. India had presented its comments on this agenda item raised by the United States in the previous meeting of the CTG. We request that our remarks made in the previous meeting also be taken on record for this meeting.<sup>4</sup>

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<sup>4</sup> [G/C/M/146](#), paragraphs 5.5-5.8: "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

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

8.12. The United Kingdom will be speaking to Agenda Items 8 and 9. The United Kingdom is grateful to the United States for raising the 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 on what would most help them to fulfil their notification or response requirements. The UK stands ready to provide technical assistance and capacity-building to help its partners meet their obligations, and we look forward to continuing this conversation on transparency.

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

8.14. The Council so agreed.

## **9 MEMBERS' NON-NOTIFICATIONS OF ITEMS PURSUANT TO CERTAIN WTO AGREEMENTS – REQUEST FROM THE UNITED STATES**

9.1. The Chairperson recalled that this item had been included on the agenda at the request of the United States. He also noted that the Members concerned had been listed in Annex 2 of the agenda.

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

9.3. Similarly to the previous agenda item, the United States is bringing this agenda item to the Council again 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. 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.

9.4. 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.

9.5. As other Members have demonstrated in the past, the notification is not overly burdensome and, for most Members, will likely result in a nil notification. Therefore, we continue 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.

9.6. As many of these notifications have been outstanding for over 25 years, if Members have questions about their notification obligations, they should approach the Secretariat for guidance about how to meet the requirements under the applicable WTO Agreements. Alternatively, if for some reason a Member is unable to reach out to the Secretariat, Members can reach out to other Members for guidance and/or assistance. We have all been in a position of having to do a WTO notification for the first time at one time or another, so we should all be sympathetic to the challenges certain obligations may face. As many Members in the referenced subsidiary bodies can attest to, including LDCs and those with small delegations, we stand ready to help in any way we can and have indeed already helped many Members with their applicable notifications.

9.7. We are pleased to report that, since this list was created, Lesotho has made a notification to the Working Party on State Trading Enterprises; Mauritania has made the requisite notifications to the Committee on Anti-Dumping Practices, the Committee on Subsidies and Countervailing Measures, and the Committee on Safeguards; and Tanzania and Vanuatu have separately made the

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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."



requisite notifications to the Committee on Subsidies and Countervailing Measures. We sincerely appreciate the efforts made by our LDC friends in making these notifications, and encourage other Members to follow their example.

9.8. The delegate of Nepal indicated the following:

9.9. Nepal would like to thank the United States for raising its concerns regarding the notification under paragraph 25.2 of the Agreement on Subsidies and Countervailing Measures, and paragraph 1 of the understanding of Working Party on State Trading Enterprises and replies to the checklist of issues ([G/VAL/5](#)). The messages have been communicated to Capital. And I will update the Council as soon as I receive the relevant information from Capital.

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

9.11. The Council so agreed.

## **10 G20 TRADE AND INVESTMENT MINISTERS' MEETING – UPDATE INCLUDING JAIPUR CALL ON ACTION FOR MSMEs – REQUEST FROM INDIA**

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

10.2. The delegate of India indicated the following:

10.3. Under the ongoing G20 presidency of India, the G20 Trade and Investment Ministerial Meeting (TIMM) was held in August 2023. This meeting focused on easing barriers to international trade and investment; helping boost productivity and output and fostering economic growth and prosperity for all. This agenda item has been added for an update on the meeting. While addressing the opening session of TIMM in Jaipur, Rajasthan, Honourable Minister of Commerce and Industry Shri Piyush Goyal encouraged the Ministers from the G20 and other invitee countries to work collectively to achieve concrete, decisive and action-oriented outcomes. This session resulted in a TIMM declaration, which also included the Jaipur Call for Action for enhancing access to information for MSMEs. This agenda item has been added to share an update with the WTO delegates from this declaration, with the outcomes being relevant to our ongoing work in this Organization. We will urge the Members to refer to documents [RD/MA/120](#) and [RD/MA/121](#), which were the two presentations circulated after the meeting of the Committee on Market Access. Coincidentally, today is 30 November, the last day of India's G20 presidency. We wish Brazil the best as they take over the G20 presidency, starting tomorrow, for the upcoming year. We hope that the contributions made by the Indian presidency on trade can be integrated into and shaped further in the G20 agenda.

10.4. The delegate of Switzerland indicated the following:

10.5. Switzerland wishes to thank India for their update on the Jaipur call on action for MSMEs. Given that Switzerland fosters innovation, entrepreneurship, and trade openness, the topic of how to foster a greater participation of MSMEs in world trade is dear to us. Facilitating trade for MSMEs, and thus better integrating them into global value chains, will contribute to creating jobs and addressing income gaps. This will be to the benefit of all, particularly developing countries. Every day the trading environment becomes more complex. In comparison to large firms, MSMEs face unequal difficulties in navigating the global economy.

10.6. Facilitating the participation of MSMEs in world trade calls for improved access to information, ways to promote a more predictable regulatory environment, and reduction of trade costs. Let me quote, in particular, the declaration on access to information, initiated by Switzerland, that requires participating Members to submit a variety of information to the Global Trade Helpdesk. It is also relevant to mention the launch of the trade4MSMEs ("trade for MSMEs") platform that contains a wealth of useful information for MSMEs and trade policy makers. Maximizing the impact of our actions requires the solutions to be designed and implemented in the WTO.

10.7. While we welcome the G20 initiative on the matter, in the spirit of joining efforts, we encourage India and all G20 Members to contribute to the current work being carried out in the WTO informal Working Group on MSMEs.

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

10.9. The United States appreciates India's leadership in the G20 this year, including its focus on making trade- and market-related information available to MSMEs. We look forward to hearing from the ITC on its plans to upgrade the Global Trade Help Desk to help bridge such information gaps. We recall that the ITC will work on a detailed plan, in consultation with UNCTAD and the WTO. Those consultations will be done in accordance with the relevant Memorandum of Understanding among the ITC, UNCTAD, and the WTO.

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

10.11. The European Union attaches great importance to the internationalization of MSMEs. They represent 99% of all EU companies and 94% of EU exporting companies. In contrast to larger businesses, MSMEs face particular challenges when engaging in international markets. Notably, they have limited capacity to deal with complex administrative and regulatory procedures. They also have asymmetrical access to information which is necessary to conduct business abroad. This is why access to reliable information is key for MSMEs to increase their participation in international trade. Therefore, the EU welcomes the "Jaipur Call for Action" to enhance access to information for MSMEs.

10.12. The European Union would like to report on several EU tools to help MSMEs trade abroad. First, since October 2020, the online EU Access2Markets portal provides MSMEs with all the information they may need to export and import to third countries. The Access2Markets platform has been very successful with the EU SME community and beyond with more than six million visitors since its launch. Second, through dedicated SME chapters in the EU's more recent trade agreements, the EU requests its trade partners to make available on one single website all information European SMEs may need when trading and doing business with that respective market. Third, in the margins of the work of the WTO Informal Working Group on MSMEs, the EU cooperates towards improvements of the existing Global Trade Helpdesk (GTH). In this regard, the EU notes the regular data submissions to the GTH, feedback on GTH recent upgrades, and bilateral meetings with the International Trade Centre to exchange on future collaboration.

10.13. The European Union encourages all Members to develop information portals that would complement the GTH with more detailed information about their markets. The EU will continue to support the implementation of the "WTO MSMEs Package" with its recommendations to enhance access to information, reduce red tape, facilitate access to trade finance, and explore synergies with the Global Trade Helpdesk.

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

10.15. The Council so agreed.

### **TRADE CONCERNS**

10.16. The Chairperson indicated the following:

10.17. We will now start addressing the trade concerns, which constitute the bulk of our discussions. For information, we have 44 trade concerns, which ties with the previous record number from November of last year. Of these trade concerns, eight are new and 36 were previously raised. As agreed by the Council at its meeting of 3-4 April 2023, we will begin by considering the new trade concerns before turning to look at those previously raised.

10.18. Before we begin, I would like to remind you that the annex to the Annotated Agenda contains links and cross-references to discussions in other bodies, most of which were kindly provided by the Members requesting the inclusion of the agenda items and complemented, where possible, by the Secretariat. Where available, the Secretariat also added direct links to the trade concerns database.

10.19. In light of the increasing number of trade concerns that remain on our agenda over extended periods, with some issues remaining over several years, I would like to remind you that I am at your disposal should you wish to request the good offices of the Council's Chairperson.



**NEW TRADE CONCERNS****11 INDIA – IMPORT LICENSING MEASURES ON PCS, TABLETS, AND OTHER ELECTRONIC PRODUCTS – STATEMENT BY CHINA**

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

11.2. The delegate of China indicated the following:

11.3. China would like to refer to its statements made at the Committee on Market Access on 16 October and the Committee on Import Licensing Procedures on 31 October. On 3 August 2023, the Directorate General of Foreign Trade (DGFT), Ministry of Commerce and Industry of India issued the Notification No. 23/2023 and abruptly announced that a licensing requirement for importing laptops, tablets, all-in-one personal computers and ultra-small form factor computers and servers would be imposed immediately. On 4 August 2023, India decided to delay the implementation of the licensing requirement until 1 November 2023, in Notification No. 26/2023, issued by the DGFT.

11.4. We also take note that, on 19 October, some changes and exemptions were made to the import licensing requirement, in Notification No. 38/2023. On the same day, the DGFT issued the Policy Circular No. 06/2023-24, which provided some information on implementation of Import Management Systems for IT hardware. According to the said Policy Circular, the importers still need to apply for import authorizations in order to import relevant products.

11.5. We would like to receive a clarification from India concerning this measure, in particular, the import authorizations in the Policy Circular No. 06/2023-24, including the purpose of these import authorizations and the process of applying for and granting the authorizations.

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

11.7. The Republic of Korea shares the concerns expressed by others regarding India's import management system for electronics such as PCs, tablets, and other electronic products. We are closely monitoring the ramifications of the system implemented by India since 1 November, and hope that India will refrain from introducing trade-restrictive measures.

11.8. The delegate of Chinese Taipei indicated the following:

11.9. My delegation notes that India has commenced the implementation of an import management system for personal computers, laptops, tablets and other electronic items falling under HS Code 84.71, starting from 1 November 2023. We also note that the import management system, which requires importers to register and apply for authorization before exporting products into India, will remain in force until September 2024. While we will closely monitor the effects of the implementation of the management system, we urge India to strictly follow WTO rules when implementing the current rules or enacting any new rules. In particular, we urge India to ensure that it does not create any trade-restrictive or distorting effects, and that it strictly adhere to the transparency requirement. We reiterate the importance of India providing sufficient opportunities and an appropriate time-period for traders and other interested parties to comment on any proposed regulations, and that they receive a reasonable amount of time to adapt to any new requirements.

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

11.11. The United States notes that we have raised this concern in the Committee on Market Access and the Committee on Import Licensing. We have also submitted a number of questions to India on this item. We look forward to receiving India's responses.

11.12. The delegate of India indicated the following:

11.13. We have taken good note of the statements made by the delegations of China, the United States, Chinese Taipei, and the Republic of Korea today. We are also in receipt of the questions contained in document [G/LIC/Q/IND/29](#). This document was received on 18 October. Our New Delhi-based authorities are currently looking at the comments made in the previous meetings

of the Committee on Market Access, the Committee on Import Licensing, and the Council for Trade in Goods, as well as the questions raised in the questionnaire. We would like to draw the attention of Members to Notification No. 38/2023 of 19 October 2023, available on the Directorate General of Foreign Trade's website, which further clarifies the measure. We also draw the attention of Members to the WTO notification [G/LIC/N/2/IND/23](#), which was circulated yesterday, in the Committee on Import Licensing, concerning this particular measure. We will remain engaged bilaterally with all Members raising this issue.

11.14. The Council took note of the statements made.

## **12 EUROPEAN UNION – THE ANTI-SUBSIDY INVESTIGATION AGAINST THE IMPORTS OF BATTERY ELECTRIC VEHICLES FROM CHINA – STATEMENT BY CHINA**

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

12.2. The delegate of China indicated the following:

12.3. On 4 October, the European Commission initiated an anti-subsidy investigation against imports of new battery electric vehicles from China. China is seriously concerned with the initiation of this investigation.

12.4. First, with regard to the pre-initiation consultations, the European Union refused to provide China with the evidence and factual basis for initiating the investigation, which prevented China from engaging with the EU in a meaningful and substantial pre-initiation consultation. We believe that the EU's practice is inconsistent with its obligation to afford a reasonable opportunity for consultation, and seriously jeopardizes China's right to consultation. It violates Articles 13.1 and 13.3 of the SCM Agreement.

12.5. Second, regarding the initiation of the investigation, the European Union neither provided evidence of the existence of "special circumstances" to justify the initiation, nor indicate sufficient evidence of the existence of subsidies, injury threat, and causation. We believe that this violates Article 11.6 and Article 11.2 of the SCM Agreement.

12.6. Third, the sampling methodology of exporting producers is not transparent, objective, and impartial. The European Union requested the relevant Chinese firms to provide a large amount of irrelevant information in the questionnaire and to prove the existence of subsidies by themselves. This is a violation of the impartiality of the investigation. In the sampling, the EU excluded the largest EV exporter of China and chose only three Chinese native brand companies, which do not account for the largest percentage of China's EV exports. This is contrary to the criteria of representation based on the highest volume of exports. In the EU industry sampling, the EU excluded its enterprises with the highest production and sales volumes. In addition, the EU has not substantially responded to China's questions regarding the composition of the EU's EV industry and the sampling of EU's EV producers, and keeps the relevant information undisclosed. This makes it impossible for China to comment on the sampling of the EU industry and the determination of the EU industry, and seriously affects China's right to defend itself.

12.7. Fourth, the European Union abuses its investigative power by arbitrarily expanding the scope of companies responding to its questionnaire. Some sampling companies have to ask more than 100 affiliated companies to respond to the questionnaire. With only a four-day extension to answer the questionnaire, this practice has created a huge burden for the sampling companies to respond to the questionnaire.

12.8. We believe that the European Union's investigation seriously violates the WTO rules and obligations. This is a practice of EU "protectionism" aiming to protect the EU's own industry in the name of "fair competition". We urge the EU to comply with the WTO rules, to correct its wrong practice immediately, and to ensure that the investigation be carried out in a transparent, fair, impartial, and WTO-consistent manner that will fully protect China's legitimate rights and interests.

12.9. Finally, it is worth highlighting that the key driver of the rapid development of the Chinese EV industry is not government intervention and subsidies, but the large scale of the Chinese

domestic market, China's unremitting efforts in technology upgrade and innovation, and its complete and competitive industrial and supply chains. China's efficient EV industry has made, and will continue to make, great contributions not only to China's carbon emissions reduction, but also to the global response to climate change and the green transformation, including in the European Union.

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

12.11. The European Union thanks China for its remarks concerning the initiation of the investigation into battery electric vehicles from China, which began on 4 October 2023. The investigation is in its early stages and is being conducted in accordance with strict legal procedures in compliance with EU and WTO rules. The EU would like to recall that *ex officio* initiations of trade defence investigations under special circumstances are in line with EU and WTO rules. The European Commission had sufficient evidence that the recent surge in low-priced and subsidized imports from China posed an economic threat to the EU industry. Pre-initiation consultations were offered in line with WTO rules, with ample time for them to take place, which they did, before initiation. As regards sampling, the European Commission analysed a wide range of information. On this basis, a sample of companies was selected that ensures representativity for the electric car industry operating in China.

12.12. I would like to note that the initiation of the investigation does not indicate any presumption of its outcome. The investigation will determine whether countervailable subsidization benefiting battery electric vehicle production in China exists and if it is causing or threatening to cause injury to the competing electric vehicle producers in the European Union. In such case, the EU will also examine whether it is in its interest to remedy the effects of any such unfair trade practices by imposing anti-subsidy duties on the imports.

12.13. The Council took note of the statements made.

### **13 INDIA – QUALITY CONTROL ORDER FOR CHEMICAL AND PETROCHEMICAL SUBSTANCES – STATEMENT BY THAILAND**

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

13.2. The delegate of Thailand indicated the following:

13.3. Thailand wishes to express its ongoing concern about India's Quality Control Order for Chemical and Petrochemical Substances, a matter previously raised in multiple sessions of the Committee on Market Access and Committee on Technical Barriers to Trade. Given the substantial delay in issuing IS mark certificates to eligible Thai manufacturers of this product, adversely affecting their operations, Thailand finds it necessary to raise this concern for the first time in the Council for Trade in Goods. Despite India attributing the delay to manpower and testing facility constraints, certificates have been issued to domestic and other foreign suppliers. The delay in providing IS mark certificates to the Thai manufacturers raises concerns about potential discrimination by India, questioning the fair and non-discriminatory treatment of manufacturers, regardless of their origin. In view of these concerns, Thailand requests India to postpone the implementation of the IS Mark Certification based on the Quality Control Orders for Polyethylene Material for Moulding and Extrusion. This delay should persist until India can efficiently issue certificates to all eligible manufacturers in a timely and non-discriminatory manner.

13.4. The delegate of India indicated the following:

13.5. India thanks the delegation of Thailand for its continued interest in this issue. The Bureau of Indian Standards (BIS) is carrying out physical inspections for applications received from foreign manufacturers, where the country to be visited is facilitating the visit of BIS officers. The process of standards development of BIS is aligned with accepted international best practices that are based on the core principles of openness, transparency, impartiality, and consensus. While formulating Indian standards, analysing the relevance of international standards – ISO, IEC, and others – to the Indian situation is an integral part of the process. This process is in accordance with the Code of Good Practice of the WTO TBT Agreement, and as a policy. The BIS seeks to align Indian standards

with the International Standards of ISO and IEC, where available, and to the extent possible, keeping in consideration the specific climatic/environmental conditions and technological development in the country. Around 88% of Indian Standards, for which corresponding ISO and IEC standards are available, are harmonized with their ISO/IEC counterparts.

13.6. The Council took note of the statements made.

#### **14 FRANCE – REVISED ELECTRIC VEHICLE (EV) SUBSIDY SCHEME – STATEMENT BY THE REPUBLIC OF KOREA**

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

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

14.3. The Republic of Korea has significant concerns over France's revision to its "green bonus", which was enacted on 10 October 2023. Korea acknowledges the French government's commitment to promoting electric vehicles (EVs) as part of its strategy to actively address climate change. However, Korea is concerned that the recent amendments to its EV subsidy regime appear to be inconsistent with WTO rules and principles, including Articles I and III of the GATT, as they are designed in a manner that could disadvantage imported EVs based on the carbon emissions generated during their production. Such an approach could unduly burden businesses and potentially hamper fair and free economic activities.

14.4. In this context, the Republic of Korea would like the French government to consider the following. First, Korea requests that France clarify the methodology used to determine carbon emission factors and the criteria behind these determinations, and adjust them to reflect justifiable figures. We understand that, at present, there are no established standards for carbon emissions for each component in the EV manufacturing process.

14.5. Second, the Republic of Korea believes that the consideration of transportation distance and carbon emission factors by each transport could significantly disadvantage foreign EV manufacturers, particularly those with assembly sites located far from France and reliant on maritime transport. This approach will substantially reduce the likelihood of foreign-produced cars qualifying for French subsidies. Therefore, Korea suggests that this consideration be revisited and adjusted.

14.6. Lastly, the Republic of Korea proposes that France consider postponing the implementation of these changes until there are established international standards on carbon emission factors.

14.7. The delegate of China indicated the following:

14.8. China thanks the Republic of Korea for adding this item to the agenda. We also have concerns on this matter. One of our concerns is on the default values for carbon emissions of imported electric vehicles. As we pointed out in the "Policy Issues for Dedicated Multilateral Discussions on Border Carbon Adjustment" ([WT/CTE/W/258](#)), we believe that default values for carbon emissions of imported goods is a critical element in the policy design of environment-related trade measures. Members must ensure the reliability of and minimize the time-lag in the database through effective cooperation with the Members having appropriate jurisdiction, so as not to constitute arbitrary or disguised trade restrictions. We will closely monitor the development of this issue.

14.9. The delegate of Japan indicated the following:

14.10. Regarding the revised EV subsidy scheme, Japan would like to request that France implement and exercise such subsidies in accordance with the WTO.

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

14.12. The European Union takes note of the concerns expressed by the Republic of Korea, China, and Japan, and recalls the information provided in the context of the regular meeting of the Committee on Subsidies and Countervailing Measures in October. The revision of the subsidy scheme

aims to direct subsidies for purchasing electric vehicles towards the most environmentally friendly vehicles, considering the growing demand for these vehicles in the coming years.

14.13. The French measure aims to prioritize the acquisition of environmentally friendly vehicles throughout their entire life cycle. The previous bonus system only considered CO<sub>2</sub> emissions during vehicle use. Conditioning the Auto Bonus on environmental criteria that would take into account the entire life cycle of the vehicle would reduce France's carbon footprint by an average of 800,000 tonnes of greenhouse gases per year between 2024 and 2027.

14.14. As regards the application process for the bonus scheme, please note that manufacturers have submitted 452 applications since 10 October 2023; 345 of these have already been examined by the French Environment and Energy Management Agency, ADEME.

14.15. The French authorities remain at the disposal of manufacturers. They also maintain ongoing technical exchanges with manufacturers to help them submit their applications. The first list of eligible vehicles is expected to be published on 15 December.

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

14.17. Considering the differential carbon emission factors applied to EU-produced EVs and those manufactured outside the EU respectively, it is challenging to see the revision as purely environmentally motivated. Even if it is intended as such, the measure may constitute a disguised restriction on international trade, which would be in violation of the WTO Agreements.

14.18. The Council took note of the statements made.

## **15 PERU – TAX TREATMENT OF PISCO – STATEMENT BY THE UNITED KINGDOM**

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

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

15.3. As a major producer of world-class spirits, the United Kingdom has significant interest in making sure that these receive fair and equal treatment in markets around the world. All Members in this room, including Peru, have signed up to the GATT, including Article III, under which it is prohibited to apply internal taxes or charges to imported goods in excess of those applied to like domestic products. This principle has been consistently reiterated by WTO panels. It is disappointing therefore that, for over a decade, the UK has had to raise Peru's discriminatory tax measures on imported spirits in this and other fora. These exemptions clearly favour and protect Pisco over other competing products in the Peruvian Spirits market, including Scotch and gin. The economic impact of this discriminatory tax is significant. Our industry estimates that this measure has cost the UK more than GBP 70 million over the past five years. Our exporters continue to lose millions a year when compared with our sales to Peru before this discriminatory law was introduced.

15.4. Turning to the context of this item, following years of bilateral outreach, Members may recall that we have raised our concerns in the Committee on Market Access (CMA) for almost two years. However, we have not seen the progress that we would expect, and have yet to receive answers to our written questions submitted nearly 18 months ago.

15.5. Reluctantly – not least given how important a partner we consider Peru to be on WTO affairs – we therefore felt that it was necessary to take the significant step of escalating this STC from the CMA to the Council for Trade in Goods, which is an unprecedented step for the UK. We hope that by bringing this to the Council's attention, we will encourage Peru to answer the questions raised of their policies. And we also hope that we can sit down as partners and look at practical next steps for removing this barrier.

15.6. We believe that there is a way forward that works for Peru, for the United Kingdom, and within the spirit of the WTO, but we need Peru, across different ministries and specialisms, to engage substantively with us. We hope that they will do so now.

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

15.8. As at meetings of the Committee on Market Access, where this issue has been raised several times, the European Union once again wishes to join the United Kingdom in raising concerns regarding Peru's tax discrimination in favour of Pisco. The EU continues to be seriously concerned that the existing tax regime undermines the ability of EU spirits to compete on a level playing field on the Peruvian market. The EU insists that Peru clarify how this measure is consistent with its existing WTO obligations, in particular the obligation not to discriminate against imported spirits. We regret that despite this matter being raised several times in the CMA and in bilateral fora, so far, no progress can be reported. The EU looks forward to Peru's suggestions as to how to resolve this issue promptly.

15.9. The delegate of Peru indicated the following:

15.10. Peru takes note of the interventions made by the United Kingdom and the European Union, and their concerns expressed in the Market Access Committee and now in this Council. In this regard, it is worth mentioning that we have been meeting bilaterally and discussing the UK's concerns. In this regard, we reiterate our willingness to continue to do so and to bring the technical issues of this matter to the bilateral mechanisms available to us. I reiterate, however, that Peru has taken note of the approaches and concerns, and that, should we make changes to the tax measures, these changes would be evaluated in coordination with the sectors concerned, as well as with our trading partners. In addition, it is relevant to underline that any tax changes on our part require legislative amendments involving multiple stakeholders from the public, private, and civil society sectors, which is naturally a burdensome process in substantive and temporal terms.

15.11. The Council took note of the statements made.

#### **16 CHINA; HONG KONG, CHINA; MACAO, CHINA; AND THE RUSSIAN FEDERATION – RESTRICTION ON IMPORTS OF AQUATIC PRODUCTS FROM JAPAN AFTER DISCHARGE OF ALPS TREATED WATER INTO THE SEA – STATEMENT BY JAPAN**

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

16.2. The delegate of Japan indicated the following:

16.3. On 24 August, China; Hong Kong, China; and Macao, China; and on 16 October, the Russian Federation, respectively, imposed an import restriction measure on Japanese aquatic products, and on other foodstuffs in Macao, China, following the discharge of Japan's Advanced Liquid Processing System (ALPS) treated water. Japan's position is as set out in the communications circulated by the Secretariat on 4 and 27 September, 12 October, and 8 November, respectively, and we will not go into the details of our position again today. However, Japan would like to stress that the discharge of ALPS-treated water into the sea has been carried out in accordance with international safety standards and practices and after taking all possible safety precautions. Furthermore, as the IAEA's comprehensive report indicates, the discharge of ALPS-treated water into the sea has negligible impact on human health and the environment.

16.4. In addition, following the discharge of the ALPS-treated water, the Government of Japan, with the support of independent international experts from the IAEA Task Force, and with the continuous involvement of the IAEA, including IAEA-led reviews, has carried out monitoring relating to the concentration of radioactive substances, and has also published the results in a timely and transparent manner. Japan has consistently provided information to the SPS Committee on the safety of discharging ALPS-treated water into the sea. In addition, the Government of Japan is fully committed to taking all possible measures to ensure the safety of the discharge of ALPS-treated water by implementing reliable monitoring and publishing the results of such monitoring in a timely and transparent manner.

16.5. The Government of Japan once again expresses its strong regret of the fact that, despite these measures taken by Japan, these four Members have imposed import suspension measures on Japanese aquatic products and on other foodstuffs in Macao, China without any scientific grounds. These measures are totally unacceptable to Japan. In fact, in September this year, the value of



Japan's seafood exports to China decreased by approximately 90% compared to the same month last year. Thus, access to markets for Japanese fishery products and foodstuffs has been significantly hampered, causing significant economic damage to domestic fishermen and other stakeholders. These measures are clearly contrary to Article XI:1 of the GATT concerning the general elimination of quantitative restrictions, and Japan strongly urges China; Hong Kong, China; Macao, China; and the Russian Federation to immediately cease such measures. We continue to call on China; Hong Kong, China; Macao, China; and the Russian Federation to promptly respond to discussions with Japan, in view of our request for discussions under paragraph 6(c) of Annex B of the SPS Agreement.

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

16.7. The United States takes note of Japan's intervention, and its concern that China; Hong Kong, China; Macao, China; and the Russian Federation continue to apply a trade restrictive measure to suspend imports of Japan's aquatic products without justification. The US reiterates that it shares Japan's concerns. The US agrees with the position of the IAEA and other international bodies, after rigorous safety reviews, that the discharge of ALPS-treated water from the Fukushima Daiichi Nuclear Power Station does not pose a concern to public safety, and that the discharge will have a negligible impact on any concentrations of elements in international waters. The four Members' implementation of the measure cannot be regarded as being based on scientific principles.

16.8. The United States notes reports that China's own active nuclear power plants annually release several times more of certain radioactive compounds, such as tritium, than will be released by the Fukushima Daiichi Nuclear Power Station. This undermines claims from China about their concern about the same compounds for safety reasons. The United States further notes evidence of numerous Chinese-flagged vessels fishing in the same waters China has banned Japanese imports from, and subsequently selling their seafood in China as domestic products. These reports further corroborate the position of Japan that there is no legitimate science-based concern underlying this measure. Therefore, we urge China; Hong Kong, China; Macao, China; and the Russian Federation to immediately repeal their measure.

16.9. The delegate of Canada indicated the following:

16.10. Canada acknowledges the conclusions of the IAEA's Comprehensive Report on the Safety Review of the ALPS-Treated Water at the Fukushima Daiichi Nuclear Power Station. Canada's veterinary and public health authorities have concluded that the release of this treated water by Japan does not constitute a food safety concern. Canada believes that SPS-related trade measures should rely on science-based evidence in accordance with the obligations of the WTO SPS Agreement.

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

16.12. The United Kingdom would like to reiterate its full support to the Government of Japan's decision to discharge Advanced Liquid Processing System (ALPS) treated water from the Fukushima Daiichi Nuclear Power Station into the ocean. We would also like to reiterate our concern over new import restrictions on all aquatic products from Japan by China, as well as partial import restrictions by Hong Kong, China; and Macao, China despite the fact that this practice is scientifically robust and compliant with international regulations. It fully meets the requirements of the IAEA and is consistent with international nuclear safety standards. The UK would therefore ask China to reconsider these measures. We hope that China will engage constructively and transparently with these concerns in this Council and other committees.

16.13. The delegate of China indicated the following:

16.14. China refers to its statements made at the Committee on Market Access on 16 October and the SPS Committee meeting on 15 November. On 24 August 2023, Japan unilaterally started the discharge of the Fukushima nuclear contaminated water into the ocean, disregarding the strong questioning and opposition from the international community.

16.15. First, we want to stress that there is no precedent for such a discharge since the peaceful use of nuclear energy by mankind. The quantity, time span, and geographical scope of Japan's

planned ocean discharge are unprecedented. There are no internationally recognized disposal standards on such a discharge, and its hazards have been difficult to assess to this day.

16.16. Second, the measures China has taken against aquatic products originating from Japan are emergency precautionary trade measures. They are totally justified, reasonable, and necessary. China has made relevant notifications to Japan and the WTO. China is highly concerned about the radioactive pollution risks posed to the imported food and agricultural products as a result of Japan's decision to discharge the nuclear-contaminated water into the ocean. The Chinese people are highly concerned about the marine ecological environment and food safety, and express strong worries about the potential hazards arising from Japan's discharge of nuclear-contaminated water into the ocean. As we pointed out in the Position Paper of China regarding Japan's discharge of nuclear-contaminated water into the ocean ([G/SPS/GEN/2153](#)), after Japan's release of nuclear-contaminated water into the ocean, Japanese aquatic products will pose widespread and long-term threats to people's life and health, and huge risks to food safety because of the influence of marine food chain accumulation and bio-concentration. China has taken emergency precautionary trade measures against aquatic products originating from Japan, in accordance with China's relevant laws and regulations and the SPS Agreement of the WTO, in order to fully prevent the risks of radioactive contamination on food safety caused by Japan's discharge of nuclear-contaminated water into the ocean, to protect the life and health of Chinese consumers, and to ensure the safety of imported foods.

16.17. Third, we request Japan to promptly provide comprehensive monitoring data and reports to China. We have taken note of the recent release of monitoring data on radioactive contamination in seawater and aquatic products by the Japanese side. However, based on the data released by Japan, there are prominent issues, such as insufficient types of monitored nuclear isotopes, limited variety and scarcity of monitored samples, and inadequate detection sensitivity. As a result, the monitoring data released by Japan is insufficient to support relevant assessments and to eliminate the concerns of the Chinese consumers regarding food safety risks and public health impacts. China urges Japan, with a scientific, responsible, sincere, and transparent attitude, to scientifically assess the huge potential risks posed to global food safety by the discharge of contaminated water from the Fukushima Nuclear Power Plant into the ocean. Japan should comprehensively collect relevant data, conduct risk assessments, and provide timely relevant assessment reports to China in order to earn the trust of Chinese consumers. Based on the relevant monitoring data and assessment reports, China will make decisions on the next steps in a scientific and responsible manner.

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

16.19. The Russian Federation shares the concern of other Members regarding the safety of all aquatic products, including edible aquatic animals, originating from Japan after Tokyo started the process of radioactive water discharge from the Fukushima Nuclear Power Plant into the sea. The SPS measure in question was imposed in accordance with Article 5.7 of the SPS Agreement as a precautionary emergency measure in order to protect Russian citizens against the risks arising from the introduction of radioactively contaminated food into the Russian market. It is known that nuclear-contaminated water has now been released by Japan at least twice. These actions pose risks to environmental safety, food safety and public health, especially given its cumulative effect. Despite bilateral consultations with the Russian competent authorities that were held in October this year, Japan has not yet provided us with any evidence of the safety of fish and seafood caught in the zone of water discharge from the "Fukushima-1" nuclear plant. Moreover, Japan has not supplied us with the necessary data on monitoring of the content of radioactive isotopes of caesium and strontium in fish products exported from Japan to Russia. The concentration of these isotopes is regulated in accordance with the requirements of the legislation of the Eurasian Economic Union. Russia also requested information on the radioactive isotope of hydrogen also referred to as tritium. The Russian Federation urges Japan to be more transparent and to provide comprehensive science-based information necessary to confirm the safety of aquatic products, including the possibility of sampling at the water dumping site.

16.20. The delegate of Hong Kong, China indicated the following:

16.21. Despite our repeatedly raised concerns, the Japanese Government has decided to discharge nuclear-contaminated water from the Fukushima Nuclear Power Station (FNPS). Unlike ordinary cooling water generated during normal operation of nuclear plants, the nuclear-contaminated water had direct contact with nuclear fuels and contained at least 30 radionuclides, including some with



long half-life. The discharge of nuclear-contaminated water on such a large scale (130 million cubic metres) and for such a long period of time (30 years) is unprecedented. In addition, there is no guarantee that the purification system would operate effectively in the long term. There is also no guarantee that the plan would not pose any risks to food safety and marine ecology. More importantly, while tritium can be diluted, it cannot be entirely removed from the water.

16.22. Food safety and public health are the primary concerns of Hong Kong, China. Considering the aforementioned risks, Hong Kong, China must take precautionary measures to prevent and reduce the danger to public health. As a result, we have to make the decision to suspend the import of aquatic products, sea salt, and seaweeds originating from Fukushima and nine nearby metropolises or prefectures. This would also allow us to further observe whether the dilution and discharge system would operate as planned and to have a more accurate assessment of the impact when more data is available.

16.23. Hong Kong, China has recently received questions from Japan through our SPS Enquiry Point. While a formal response is being prepared, we have been engaging in ongoing bilateral discussions with Japan. We remain committed to exchanging options with Japan in any form. We will continue to closely monitor and assess the latest situation in order to safeguard the food safety and public health of citizens in Hong Kong, China.

16.24. The delegate of Japan indicated the following:

16.25. Japan would like to thank the United States, the United Kingdom, and Canada for their supportive statements. We would also like to thank China; Russia; and Hong Kong, China for their responses. Regarding the answers that were provided, we would like to stress that the water being discharged is not contaminated water; it is ALPS-treated water. As mentioned in our statement, this is water with a very low concentration of radioactive materials that is far below the regulatory standards. This is achieved by further diluting the ALPS-treated water, which has already been sufficiently purified. It is really very regrettable that the phrase "discharge of contaminated water into the sea" continues to be used without any scientific basis. We urge for the phrase to be corrected. The only criterion is whether the final concentration release of the released radio nuclides is below the regulatory threshold, regardless of whether it originates from a conventional reaction or a reactor in which a nuclear accident has taken place. Regarding the scientific rationale, even in the case of emergency situations, imposing such measures, which are not based on science or risk assessment, is unacceptable and not justified. It is a violation of Article XI:1 of the GATT. The only exception is in those cases where there is insufficient scientific evidence. The Tokyo Electric Power Company has comprehensively undertaken and disclosed the relevant information, and it does not fall into the category of cases where there is insufficient scientific evidence. If some Members deem that there is an insufficient scientific basis, they should explain on what basis. The Government of Japan has been sharing information regarding the ALPS-treated water with the international community in a transparent manner, which has included briefing sessions for the diplomatic missions in Tokyo, and holding sessions in international meetings, including those organized by the IAEA. The Government of Japan has also published information online and provided individual briefing sessions to interested countries.

16.26. The delegate of China indicated the following:

16.27. China would like to remind Members that a total of 1.3 million tonnes of contaminated water from the Fukushima Nuclear Power Plant will be discharged over 30 years. This creates huge uncertainty in terms of risks to food safety. As a neighbouring Member and an important importer of Japanese aquatic products, it is totally justified, reasonable and necessary for China to take emergency precautionary trade measures. China would also like to point out that, regarding the wastewater discharged by Chinese nuclear plants, there are fundamental differences between the nuclear-contaminated water that came into direct contact with the melted nuclear reactor core in the Fukushima nuclear disaster, and the water released by nuclear power plants during the course of their normal operation.

16.28. The Council took note of the statements made.

**17 INDIA – VISCOSE STAPLE FIBER (VSF) IMPORT – STATEMENT BY INDONESIA**

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

17.2. The delegate of Indonesia indicated the following:

17.3. Indonesia wishes to express its dissatisfaction with India's implementation of the Viscose Staple Fibers Order, 2022. India's regulation on VSF products creates uncertainty in the trade process and also leads to a decline in Indonesian VSF product exports entering the Indian market. Since the implementation of the VSF regulation, Indonesian companies have not been able to export to India at all because certification has not yet been completed. This situation not only generates a deprivation in bilateral trade between Indonesia and India but also compromises the Indonesian industry's rights and company interests. Indonesia further expressed its concern about the different treatment of Indonesian companies in terms of the factory inspection schedule. According to information received by Indonesian companies, India has performed factory inspections for companies residing outside of India. Indonesia hopes that India will be able to provide non-discriminatory treatment to all companies that are certified. We urge India to implement the QCO system in a manner that complies with Articles 2.1 and 2.2 of the TBT Agreement.

17.4. Furthermore, in terms of market access, Indonesia is interested in seeking clarification and transparency from India on the import regulations for VSF products, including requirements for obtaining import approval, import recommendations, and other items, so that Indonesian companies can be assured of access to the Indian market. Addressing India's regulation of VSF products, Indonesia believes that India's position toward VSF products from Indonesia has impeded exports and has the potential to breach Article 3.2 of the Import Licensing Agreement (ILA) and Article XI:1 of the GATT 1994. Indonesia once again urges the Indian government to consider the option of international recognition based on the MRA/MLA framework of the results of the conformity assessment and/or conformity assessment body from the country of origin, and to reconsider the VSF import restriction policy. This will speed up the certification process, avoid duplication of testing and certification procedures, could reduce conformity assessment costs, and ensure India's compliance with the WTO Import Licensing Agreement, as well as the WTO principles of MFN, non-discrimination, and the elimination of unnecessary trade barriers. Lastly, Indonesia sincerely hopes that India could respond to the enquiry that we sent on 11 August 2023 relating to this issue, as was conveyed at the TBT meeting in November 2023.

17.5. The delegate of India indicated the following:

17.6. India would like to thank the delegation of Indonesia for their interest in this issue. The issue is related to quality control procedures and is already being discussed in the TBT Committee. As such, we would request the delegation of Indonesia to refer to the responses provided in the TBT Committee.

17.7. The Council took note of the statements made.

**18 EUROPEAN UNION – ANTI-DUMPING ON FATTY ACID – STATEMENT BY INDONESIA**

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

18.2. The delegate of Indonesia indicated the following:

18.3. Indonesia would like to bring to Members' attention the definitive anti-dumping measure imposed by the European Union on imports of fatty acids from Indonesia. The measure was adopted and implemented through the Commission Implementing Regulation 2023/111 of 18 January 2023. Indonesia wishes to highlight once again the fact that the relevant investigation of the measure was not supported by more than 50% of the production output of the like product produced by the EU domestic industry, and not even by 25% of the total EU producers of the like product, following the withdrawal of the complaint on 24 August 2022 and the producers' opposition to the measures. Although the complaint was withdrawn and the parallel anti-subsidy investigation terminated based on the withdrawal of the complaint, Indonesia regrets that the relevant investigation continued and

concluded with the imposition of high anti-dumping duties on Indonesian fatty acids ranging from 15.2% to 46.4%. The decision to initiate the anti-dumping investigation *ex officio*, without the support of the EU industry and proper justification, raises concerns regarding the European Union's compliance with its obligations under the Anti-dumping Agreement. Furthermore, the evidence of positive trends indicating no material injury to the domestic industry questions the Commission's objectivity as an investigating authority. Indonesia hopes for a resolution with the EU regarding its concerns.

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

18.5. The European Union takes note of Indonesia's comments concerning the EU's anti-dumping investigation on fatty acids. The EU would like to recall that the regulation imposing definitive measures sets out the position regarding the withdrawal of a complaint. Given that the case is currently subject to litigation, it is not appropriate for the EU to give detailed comments. However, the EU would like briefly to recall its comments made in the Committee on Anti-Dumping Practices (ADP Committee), as follows:

18.6. Article 9 of the EU Basic AD Regulation states that: "where the complaint is withdrawn, proceedings may be terminated, unless such termination would not be in the Union's interest". In this instance, the European Commission determined that it was not in the Union's interest to terminate the investigation. As regards the comments on "legal standing", the EU would like to recall that the requirement of Article 5.4 of the Anti-dumping Agreement refers to the initiation of the investigation. The EU considers that its anti-dumping investigation and measures on fatty acid are in line with WTO rules.

18.7. The Council took note of the statements made.

#### **PREVIOUSLY RAISED TRADE CONCERNS**

#### **19 EUROPEAN UNION – IMPLEMENTATION OF NON-TARIFF BARRIERS ON AGRICULTURAL PRODUCTS (ID 137) – STATEMENTS BY AUSTRALIA, CANADA, COLOMBIA, COSTA RICA, DOMINICAN REPUBLIC, ECUADOR, GUATEMALA, PARAGUAY, THE UNITED STATES AND URUGUAY**

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

19.2. The delegate of Costa Rica indicated the following:

19.3. Costa Rica shares the concerns raised by other Members today and on previous occasions in this Council concerning the measures by the European Union, and continues to co-sponsor and support this agenda item and document [G/C/W/767/Rev.1](#). We consider that the concerns raised about 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.

19.4. Regarding maximum residue limits (MRLs), Costa Rica maintains systemic and trade 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. Added to this is the implementation of measures based, according to the EU itself, on "environmental concerns of a global nature". Beyond the eminently extraterritorial character of this type of measures, we are concerned that this justification does not appear to be consistent with the principles of the SPS Agreement or the TBT Agreement.

19.5. We also note that the European Union is implementing measures to control deforestation and forest degradation outside its territory, through policies that affect the importation of certain agricultural products, including tropical products exported by Costa Rica. In this regard, many methodological doubts arise about the design and implementation of a trade mechanism such as the one proposed by the EU. 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. 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.

19.6. The delegate of Ecuador indicated the following:

19.7. Ecuador wishes to recall on this occasion the previous statements that it has made on this matter both in this Council and in the Committees on Sanitary and Phytosanitary Measures and Technical Barriers to Trade. Ecuador regrets that the discussion on this subject has been confined to the presentation of positions and concerns, but has not led to any progress. Therefore, the constant calls to consider the impact of the European Union's non-tariff barriers, which mainly affect small and medium-sized farmers of Members that export to Europe, are still pending response. We would like to recall the five objections and arguments on which our concern is based under this point of the agenda: (i) the adoption of measures without scientific evidence; (ii) the non-observance of international standards; (iii) the non-observance of the obligations of the WTO SPS Agreement; (iv) the suspension of MRLs that go beyond the Codex Alimentarius; and (v) the lack of reasonable adjustment periods in cases that prove to be necessary. These five points have not been adequately substantiated by the European Union. The fifth point is particularly crucial: trading partners need at least five years to adapt their agricultural practices and put processes in place to allow the use of substitutes.

19.8. On the other hand, and with a constructive approach, Ecuador and other Members have raised consultations on the impact assessments of these measures in tropical developing countries, as well as on small and medium farmers in these countries. The lack of authorized substances has a direct impact on market access for typically Andean and tropical fruits, which as minor crops have few defined residue limits for approved substances. Finally, Ecuador renews its willingness to maintain a constructive exchange in order to find a definitive solution to this issue. Only a frank and committed dialogue will allow us to achieve this objective and to consolidate the benefits of a rules-based multilateral trading system for all its Members.

19.9. The delegate of Paraguay indicated the following:

19.10. We thank the European Union for the talks in various formats, plurilateral and bilateral, as well as the responses received under [G/SPS/GEN/2171](#), but it is difficult to resolve a trade concern if dialogue does not lead to change. This trade concern has been on the agenda for five years, and the situation, far from improving, has worsened. We see that what we have been announcing for some time is now materializing. The reduction of MRLs to the detection limit is now affecting exports. Import tolerances are not being approved, despite having sufficient scientific basis for approval, simply for political reasons. This is the case of the import tolerance for tricyclazole in rice, which, as we have mentioned in previous interventions, represents the main source of rejections of our exports to the EU.

19.11. Despite the scientific opinion of EFSA, the European agency itself, that the MRL should be raised to 0.09 mg/kg of the detection limit, the Standing Committee on Plants, Animals, Food and Feed did not issue an opinion on 11 May 2023, did not have the support of a qualified majority of the member States for its approval, and the Council vote on 20 September 2023 did not have a majority either.

19.12. Against this background, only yesterday, the European Parliament's Committee on Environment, Public Health and Food Safety adopted a motion calling for the rejection of the import tolerance for tricyclazole. In said document, we find it interesting to note the following: the Parliament in the said motion insists that tricyclazole in imported rice should be kept at 0.01 mg/kg, as well as for European producers in view of the creation of a "situation of complete lack of reciprocity to the detriment of EU rice producers", and that "this situation could lead in the long term to unfair competition for EU rice producers". The same motion recognizes that tricyclazole is "the only plant protection product to reliably control rice blast in rice-growing areas of the world", that "imports from countries that allow the use of tricyclazole amounted to a total volume of almost 194,000 tonnes, which corresponds to approximately 12% of total imports" and that "the proposed Council Regulation, according to the Rapid Alert System for Food and Feed (RASFF), would have reduced notifications by 76% in 2021 and 73% in 2022". A quick search of the RASFF system shows that there are 74 notifications, affecting exports from countries such as Bangladesh, Brazil, India,

Lebanon, Pakistan, Sri Lanka, and Viet Nam.<sup>5</sup> In the case of exports from Paraguay, had the Codex standard been maintained or an MRL as proposed by EFSA been adopted, most of these rejections would not have happened.

19.13. When we say that the situation has worsened, we refer to the fact that this trade concern started with EFSA's application of the precautionary principle in a manner inconsistent with the SPS Agreement, and even in cases where international standards exist. Today, it turns out that even in cases where EFSA itself considers the substance to be safe, according to its own risk analysis, EU member States are ignoring their regulatory agency. This puts in check the principles and obligations that are the basis of the SPS Agreement, principles and scientific evidence for decision-making that affects plant, animal and human health, and puts everyone in this Council in a particular situation, where the "passing of responsibilities" between the Commission and the member States means that there is no accountability, and no answers in many cases, in particular with regard to emergency authorizations. The Commission indicates that this is the responsibility of the member States, and member States, although present in this room, and WTO Members in their own right, cannot answer us.

19.14. We are still awaiting an answer as to why emergency authorizations were granted after the ECJ's ruling on their illegality. The Commission said it would take action, and we hope it will. The Commission says it monitors emergency authorizations, but out of the thousands, we have seen only 18 cases of reviews, and we can count on one hand the cases where EFSA has indicated that they were not justified, and not by applying the same yardstick that we are required to apply, but only in the absence of chemical alternatives, even though there are equally viable non-chemical alternatives. We do not have answers on the costs of import tolerances *vis-à-vis* emergency authorizations, but we do have the certainty that emergency authorizations are approved, while import tolerances are not. We are witnessing a replacement of science by politics in decision-making that should have the health of consumers at its centre.

19.15. The delegate of Canada indicated the following:

19.16. Canada wishes to again express its concern that the European Union is increasingly establishing non-tariff barriers to trade based on domestic EU regulations related to environmental sustainability which are more trade restrictive than necessary and will likely result in increased uncertainty and higher compliance costs and burdens for importers and exporters, further complicating international supply chains. While Canada shares the EU's priority for enhancing agricultural sustainability, it is critical that the EU recognize and respect the measures being taken by third countries to support environmental sustainability, which reflect the unique growing conditions of a particular region. The EU's approach to ensure that all imports entering the EU have been produced according to EU standards will only increase the costs and burden associated with agricultural production and trade during a time of high food prices and food insecurity. For example, while Canada shares the EU objective of preventing global deforestation, the compliance mechanisms that have been proposed within the legislation will result in barriers to trade for Canadian exports on several important products, even though they are at a low risk of having stemmed from deforestation. Based on information provided thus far by the European Commission, it seems clear that the geo-location requirement provided for in the Regulation will be difficult or impossible to meet by many Canadian exporters. It is imperative that the EU carry out comprehensive engagement sessions, and take into account the concerns of trading partners while ensuring the regulation does not unnecessarily impact trade.

19.17. The delegate of Uruguay indicated the following:

19.18. Uruguay continues to maintain its trade and systemic concerns regarding the general approach followed by the European Union in its regulatory decisions relating to sanitary and phytosanitary matters, and the way in which this approach interacts with other instruments of European Agricultural Policy – such as subsidies and tariffs – to restrict access to the European market, preventing third-country producers from competing with their European counterparts on equal terms, in line with the views expressed by other delegations. In particular, we are concerned about the implementation of an approach whereby the EU has 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 below those agreed in CODEX, and even to the level of detection,

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<sup>5</sup> [RASFF Window - Results \(europa.eu\)](#)

without necessarily carrying out a full risk assessment to justify such a departure on the basis of conclusive scientific evidence.

19.19. In our view, any such determination, particularly where it departs from internationally accepted standards and harmonization efforts in multilateral settings such as CODEX, must necessarily be based on a full scientific risk assessment and conclusive scientific evidence, in accordance with the SPS Agreement. This is essential to maintain the effective balance that must exist between the right of Members to pursue their legitimate objectives and the need to avoid creating unnecessary obstacles to trade. Uruguay agrees with other Members that the issue of derogation regimes, including the existence and implementation in practice of emergency authorizations, appears to reveal tensions between the domestic policies of member States of the European Union and the objective of health protection pursued at Community level, as well as situations in the trade sphere which are potentially discriminatory *vis-à-vis* third parties. Uruguay is also concerned that insufficient transition periods are being provided to make the necessary adjustments in production and to ensure compliance of the products concerned with the modified MRLs.

19.20. 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, in particular developing and least developed countries.

19.21. The delegate of Colombia indicated the following:

19.22. On this particular issue, Colombia is concerned that, since the first time this topic was placed on the agenda to date, and despite mechanisms for dialogue and formal and informal discussions, progress has been marginal or non-existent. In the interests of time, we make full reference to our previous interventions and in different scenarios, in the sense of our concern for the regulatory approach of the European Union, and for the discriminatory nuances of its policy. Finally, we would like to mention that, without prejudice to the above, Colombia is also willing to engage in a constructive dialogue to seek a balance between the objectives of the measures adopted and trade needs. This will be based on a detailed and objective review of the regulations to ensure consistency with WTO principles and obligations.

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

19.24. The United States joins Australia, Canada, Colombia, Costa Rica, the Dominican Republic, Ecuador, Guatemala, Paraguay, and Uruguay in again raising concerns regarding the European Union's implementation of non-tariff barriers on agricultural products. Unfortunately, this is the thirteenth consecutive meeting that this item is on the CTG agenda, and the fifth year that this issue has been raised in the Council. As we have noted in the past, the EU 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.

19.25. 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.

19.26. The United States reiterates 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. 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.

19.27. 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. 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 EU to join with its trading partners in identifying such mutually beneficial approaches.

19.28. The delegate of Australia indicated the following:

19.29. Australia continues to raise or support several specific trade concerns relating to the European Union's implementation of non-tariff barriers on agricultural products in relevant WTO Committees. 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. For imported agricultural products, the EU'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 maximum residue limits (MRLs) for certain pesticides in order to achieve environmental outcomes in third countries. Australia does not consider that the existing MRL system is 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. Australia has a robust regulatory framework for agricultural and veterinary chemicals, providing Australian farmers with safe access to the pesticides they need to maintain productivity and profitability while looking after Australia's unique environment. This approach aligns with the principles set out in the recent statement by Cairns Group Members on the contribution of the multilateral trading system to supporting sustainable and resilient agriculture and food systems ([G/AG/GEN/222/Rev.1](#)). The statement highlights the crucial role of a resilient agriculture sector in feeding a growing population and a science-based and inclusive approach to collectively addressing environmental challenges. 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 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. 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. We thank the EU for its ongoing engagement with Australia on these long-running issues.

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

19.31. The Dominican Republic wishes to reiterate its statement from the formal meetings of the CTG, held on 3-4 April 2023 and 6-7 July 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.

19.32. 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.

19.33. 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.

19.34. 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.

19.35. 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.

19.36. 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.

19.37. 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.

19.38. 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.

19.39. The Joint Statements on SPS issues at the 12<sup>th</sup> Ministerial Conference (MC12); the statement on Trade in Food and Agricultural Products at the 11<sup>th</sup> 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.

19.40. 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 bananas, derived from good agricultural practices (GAP), are tentative and that the toxicity of the metabolite R014821 formed in post-harvest applications is still inconclusive.

19.41. 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.



19.42. The delegate of Brazil indicated the following:

19.43. Brazil regrets that the European Union has continued to adopt NTBs that lack scientific evidence and further imbalance the trade in agricultural goods. The scientific principle from the SPS Agreement establishes a balance between the protection of life and health, on one side, and the access to markets, on the other side. The EU constantly imposes prohibitions based on the hazard approach and/or recourse to Article 5.7 of the SPS Agreement, in disregard of the position of renowned institutions. Brazil is concerned that measures creating new non-tariff trade barriers, under the justification of environmental protection, are increasing. It is regretful that we need to bring such a debate to the CTG, as the interpretation given to the SPS Agreement is moving away from the purposes that guided the negotiations during the Uruguay Round.

19.44. The delegate of India indicated the following:

19.45. This is a long-standing trade concern on the agenda of this Council. We share the concerns raised by various Members who spoke before us on the European Union's imposition of non-tariff measures on agricultural products. We request that our statement made in the previous CTG meeting be placed on record for this meeting as well.<sup>6</sup>

19.46. The delegate of Argentina indicated the following:

19.47. Argentina thanks the delegations that included this item on the agenda. Argentina once again reiterates its concern and stresses the importance of ensuring that all Members apply measures based on science-based risk analysis. As we have expressed on previous occasions when this concern was discussed in this Council, while Argentina shares the European Union's concern to strengthen the protection of human health and to protect the environment, we wish to stress once again the importance of complying with the provisions of the WTO Agreements in such a way that measures are no more trade restrictive than necessary to achieve a legitimate objective. We are particularly concerned about the number of substances banned by the EU, which is increasing day by day.

19.48. This situation may have serious consequences for a number of WTO Members, especially developing countries, whose populations and economies are highly dependent on agricultural exports, as already highlighted by several previous interventions. We also consider that the approach adopted by the European Union to establishing transitional periods on MRLs does not take into account the needs and capacities of third countries to be able to adapt to them. Finally, we agree with several other delegations on the need to take into account the concerns raised and that it is essential for the EU to use the risk assessment approach in the analysis of regulatory changes, and to have conclusive scientific studies to determine the different aspects that may affect human health and the environment.

19.49. The delegate of Japan indicated the following:

19.50. We acknowledge that the European Union is working 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 with a view to establishing a sustainable food system. In order to build a sustainable food system, it is necessary not only to address agricultural products imported into the EU 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. We are of the view that the EU health and environmental standards should not be uniformly applied to imported goods, but the efforts of each country should be respected. For example, the EU is lowering MRLs for the protection of pollinator insects, which is different from the way MRLs have been set for the protection of human life or health in the past. This deviates from

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<sup>6</sup> Document [G/C/M/146](#), paragraphs 8.73-8.74: "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."

international harmonization surrounding MRLs. The EU should not make judgements on the merits of third countries' pesticide use methods, as these are set by national authorities, taking into account the environmental conditions in each Member. 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 EU 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, we would like to request that the EU ensure that the measures are consistent with WTO Agreements and that it hold international discussions on this matter.

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

19.52. The European Union takes note of the comments by WTO Members. The EU provided detailed replies at previous CTG meetings. Our statements remain valid in their entirety. The EU has engaged extensively, including on the basis of the questions raised in this Council, as well as at the SPS and TBT Committees.

19.53. The European Union has also engaged bilaterally both here in Geneva and in respective capitals. A plurilateral meeting took place in Geneva on 17 March which allowed for a frank technical discussion. The EU has organized information sessions and provided detailed information. We have circulated no less than 10 communications since 2019 in relation to our pesticides policy. We refer in particular to document [G/SPS/GEN/1494/Rev.2](#), circulated in July 2022. The document provides an overview of the ongoing review of maximum residue levels of pesticides in the EU. Importantly, it describes the review process as well as how non-EU countries can actively contribute to it. The EU remains open to engage in further discussions on how we can work together in order to facilitate the trade of agricultural products treated with plant protection products.

19.54. The European Union also 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 provided in the period 2019-20 to the SPS Committee ([G/SPS/GEN/1139/Add.6](#)) and continues to provide technical assistance to developing countries and LDCs in improving SPS capacity and market access. This is being done directly or through other international organizations and partnerships, such as the WTO-hosted STDF.

19.55. 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. Last but not least, 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.

19.56. The Council took note of the statements made.

## **20 CHINA – ADMINISTRATIVE MEASURES FOR REGISTRATION OF OVERSEAS PRODUCERS OF IMPORTED FOODS (ID 174) – STATEMENTS BY AUSTRALIA AND THE UNITED STATES**

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

20.2. The delegate of Australia indicated the following:

20.3. 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 (DAFF) and the General Administration of Customs of China (GACC) to work through the implementation of the China Import Food Enterprise Registration (CIFER) system. We welcome changes GACC has made to CIFER over the past 12 months, which have improved the interaction of DAFF and Australian exporters with the system. Australia looks forward to further technical engagement with GACC and appreciates the opportunity to work cooperatively with China on changes that promote food safety in a science-based manner that is no more trade restrictive than necessary. Australian food exporters are ready and willing to comply with China's food safety requirements, but businesses – particularly new

establishment listings for the China market – and competent authorities need clarity and a reasonable time-frame to make changes to comply with registration requirements in the CIFER system. The system remains challenging to Australian exporters required to self-register in CIFER. As China is aware, Australia has previously raised these concerns on several occasions in both the SPS and TBT Committees, and bilaterally via the recent meeting of the ChAFTA Committee on Trade in Goods. In light of the above, Australia requests that China's customs authorities continue to work constructively with Australia's businesses and competent authority, and considers Australian applications in a consistent and timely manner. Australia is happy to provide case studies regarding challenges in order to support further technical engagement. Finally, it was pleasing to see the productive meetings between the leaders of our two countries – Prime Minister Albanese with President Xi and Premier Li in Beijing recently.

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

20.5. As with previous trade concerns, the United States notes that this is the seventh consecutive meeting that this item is on the CTG agenda and the third year that this issue has been raised before the Council. We are extremely disappointed that China finalized and implemented this measure as proposed, despite extensive efforts at constructive engagement by the United States and the international community, including in TBT, SPS, and CTG meetings, in bilateral engagements, and through joint letters from nine WTO Members.

20.6. China did not meet the requests of trading partners to meaningfully engage in the explanation of the new requirements, provide a scientific or technical justification, or publish changes that reduce unnecessary trade burdens for the billions of dollars' worth of safe food exported to China under these requirements.

20.7. Despite being in effect for nearly two years, Decree 248 continues to create new challenges for global food producers and competent authorities as China regularly alters the scope of the measure without notification of the changes, implements new requirements without advance notice, and applies inconsistent criteria for review of applications for registration.

20.8. We ask once more that China meet its international and bilateral obligations, and we maintain our commitment to seeking solutions to these outstanding concerns and welcome meaningful dialogue with China to reduce barriers to trade in safe food products. We acknowledge that the discussion in this Council has led China to implement this measure in a manner that is less restrictive than the measure itself appears to require, including by appearing to informally waive certain documentation requirements that would have imposed an immense burden on the US competent authority.

20.9. The delegate of Japan indicated the following:

20.10. We note that there are many uncertainties in the registration procedures relating 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, delays in examination happen as well as in cases where the Chinese authorities do not provide sufficient explanation of the reasons for the rejection of applications. We request that China improve the operations and the transparency of procedures relating to the implementation of these regulations so that the procedures do not become an excessive burden on business operators.

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

20.12. The European Union would like to support concerns raised about the implementation of Decree 248 of the General Administration of Customs of the People's Republic of China (GACC). Almost two years after its entry into force, the EU considers that the whole implementation process of Decree 248 is still burdensome, both for authorities and operators. The registration process, notably the electronic submission of documents through the CIFER system, is cumbersome and time-consuming, be it to apply for new registrations, or to amend or correct existing registrations. The EU requests that China guarantees continuity of trade while Decree 248 is being implemented. In this context, new requirements should not be implemented without advance notice, and China should regularly publish updated guidance on the implementation of Decree 248.

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

20.14. The Republic of Korea would like to reiterate our concerns with China's administrative measures for registration of overseas producers of imported foods, and refer to our statements at previous meetings.<sup>7</sup> 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 particularly concerned about the lengthy process for registration and the unclear rationale for disapproval, which have negatively impacted upon our exporting businesses. Korea requests that China resolve the issues in a timely manner. We stand ready to further engage with China.

20.15. The delegate of Canada indicated the following:

20.16. Canada welcomes China's efforts to facilitate the registration and renewal process of foreign establishments in the China Import Food Enterprise Registration (CIFER) system. While Canada appreciates China's cooperation on this matter, greater consistency in the registration and renewal process as well as efforts to reduce administrative burden would help ensure that the CIFER system does not cause delays.

20.17. The delegate of Chinese Taipei indicated the following:

20.18. As Chinese Taipei has already stated at previous CTG meetings, we remain deeply concerned about these measures, as uncertainties and a lack of transparency persist even after they have been implemented for more than one and a half years. China has not taken useful steps to ease Members' legitimate concerns.

20.19. First, a lack of sufficient information remains a major obstacle, particularly for those facilities that must register directly with the General Administration of Customs of China (GACC). While China has indicated that technical guidance, regulatory interpretations, and supporting documentation have already been provided, we would urge that these materials be regularly updated and placed on a publicly available website so that they can be accessed by overseas facilities.

20.20. Second, the standard or anticipated processing time for the review and approval procedures has yet to be disclosed. Little is known about the individual stages of the application process. Also, our facilities have reported that their applications have been rejected by the GACC without explanation. We would therefore once again urge the GACC to comply with its obligations under the SPS and TBT Agreements so as to ensure that its review and approval procedures are efficient and transparent.

20.21. Finally, despite seeking clarification from China several times through both bilateral channels and this forum, we have not received any sufficient and detailed response. We therefore urge China to engage in a constructive dialogue to resolve the above-mentioned difficulties.

20.22. The delegate of China indicated the following:

20.23. The Regulations on the Registration and Administration of Overseas Producers of Imported Foods (Decree 248) came into force on 1 January 2022. We have notified the measures to the WTO and some reasonable comments have already been considered and incorporated into the regulations. The transitional period of the regulation is in line with the requirements of the TBT and SPS Agreements.

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<sup>7</sup> Document [G/C/M/146](#), paragraphs 11.14-11.15: "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."

20.24. With the strong cooperation of the food safety authorities of all Members, more than 80,000 overseas producers from 165 economies have been registered in China. Among them, the United States has registered 6,434 enterprises, 6,030 in Japan, 2,999 in the Republic of Korea, 2,193 in Australia, and 1,162 in Canada. In 2022, which is the first year of the implementation of the CIFER system, the value of the imported food reached CNY 1.39 trillion, an increase of 10.4% year-on-year. This increase shows that the import registration implemented by China is effective in ensuring the safety of imported food and promoting food trade to China.

20.25. The GACC has made great efforts to support the implementation of the regulation. It has issued the explanatory documents for the regulation, the guidelines and supporting documents and forms for registration application. A registration information system has been launched for overseas enterprises. The GACC has also held briefings and training sessions with more than 100 Members. A video regarding the CIFER system operation is published on the official website of the GACC.

20.26. At the WTO, we organized an information session during the 91<sup>st</sup> TBT Committee meeting in June 2023, and responded to some common questions raised by Members on the registration procedures. Should Members have further enquiries about the regulation and the registration system, please communicate with the GACC bilaterally, and the GACC will respond in a timely manner and provide technical support.

20.27. The Council took note of the statements made.

## **21 CHINA – COSMETICS SUPERVISION AND ADMINISTRATION REGULATIONS (CSAR) (ID 169) – STATEMENTS BY THE EUROPEAN UNION, JAPAN AND THE UNITED STATES**

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

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

21.3. 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, which will provide more flexibility for producers when registering raw materials' safety information.

21.4. At the same time, the European Union would like to reiterate the concerns it already shared in previous meetings of this Council (July and November 2021, April, July and November 2022, and April 2023).<sup>8</sup> These relate to the Cosmetic Supervision and Administration Regulation in force since 1 May 2021. Our concerns are well known and remain as expressed at the Council's previous meeting.<sup>9</sup>

21.5. The mandatory disclosure of commercially sensitive information touches on the intellectual property rights (IPR) of the companies involved in the registration process. The European Union requests China to consider the possibility to require continuous access to inspect the sensitive information at the companies' files, including the amount of information required for the notification of new ingredients, as well as potential issues over the disclosure of such information after a certain period of time, but without imposing the obligation to submit it to an external database. In particular, the Chinese legislation requires both the specification issued by the raw materials manufacturer and the ingredient composition reported by the cosmetic companies in their product application to be exact matching figures – any mismatch between the information provided by the raw material producer and the cosmetic companies would make the application of the latter invalid. Given that the exact composition of raw materials is never completely stable but may vary/evolve over time within certain limits, it is almost impossible to guarantee a complete consistency between the figures. Furthermore, access to this database would reveal cosmetics' formulation. The EU encourages China to accept a range of values instead of exact matching figures. In addition, the need to publish a detailed summary of efficacy substantiation evaluations may damage business secrets as this

<sup>8</sup> [G/C/M/140](#) paragraphs 23.32-23.36; [G/C/M/141](#) paragraphs 17.28-17.30; [G/C/M/142](#) paragraphs 8.12-8.15; [G/C/M/143](#) paragraphs 8.21-8.22; [G/C/M/144](#) paragraphs 33.16-33.22; and [G/C/M/145](#) paragraphs 25.14-25.18.

<sup>9</sup> [G/C/M/146](#) paragraphs 12.6-12.7.

information is disclosed to the public even before products are made available to consumers, providing commercial advantage to competitors.

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

21.7. Besides, the European Union would like to reiterate its comment that a differentiated approach is needed between new products and products on the market. This would avoid a situation where product supply could be interrupted for an extended period of time due to insufficient preparation time for both industry and supervision authorities.

21.8. In addition, the European Union would like to remark that, since the new requirements to register high-risk New Cosmetic Ingredients (NCI) entered into force in May 2021, and at least until January 2023, no high-risk NCIs have been successfully registered in China, according to EU stakeholders. This is deemed to be due to the excessively detailed technical information required, which goes beyond what is necessary to evaluate the safety of ingredients, for example requiring R&D reports, how the ingredient was invented, or a description of the manufacturing process.

21.9. Finally, the European Union would like to recall that no laboratories have been accredited in EU member States, and so even if the CSAR rules do not impose local testing upon arrival in Chinese territory, *de facto* importers of cosmetics are forced to test their products in China. This requires sending samples only for these purposes, then undergoing the approval procedure and only later importing cosmetics for sale. The EU would encourage China to facilitate the accreditation of laboratories in other countries, notably in those of the European Union.

21.10. The European Union urges China to address these concerns expeditiously.

21.11. The delegate of Japan indicated the following:

21.12. Japan has continued to express its concerns over China's Cosmetics Supervision and Administration Regulations, as well as over the related implementing regulations. We call for the following measures to be taken to ensure that China's CSAR regulations and operations are in accordance with Articles 2 and 5 of the TBT Agreement: (i) as for tests required for the registration and notification of cosmetic products and evaluation tests on toothpaste, 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 (ii) we call for China to recognize the test methods that are internationally recognized by OECD, ISO, and so on, as equivalent test methods for those already accepted in China's National Standard and related regulations. We request that the basis for efficacy claims evaluation be determined by cosmetics registrants/notifiers based on the 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 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.

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

21.14. It is unfortunate that this is the eighth consecutive meeting that this item is on the CTG agenda and the third year that this issue has been raised in the Council. The United States and other WTO Members have consistently been raising significant concerns with the Cosmetics Supervision and Administration Regulation (CSAR) and its implementing measures in the past 13 TBT Committee meetings as well. Unsurprisingly, China has not sought to work with the United States and other WTO Members to reach resolution.

21.15. The United States maintains its serious concerns with CSAR and its implementing measures, and requests that China specifically address the concerns raised in previous meetings at both the CTG and the sub-body levels. We find it very concerning that China, in its floor statements for the



CTG and WTO 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.

21.16. 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.

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

21.18. The Republic of Korea shares the concerns expressed by other Members regarding China's Cosmetics Supervision and Administration Regulations and its implementing measures, and refers to our statements at previous meetings.<sup>10</sup> 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. Korea stands ready to further engage with China to resolve these issues constructively.

21.19. The delegate of New Zealand indicated the following:

21.20. New Zealand has taken into account the response given by China at the previous Council for Trade in Goods. 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 (i) the exemption of animal testing requirements through non-government regulatory authority-issued GMP certification or other trade facilitative mechanisms for providing product assurances; (ii) 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 (iii) further limitations on product disclosure requirements, particularly in relation to sensitive information – that is, 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 Cosmetics Supervision and Administration Regulations (CSAR) to address these issues.

21.21. The delegate of China indicated the following:

21.22. First, regarding the inspection required for cosmetics registration and notification, requiring the inspection for cosmetics' registration and notification to be carried out by professional institutions aims to protect consumers' rights and ensure the accuracy of the inspection results. Inspection institutions shall obtain the certification of inspection and testing qualification (CMA) in the field of cosmetics. However, China does not prohibit foreign inspection institutions from getting the certification, and China's Administrative Measures for the Accreditation of Inspection and Testing Institutions does not restrict foreign inspection institutions from getting such certificates either.

21.23. Second, regarding the evaluation of cosmetics' efficacy claims. The formulation of the specification for the Evaluation of Cosmetic Efficacy Claims is to further ensure the scientific basis, accuracy and reliability of those claims, and to safeguard the rights and interests of consumers. Based on the principle of equivalence, the efficacy claim evaluation test method does not limit the selection of internationally recognized foreign regulations or technical standards, such as OECD or ISO.

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<sup>10</sup> Document [G/C/M/146](#), paragraphs 12.18-12.19: "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. 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."

21.24. Third, regarding the cosmetics' labelling-related issues. In order to protect consumers' rights, it is important to include manufacturers' relevant information, their locations, and so on, in the information of cosmetics' manufacturers. When marking enterprise information, the corresponding guiding words should be used to not confuse consumers. With regard to the ingredients with weight percentage not exceeding 0.1% (w/w), the indicating words "other trace ingredients" should be labelled. The measure does not require a descending order of ingredient content or any other specific order.

21.25. Lastly, regarding the protection of trade secrets and intellectual property rights, China believes that requiring registrants to submit safety-related materials is a common practice in various Members. We have taken various measures to protect the intellectual property rights and trade secrets of enterprises. For example, rather than submitting the full text, we only request that relevant enterprises submit the summary of the supporting material of the efficacy claims. The required technical materials of new raw materials only cover the basic aspects, such as the name, registration number, composition, and so on, rather than the complete information. The Chinese authorities and administrative staff will strictly protect trade secrets in handling the registration of cosmetics, in accordance with the relevant laws and regulations.

21.26. The Council took note of the statements made.

## **22 EGYPT – HALAL CERTIFICATION REQUIREMENTS FOR IMPORTED FOOD AND BEVERAGE PRODUCTS (ID 191) – STATEMENTS BY THE EUROPEAN UNION AND THE UNITED STATES**

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

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

22.3. The United States acknowledges that Egypt has delayed implementation of its new Halal requirements for dairy products; we understand the most recent delay is now in effect until 1 January 2024. However, the United States notes that continued delays in implementation are not sufficient to address our underlying concerns. We ask that Egypt publish a technical regulation that describes the implementing procedures for all products that require Halal certification as a condition of import. The United States also welcomes Egypt's recent approval of a new Halal certifying body. We ask that Egypt publish the criteria and process it will use to approve additional Halal certification bodies. 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.

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

22.5. The European Union reiterates its concerns with regard to Egypt's requirements on Halal certification. The EU is concerned about the negative impact of this measure on imports of food and beverages into Egypt. The EU invites 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.

22.6. The European Union has noted that the requirement for dairy products was suspended until the end of 2023, by the latest Addendum of 8 August. We very much appreciate the flexibility of Egypt's authorities, which is very helpful to economic operators.

22.7. 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 and to provide for a Halal certification system that would allow multiple, well-established certification entities, in accordance with international best practices. Re-certification of products from establishments already certified by other companies is an unnecessary duplication and would lead to a longer time to market and higher costs for consumers.

22.8. The European Union would like to request 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.

22.9. 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. The EU is ready to work with Egypt on solutions that would prevent the negative impact this measure is likely to have on food and beverages imports to Egypt.

22.10. The delegate of Paraguay indicated the following:

22.11. My delegation would like to thank the EU and US delegations for putting this issue back on the agenda and for registering our trade and systemic concern under this item. Paraguay requests an update from the Egyptian delegation today, as Egypt has not provided an update at the last TBT Committee meeting earlier this month on this concern.

22.12. The delegate of Canada indicated the following:

22.13. 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. Canada welcomes Egypt's delayed implementation of the Halal certification for dairy products to 31 December 2023. However, Canada requests that this measure be suspended until more information is provided. In particular, Canada requests further information on procedures to receive certification, fee structures, details on audits, products covered, documentation requirements, and specificity on how these requirements will be implemented. In light of these concerns, Canada refers to our previous statements made at the CTG.<sup>11</sup> In particular, Canada invites Egypt to consider a Halal certification system that would allow multiple, well-established certification entities from exporting countries, in accordance with international best practices. Until further clarity on the measure and procedures is provided, we respectfully request that Egypt suspend the implementation of the measure.

22.14. The delegate of Switzerland indicated the following:

22.15. Switzerland shares the concerns expressed by other Members regarding the requirements for Halal certification and refers to its previous statements in this Council and the TBT Committee. To prevent ambiguities, Switzerland asks for a further extension of exemptions until the final scope and clear guidelines for the implementation of Halal requirements have been published. We reiterate the importance of recognizing foreign Halal certification bodies, in accordance with international best practices, and to clarifying the criteria for the acceptance of foreign Halal certificates.

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<sup>11</sup> [G/C/M/146](#) paragraphs 16.11-16.14: "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."

22.16. The delegate of New Zealand indicated the following:

22.17. New Zealand has taken into account Egypt's comments on this issue at the previous Council for Trade in Goods meeting in July, and the recent meeting of the TBT Committee. We thank Egypt for providing an explanation of the implementation practice for the new Halal standard, ES 4249. However, we remain concerned about some ongoing uncertainty in the implementation of the measure, and the consequent uncertainty that this is generating for exporters.

22.18. New Zealand requests that Egypt provide further written clarification on the implementation of the ES4249 standard. We request that this set out clearly: (i) the responsibility of the respective Egyptian government agencies for the different steps of the Halal certification process, and their relevant contact points; and (ii) the specific steps that domestic and foreign suppliers of Halal products must follow to comply with the Standard, including publication of issues such as time-frames, registration/audit requirements, fee schedules, and labelling requirements.

22.19. Once it has been notified to the WTO and been consulted on as a final set of requirements for Halal imports into Egypt, New Zealand requests that a reasonable transition period, of at least 6-12 months is provided. This transitional period will allow exporters time to understand and comply with any new requirements.

22.20. New Zealand invites Egypt to further consider the approval of multiple Halal certification bodies for certification of Halal food products into 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.

22.21. The delegate of Egypt indicated the following:

22.22. Egypt would like to thank the European Union, the United States, Canada, Switzerland, New Zealand, and Paraguay for their comments. In this respect, I would like to make several points. First, Egypt is in the process of preparing the necessary technical regulation with respect to Halal requirements for dairy products that comprises the product coverage (which will be confined to dairy products, as stipulated in ES4249/2023 (as per their label)), and the role of the relevant entities involved, including the Halal certification bodies to be approved by the relevant authority. Second, it is important also to stress that the referred to technical regulation shall allow for a transitional period between the issuance of the regulation and its entry into force to allow producers in exporting countries to duly adapt to it, as per the provisions of the TBT Agreement. Third, in the meantime, it is important to note that the requirement for a Halal certificate to accompany imports of dairy products has been further postponed until 31 December 2024 (this will be duly notified in the TBT Committee). This decision has been taken in order to ensure the predictability and the smooth flow of trade. Fourth, the General Organization for Veterinary Services (GOVS) will also publish the criteria for approving Halal certification bodies, including the requirement for registration at the relevant authority. Finally, the relevant technical regulation, together with the criteria for approving other Halal certification bodies, will be duly notified once issued.

22.23. The Council took note of the statements made.

### **23 INDIA – ORDER RELATED TO REQUIREMENT OF NON-GM CUM GM FREE CERTIFICATE ACCOMPANIED WITH IMPORTED FOOD CONSIGNMENT (ID 175) – STATEMENT BY THE UNITED STATES**

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

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

23.3. Unfortunately, this is the seventh consecutive meeting that this item is on the CTG agenda and the third year that this issue has been raised in the Council. 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 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.

23.4. The delegate of [Japan](#) indicated the following:

23.5. 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.

23.6. The delegate of [Canada](#) indicated the following:

23.7. Canada thanks the United States for placing this item on the agenda. Canada reiterates its concerns raised at the July 2023 CTG meeting, as well as at recent SPS and TBT Committee meetings. Canada refers to its previous intervention on this item, and asks that it be included in the meeting record as the situation has not changed.<sup>12</sup> It still remains unclear to Canada how India's non-GM certification requirement will fulfil its intended objective. Therefore, we continue to call on India to share the scientific and technical information on which it has based its approach to support a transparent, predictable, risk- and science-based trading environment. Once again, Canada urges 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.

23.8. The delegate of [Argentina](#) indicated the following:

23.9. Argentina thanks the United States for placing this concern on the agenda of this meeting. We again reiterate our concern and stress that this measure has no scientific explanation to support it. As we have expressed on previous occasions in this Council and in the TBT Committee, Argentina has strong concerns that this requirement will set a precedent, that in the future other products or even their derivatives will be included, and that this requirement will become a barrier to trade. We hope that India can reconsider this measure.

23.10. The delegate of [Paraguay](#) indicated the following:

23.11. As we have recently stated at meetings of the TBT and SPS Committees, we are particularly concerned that this measure could lead to the unjustified assumption that GM food products evaluated and authorized on the basis of sound regulatory processes are less safe than non-GM food products. These GM products have undergone rigorous scientific safety assessments in accordance with international standards, guidelines and recommendations to ensure that they are considered as safe as their conventional counterparts. We call on India: (i) to provide answers to the questions that have been withdrawn on numerous occasions, especially with regard to the notification submitted by India to the SPS Committee on 5 January 2023 under document symbol [G/SPS/N/IND/290](#); and (ii) to notify the SPS Committee of the measure considering the intended objective of ensuring the safety and wholesomeness of imported food, and for India to reconsider this policy as being inconsistent with its obligations to this Organization.

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<sup>12</sup> Document [G/C/M/146](#), paragraphs 14.4-14.5: "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."

23.12. The delegate of Uruguay indicated the following:

23.13. Uruguay is looking forward to the responses from India. Clearly, the question of a labelling for the production of food products that have been produced with biotechnology, a system that has been proven over many years, and has proven that there are no risks to human health, generates doubts, and we wonder whether this is more a political rather than a technical issue. For example, in Uruguay there is no differentiation for products that have an ingredient that has been genetically modified because it is considered that both products fulfil the same role.

23.14. The delegate of India indicated the following:

23.15. India thanks Members for their interest in India's non-GM cum GM free certificate requirement. The import of GM foods is not allowed in India (as per the Environment Protection Act, 1986 and FSSAI Act, 2006). Therefore, to ensure that only non-GM food crops are imported into India, FSSAI has notified the requirement of a non-GM certificate to accompany imported food consignments, which is an assurance provided by the competent authority of the exporting country that the food crops that are not approved by GEAC (Genetic Engineering Approval Committee) are not imported into India, and the importer has to provide the certificate as per the format notified by FSSAI. On similar lines, India has been issuing such certificates for its exports to other countries. Noting the restriction of GM foods in India, the 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. Accordingly, import is permissible if the adventitious presence of GM content is less than the notified tolerance limit. Further, the GEAC has so far not approved any of the crop varieties of genetically modified/engineered origin listed on the Order mentioned above. The requirement of a non-GM certificate for import of 24 food crops is an assurance required from the competent authorities of exporting countries that the food crops exported to India are of non-GM origin and GM-free. To date, our several trade partners are already providing the requisite certificate and trade is going on smoothly. The FSSAI is open to interacting with trading partners to discuss the said matter in order to facilitate trade. However, with respect to the specific query raised by Members, India would like to state that the TBT Agreement recognizes the right of a Party to adopt international standards as per the appropriateness or effectiveness for the Party. The precautionary measures have been taken by the FSSAI since GM food is not allowed in India. Further, on similar lines, India also issues more than 7,000 GM free certificates yearly as per the requirement of the exporting countries.

23.16. The Council took note of the statements made.

#### **24 PANAMA – ONIONS AND POTATOES HARVEST LIFE AND SPROUTING (ID 177) – STATEMENT BY 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. Regrettably, this is the seventh consecutive meeting that this item is on the CTG agenda and the third year that this issue has been raised in the Council. 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.

24.4. The delegate of Canada indicated the following:

24.5. 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 is supportive of the US intervention regarding this issue. Canada would like to refer to its previous intervention at the July 2023 CTG meeting on this item and ask for it to



be included in the meeting record as the situation has not changed.<sup>13</sup> 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.

24.6. The delegate of Panama indicated the following:

24.7. Panama thanks the delegations of the United States and Canada for their comments. We have taken note of their concerns. Panama continues to analyse the comments received by our trading partners, and we are open to consider their concerns, as evidenced by the extension of the entry into force of the measure last year. Panama reaffirms its commitment to transparency, and notes that the Panamanian authorities continue to discuss the issue with all relevant governmental bodies, including the Ministry of Agriculture, the Ministry of Industry and Trade, and the Panamanian Food Authority. We recall that any decision will be duly notified and shared with the Council.

24.8. The Council took note of the statements made.

**25 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 (ID 162) – STATEMENT BY THE UNITED STATES**

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

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

25.3. Unfortunately, this is the ninth consecutive meeting that this item is on the CTG agenda and the third year that this issue has been raised at the Council. 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?

25.4. The United States is concerned that 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, at least one year will be needed to launch systems to comply.

25.5. The United States, therefore, 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.

25.6. The delegate of New Zealand indicated the following:

25.7. New Zealand has considered Mexico's response on this matter at the previous Council for Trade in Goods 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 (CAP) creating unnecessary obstacles to international trade and likely to cause difficulties for New Zealand's exporters. We support the request for Mexico to consider less trade-restrictive

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<sup>13</sup> Document [G/C/M/146](#), paragraphs 17.4-17.5: "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. 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."

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.

25.8. The delegate of Mexico indicated the following:

25.9. Mexico appreciates the interest of Members in this matter, and reiterates that the competent authorities of the Ministry of the Economy and the Ministry of Agriculture and Rural Development continue to evaluate the comments received from national and foreign interested parties during the public consultation period on the draft Conformity Assessment Procedure (CAP) of the Standard. Once the analysis period has concluded, the Government of Mexico will be in a position to notify the appropriate responses to the delegations that expressed their concerns, as well as to all WTO Members. Having said the above, Mexico reiterates that the process of elaboration of the CAP is still open, so that the modifications to the document will be made taking into consideration the observations and comments received in due time and form during the public consultation period, always ensuring that its provisions are harmonized with those established in the amendment of the Standard.

25.10. It is also important to note that the implementation of the CAP will be in accordance with the provisions of the Law on Quality Infrastructure and in strict compliance with Mexico's obligations under the TBT Agreement and the related chapters of the Free Trade Agreements to which it is a party. On the other hand, with regard to the verification, surveillance and compliance activities of the draft measure, the provisions of the Quality Infrastructure Law will be considered within the scope of the powers of the Ministry of Economy and the Ministry of Agriculture and Rural Development and the Federal Consumer Protection Agency individually or jointly under the terms of the Collaboration Agreements that may be signed. Finally, the competent authorities have determined that it is feasible to resume activities to amend the Standard itself, as well as the Draft CAP of said standard, once the Systematic Review is carried out in the first quarter of 2024, when the results will be notified.

25.11. The Council took note of the statements made.

## **26 KINGDOM OF SAUDI ARABIA, KINGDOM OF BAHRAIN, UNITED ARAB EMIRATES, THE STATE OF KUWAIT, OMAN, AND QATAR – SELECTIVE TAX ON CERTAIN IMPORTED PRODUCTS (ID 120) – STATEMENTS BY THE EUROPEAN UNION, SWITZERLAND AND THE UNITED STATES**

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

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

26.3. The United States, along with Switzerland, the European Union, and Japan, circulated questions in March 2021 to Gulf Cooperation Council (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 sadly note that this is the 17<sup>th</sup> consecutive meeting that this topic is on the agenda and the sixth year that this issue has been raised in the Council, and, we still have yet to receive written responses to those initial questions and follow-up questions. We 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.

26.4. The delegate of Switzerland indicated the following:

26.5. Switzerland wishes to refer to its past statements in the CTG where it has raised this issue, together with the United States and the European Union, and voiced its concerns in detail for many years, as well as its efforts undertaken in the WTO and bilaterally. Referring to the meeting of the Committee on Market Access (CMA) of October 2023, my delegation would like to thank the delegation of Oman for having indicated that the study on the selective tax reform was in an advanced stage, and that a comprehensive report would be published very soon.

26.6. However, once again the information, although a welcome development, is rather vague. We would request that Oman, in the name of the Gulf Cooperation Council (GCC) member States, provide more specific details as to how we should understand "that a comprehensive report would be published very soon". Does this mean in a couple of weeks, or a couple of months, or more? We would appreciate more specificity and transparency as to when the comprehensive report will be published, and what next steps are foreseen to implement the reform without any further delay.

26.7. For health reasons, several WTO Members have introduced an excise duty on food products in order to incentivize the consumers to revert to less harmful alternatives. The taxation systems adopted are well documented as regards their pros and cons. Choosing an efficient tax system that meets legitimate health objectives does not require complex and time-consuming studies. Moreover, according to their statements made at previous meetings in this Council and the CMA, the GCC Members have repeatedly confirmed that they will revert to a tiered volumetric selective tax similar to the model in place in the UK. In our view, the GCC member States only need to agree on the value of the different tiers and the rates of the tax.

26.8. We highly encourage the GCC to speed up the final decision-making and share the draft with interested Members. Switzerland hopes that this trade concern will be resolved in the near future.

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

26.10. The European Union would appreciate an update on the review of the Gulf Cooperation Council's "Treaty on Excise Tax" of December 2016. The EU would like to reiterate the importance of basing the review on scientific elements and international best practices. In this regard, the EU welcomes information that, as a result of the "tax reform study", a volumetric tax model based on international best practice is being considered. We also consider it important that the reform will equalize the tax rates for energy drinks with the tax rates applied on other soft drinks. The EU would like to recall 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 EU is ready to continue engaging with the GCC on this important issue.

26.11. The delegate of the Kingdom of Saudi Arabia, speaking on behalf of the Gulf Cooperation Council (GCC) member States, indicated the following:

26.12. On behalf of the United Arab Emirates, the Kingdom of Bahrain, the Kingdom of Saudi Arabia, the State of Qatar, the State of Kuwait, and Oman, I would like to thank the delegations of the United States, Switzerland, and the European Union for their continuing interest in the GCC selective tax on carbonated soft drinks, energy drinks, and other sweetened beverages. I should like to inform Members that, as per the latest update from the GCC Secretariat, the study reviewing selective tax regimes has reached an advanced stage. We anticipate that a comprehensive report will be issued soon. The delay is attributed to certain technical challenges that the GCC member States are actively working to resolve in order to expedite completion of this study.

26.13. The Council took note of the statements made.

## **27 INDIA – RESTRICTIONS ON IMPORTS OF CERTAIN PULSES (ID 125) – STATEMENTS BY AUSTRALIA, CANADA, THE EUROPEAN UNION AND THE UNITED STATES**

27.1. 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.

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

27.3. This trade concern is the longest raised by the United States, as this is the 17<sup>th</sup> consecutive meeting that this item is on the CTG agenda and the sixth year that this issue has been raised before the CTG. The US 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 Committee on Market Access (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.

27.4. The delegate of Canada indicated the following:

27.5. Canada remains deeply concerned by India's continued efforts to restrict imports of pulses through several trade-restrictive and domestic support measures and import restrictions on dried peas. These measures have significant negative impacts on exports of pulses to India. Once again, Canada continues to call for India to immediately and expeditiously remove its trade restrictive measures, and to implement alternative, WTO-consistent policy options that promote a predictable and transparent import regime for pulses. Canada continues to question the legal interpretation provided by India to justify trade restrictive measures on dried peas, especially its "temporary nature" when the quantitative restrictions were established on 25 April 2018 and have been applied since then. Canada will continue to closely monitor India's unjustified import restrictions and trade distorting measures.

27.6. The delegate of Australia indicated the following:

27.7. Australia joins Canada, the European Union, and the United States in raising our concerns with India's continued use of quantitative restrictions on imports of certain pulses. Recalling Australia's statement made during the October 2023 meeting of the Committee on Market Access (CMA), by the time this latest extension of India's free import policy for urad and tur or pigeon peas is scheduled to expire, India will have maintained a "temporary" suspension on its WTO-inconsistent quantitative restrictions policies for almost three years, from May 2021 to 31 March 2024.

27.8. While Australia appreciated the advance announcement of this extension at the time, we cannot ignore the fact that this is still an extension to a temporary exemption. For that reason, Australia once again encourages India to consider the longer-term benefits to its own food security of permanently removing the quantitative restrictions on all pulses.

27.9. Such a response by India would signal to markets that India acknowledges the serious challenges to global food security currently and the negative impacts on global food markets from snap changes to import policies. The permanent removal of the quantitative restrictions would provide pulse producers with the certainty they need to make rational, market-oriented planting decisions without fear of their exported product becoming stranded should the Indian government make a snap decision to impose or extend import restrictions.

27.10. We will continue to monitor India's policy settings closely and look to raise this issue again in both the CMA and this forum.

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

27.12. The European Union fully shares the concerns raised by the United States, Canada, and Australia. India continues to state that the trade measures applicable to certain pulses are constantly reviewed for the purpose of maintaining food and nutritional security. Unfortunately, this does not allow a predictable and transparent import regime for the varieties of pulses concerned by the trade restrictive measures. We support the calls made today on India to review the measures and to ensure that they are WTO-consistent.

27.13. The delegate of Argentina indicated the following:

27.14. Argentina again wishes to record its support for this trade concern and thanks the delegations that placed it on the agenda. As we have expressed 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 interventions, Argentina reiterates its concern about the uncertainty that this measure entails for our exporters and requests its review by the Indian authorities.

27.15. The delegate of India indicated the following:

27.16. 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 relevant WTO agreements and the specified procedures of those agreements.

27.17. The Council took note of the statements made.

## **28 UNITED STATES – IMPORT RESTRICTIONS ON APPLES AND PEARS (ID 146) – STATEMENT BY 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 wishes to reiterate its well-known concerns about this long-standing and what we consider to be an unjustified barrier. All the necessary scientific groundwork has been carried out. The US scientific assessment concluded more than five years ago that apples and pears from the EU are safe for import into the United States under the so-called "accepted systems" approach. Yet the US refrains from proceeding with the next purely administrative step to unblock the situation, namely the publication of a final notice.

28.4. To date, these exports to the United States can only take place under a so-called pre-clearance procedure, which is overly costly and not economically viable for exporters. Only very limited exports are taking place under this procedure. 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 WTO SPS Agreement. We urge the US to base its import conditions on science and to solve this important matter without further delay. The EU looks forward to continuing working together with the United States with a view to solving 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 Council took note of the statements made.

## **29 INDIA – IMPLEMENTATION OF CONFORMITY ASSESSMENT POLICY THROUGH QUALITY CONTROL ORDERS (QCOS) IN VARIOUS SECTORS (ID 206) – STATEMENTS BY CANADA AND THE EUROPEAN UNION**

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

29.2. The delegate of Canada indicated the following:

29.3. 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 (TBT Committee), 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 the questions posed by many Members, including Canada. We urge India to ensure that QCO implementation is consistent with its WTO obligations.

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

29.5. The European Union is deeply concerned by the increasing number of Quality Control Orders (QCOs) issued by India. Since 2019, almost 200 QCOs have been notified by India to the Committee on Technical Barriers to Trade (TBT Committee), and almost a third of these have been the subject of specific trade concerns raised by WTO Members. The EU has been consistently raising the issue of QCOs, in particular in relation to toys, and more recently also viscose staple fibres and footwear, among others.

29.6. The majority of QCOs introduced appear to have a protectionist orientation and consequently raise questions regarding their compliance with India's obligations under the WTO TBT Agreement. The European Union is particularly concerned by the visible trend of QCOs prescribing India-specific standards where international standards already exist. 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 European stakeholders as a result of unnecessarily cumbersome procedures, including mandatory factory inspections by officials of the Bureau of Indian Standards (BIS), and 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.

29.7. The European Union would also like to recall the importance of duly notifying all of these measures as required, notably under Articles 2.9. and 5.6. of the TBT Agreement.

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

29.9. The United Kingdom thanks the European Union and Canada for tabling this item. The United Kingdom shares their concerns over the number of Quality Control Orders (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. In particular, we have raised concerns on Indian footwear regulations in the Committee on Technical Barriers to Trade (TBT Committee). We thank India for the constructive bilateral conversations and the recently shared guidance through which we hope to resolve the outstanding uncertainty around how manufacturers can meet the new requirements. We would, however, 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. We would remind India of the importance of notifying these measures as required in the appropriate Committees and consider implementation timelines when introducing these measures. We look forward to continued engagement with India on this issue across WTO fora.

29.10. The delegate of Japan indicated the following:

29.11. Japan supports the European Union and Canada's comments on India's Quality Control Orders (QCOs). Although QCOs provide for overseas factory inspections by the Bureau of Indian Standards (BIS), Japan requests that QCOs not be more trade restrictive than necessary, in accordance with Articles 2 and 5 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 Articles 2 and 5 of the TBT Agreement. Japan requests India to ensure that the orders comply with the TBT Agreement.

29.12. The delegate of India indicated the following:

29.13. India thanks the delegations of Canada, the European Union, the United Kingdom, and Japan, for their continued interest in India's implementation of conformity assessment policy through Quality Control Orders (QCOs). Please note that a detailed response on this issue has been released in document [G/TBT/N/778](#), circulated on 15 November. We urge the interested Members to refer to this document. On the sidelines of the recent meeting of the Committee on Technical Barriers to Trade (TBT Committee), we had very productive bilateral conversations with both the UK and the EU. Since the QCO on footwear has been mentioned, let me add that detailed explanations were provided on this QCO in those bilateral meetings.

29.14. The Council took note of the statements made.

### **30 INDONESIA – IMPORT AND EXPORT RESTRICTING POLICIES AND PRACTICES (ID 51) – STATEMENTS BY THE EUROPEAN UNION, JAPAN AND NEW ZEALAND**

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



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

30.3. The European Union regrets that once again the Council for Trade in Goods needs to address Indonesia's import and export restrictive policies and practices. This item has been on the agenda of this Council for several years now, and despite the deep concerns repeatedly expressed by the EU – as well as by many other WTO Members – it is worrisome that no real progress could be registered in this respect. Rather, the number and scope of Indonesian restrictions seems to have further expanded over time, with a shift towards managed trade and negative impacts on trade flows.

30.4. We took due note of Indonesia's comments in the previous meetings of this Council about its commitment to uphold its WTO obligations, 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 an increasingly restrictive business environment. In particular, the EU reiterates its serious preoccupation over the many issues that we have already raised multiple times, namely: Indonesia's burdensome and lengthy SPS import authorization procedures; its complex rules and lack of pragmatic certification procedures for Halal labelling; its mandatory use of domestic SNI standards (Indonesian National Standard) diverging from international standards for an increasing number of products; its wider use of local content requirements; its restrictive import licensing requirements or other import control measures; and its export bans and duties.

30.5. Accordingly, the European Union once more urges Indonesia to address the many trade barriers of concern to its trading partners, and, as a first step, to notify all relevant measures to the WTO.

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

30.7. Like we have for the last three years, the United States would like to take this opportunity to again underscore our concerns with Indonesia's import and export restricting policies and practices. The US has raised concerns with specific Indonesian policies in past meetings of the Council, as well as in the Committee on Trade-Related Investment Measures (TRIMs Committee), the Committee on Technical Barriers to Trade (TBT Committee), the Committee of Participants on the Expansion of Trade in Information Technology Products (ITA Committee), and the Committee on Market Access (CMA). 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.

30.8. 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 have unfortunately seen a similar issue occur in multiple other countries. Earlier this year, several dispute panels found that India's tariff treatment of a number of ICT products is inconsistent with its WTO commitments. We urge Indonesia to engage constructively on this issue with Members, and finally address these long-standing concerns to ensure the integrity of its market access commitments.

30.9. 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.

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

30.11. The delegate of Japan indicated the following:

30.12. In past meetings of the CTG and the Committee on Trade-Related Investment Measures (TRIMs Committee), 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, and so on, and the consistency of these measures with the WTO Agreement. The Indonesian government has been implementing import and export restrictions on steel products, textile products, and air conditioner equipment, among other products. However, in May 2022, the Indonesian government announced that it would introduce the "Neraca Komoditas" (Commodity Balance System) for textile products and air conditioner equipment 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 32, 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.

30.13. In particular, as for imports of steel products, Japan recognizes that it has been announced that they are temporarily out of the scope of the Commodity Balance Mechanism, but imports under API-U licences are currently suspended, which has a serious impact on Japan as well as operators in Indonesia. The prospects for the issuance of licences from next year onwards are also uncertain under API-P licences. The extremely serious and unusual situation wherein imports themselves are impossible for a long period of time continues, and an immediate and drastic solution is required. Furthermore, with regard to textile products, it is regrettable that safeguard measures on carpets were extended on 9 November this year, despite the fact that the Government of Japan made comments in a public hearing session on 12 September, and that we expressed concerns at the meeting of the Committee on Safeguards (SG Committee) in October. The Government of Japan has also requested that compensation talks be held. There are two main problems with these measures: 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.

30.14. Japan requests that these measures be eliminated as soon as possible. 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 Committee on Import Licensing (CIL) and TRIMs Committee on the following three measures: (i) the import regulation on air conditioners; (ii) the import licence for steel; and (iii) 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.

30.15. The delegate of New Zealand indicated the following:

30.16. 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 and appreciate Indonesia's ongoing engagement with New Zealand on these policies and practices. However, New Zealand continues to raise this issue in the Council for Trade in Goods because we believe that Indonesia's restrictions on 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.

30.17. New Zealand notes and welcomes the Indonesian delegate's statement at the July CTG meeting, that "Indonesia is dedicated to enhancing the business climate through streamlining rules and procedures as a destination for investment and exports". To this end, we reiterate the importance of WTO alignment of policies, and also echo concerns of other delegations made in previous meetings regarding local content requirements across many sectors.

30.18. New Zealand would like to reiterate the following concerns and requests to Indonesia. New Zealand remains concerned about the inconsistent time-frames and issuance of import licences and import permits. Uncertainty around import licences and delays in issuing import permits are leading to commercially significant market access issues for trading partners. In some cases this year, licences have been issued after our growing seasons, meaning there was no realistic possibility of using the permit or allocation provided. 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.

30.19. New Zealand welcomes Indonesia's stated objective that the commodity balance is intended to enhance trade in goods and Indonesia's response in July 2023 that it "never meant to obstruct international trade flows through its import and export regulations". 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. Specific implementation details of the Commodity Balance/import licensing system are yet to be provided, which is adding to the uncertain environment for imports.

30.20. Finally, New Zealand appreciates Indonesia's ongoing engagement on this issue, including via the WTO Dispute Settlement Body (DSB), where Indonesia has committed to "following the recommendations and decisions of the DSB by repealing relevant procedures". 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 trade.

30.21. The delegate of Canada indicated the following:

30.22. Canada's concerns related to Indonesia's tariffs on ICT products, which have already been expressed in the past, continue to be of concern. 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 the relevant WTO provisions.

30.23. The delegate of Indonesia indicated the following:

30.24. Indonesia expresses its appreciation to the European Union, Japan, New Zealand, the United States, and Canada for their interest in Indonesia's import and export policies and practices. Indonesia intends to reiterate its position from the previous meetings of the CTG and the Committee on Trade-Related Investment Measures (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, life necessities 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.

30.25. Regarding concerns over the textile import licensing regime by the European Union and Japan, Indonesia intends to repeat its statement from the previous CTG meeting, that applications for import licensing are currently being carried out electronically and 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.

30.26. In response to queries about the licensing system for Japanese imports of electronic goods and air conditioners (AC), Indonesia 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.

30.27. As Indonesia stated at the previous meetings of the Committee on Import Licensing (CIL) and CTG, it intends to ensure that all steel products entering the Indonesian market 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 WTO Import Licensing Agreement, and is not meant to restrict imports through the import licensing system for steel products.

30.28. As required by Articles 7 and 8 of the SPS Agreement, to take EU interests into account, Indonesia updated the policy in a transparent way, giving justifications and policy developments, details of modifications, and progress of implementing policies for each EU member State. Indonesia added 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.

30.29. Indonesia plans to bring up the earlier concern raised by Japan at both the CTG meeting and the meeting of the Committee on Safeguards (SG Committee) regarding carpet product safeguards. Before enacting security measures, Indonesia always follows protocol, which includes announcements and consultations. Before making a decision, Indonesia carefully reviewed all the issues raised by the interested parties. This course of action is 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. 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.

30.30. The Council took note of the statements made.

### **31 EUROPEAN UNION – QUALITY SCHEMES FOR AGRICULTURAL PRODUCTS AND FOODSTUFFS – THE REGISTRATION OF CERTAIN TERMS OF CHEESE AS GEOGRAPHICAL INDICATIONS (ID 119) – STATEMENTS BY NEW ZEALAND AND URUGUAY**

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

31.2. The delegate of New Zealand indicated the following:

31.3. New Zealand has considered the European Union's previous statements on this matter. However, New Zealand continues to raise this item in the Council for Trade in Goods 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. In our view, 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.

31.4. The delegate of Uruguay indicated the following:

31.5. Uruguay regrets including this item on the agenda again and wishes to refer to its previous interventions, while reaffirming its systemic and trade concerns about the decision of the European Union to register the term Danbo as a protected geographical indication, despite the objections raised by several Members. In systemic terms, Uruguay is concerned that recognized international standards are being disregarded, raising doubts about their integrity and the value of the international harmonization efforts made in CODEX. The meaning and relevance of multilaterally agreeing on a CODEX standard is unclear if the use of such a term will then be a limited exclusive privilege of certain producers. As Uruguay has long pointed out, Danbo cheese is a cheese-making technique covered by CODEX Standard 264, which sets out the characteristics, production method, and labelling of this type of cheese. This standard establishes that Danbo is the name that may be

applied to this foodstuff 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.

31.6. The general interpretation of this CODEX standard is that Members recognize Danbo as a generic term that can be produced in various locations, as long as the requirements set out in the standard are met. 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 the extension of its effects to third markets through the conclusion of trade agreements. This situation generates uncertainty about the legitimate expectations of small-scale producers to access international cheese markets, who received rich cultural knowledge, including knowledge about cheese production through Danish cooperation programmes. Uruguay considers that the registration of the term Danbo as a protected geographical indication is not only contradictory to this historical policy of cooperation, but also constitutes a precedent of establishing a *de facto* monopolistic use of a CODEX standard. Despite the time that has elapsed without the EU taking into account these legitimate systemic and trade concerns, Uruguay will continue to keep this item on the agenda.

31.7. The delegate of Argentina indicated the following:

31.8. Argentina thanks Uruguay and New Zealand for including this item on the agenda. Argentina 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 face trade restrictions due to misappropriation of the term. For Argentina, it is not understandable that efforts should be made to agree at 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 such cheese. In any event, 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.

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

31.10. The European Union takes note of the concerns expressed by New Zealand, Uruguay, and Argentina. The EU has provided detailed replies to these concerns at previous CTG meetings. Without repeating its previous statements in full, the EU would like to underline that its previous statements remain unchanged. Notably, the EU has consistently said that the fact that a GI name is subject to a specific Codex Alimentarius standard, or that it is listed in Annex B to the Stresa Convention, does not imply that the name should be considered as a common or generic term. Rather, generic status in the EU can only be assessed with regard to the perception of the consumers on the EU territory. In the EU, the relevant public is comprised mainly of the reasonably well-informed members of the public and/or customers who may purchase the product or a like product.

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

31.12. The Council took note of the statements made.

## **32 INDONESIA – COMMODITY BALANCE MECHANISM (ID 173) – STATEMENTS BY THE EUROPEAN UNION, JAPAN AND THE UNITED STATES**

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

32.2. The delegate of Japan indicated the following:

32.3. Under the "Commodity Balance System", an SPI (Import Permit) is required 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 putting 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. In the case of iron and steel products, it has been announced that they are temporarily out of the scope of the Commodity Balance Mechanism.

32.4. In this regard, Japan asked for clarification of Indonesia's Laws and Regulations at the Import Licensing Committee in October of this year, but we have not received any clear responses. Japan again calls for Indonesia's explanation. The system has been severely impacted, with import applications for API-U licences for general operators themselves being blocked for a period of time since last December. Japan also recognizes that, although the decree was promulgated in September this year, relevant laws and regulations also need to be developed. Japan would like to request that the legislation is put in place as soon as possible and that the situation is improved. In addition, with respect to licences for manufacturers that allow imports, Japan would also like to point out that problems still exist as approvals are given to only a small portion of the applied volume. Furthermore, there is uncertainty about import approvals from next year onwards, and we request that immediate improvements be made.

32.5. Japan understands that "textile products" are included in the scope of this system, but questions 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. 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."

32.6. However, as seen in its actual operation, as already described, the commodity balancing system is highly likely to violate Article XI:1 of the GATT, among other provisions, 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. Japan is concerned about this and requests that the situation be remedied as soon as possible.

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

32.8. Indonesia's commodity balance system continues to raise concerns, including because its scope of application keeps expanding. At the CTG's previous meeting, Indonesia commented that the commodity balance is aimed at increasing the ease of doing business and business environment, enhancing transparency, and facilitating planning for economic operators. We welcome efforts to ensure a coordinated and streamlined approach on the management of import and export licences. However, the EU regrets that the design of the mechanism and its implementation so far lack clarity for businesses and may lead to further restrictions to trade flows – in turn raising questions on the WTO-compatibility of the scheme.

32.9. 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 deliver on the stated objective of facilitating free trade flows rather than creating a more restrictive business environment. Finally, the EU 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.

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

32.11. As with previous specific trade concerns (STCs), the United States notes that this is the fourth consecutive meeting that this issue is on the CTG's agenda. The commodity balance policy originally appeared to apply to certain agricultural commodities. The policy has since been expanded



to include non-agricultural products, in particular consumer goods such as cell phones. Since the policy was implemented, importers have reported experiencing significant delays in obtaining import licences, especially for certain agricultural products, and that some import licences issued by the Indonesian authorities covered lower volumes than requested by the importer.

32.12. Please explain what steps Indonesia is taking to avoid these administrative delays in the future. Also, please explain whether importers obtain a licence covering the volume they request. If not, please explain how the volume is decided. Finally, please explain how the Government of Indonesia determines to which products the policy will apply.

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

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

32.15. The Republic of Korea shares the concerns expressed by others regarding Indonesia's Commodity Balance Mechanism. It has been reported that our businesses still encounter challenges 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. Korea requests that Indonesia improve the functioning of the mechanism, particularly by providing clarifications on the timeline for import recommendation issuance and the approval of import quotas, to ensure that the system does not act as a means to restrict import quantities. The Republic of Korea stands ready to deepen our engagement with Indonesia to fully resolve this matter.

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

32.17. The United Kingdom shares the concerns raised by Japan, the European Union, the United States, and the Republic of Korea. Although we support Indonesia's effort to be more transparent, it appears that Indonesian regulations related to commodity balance could be trade restrictive. As previously raised in this Council, the UK remains concerned about businesses already experiencing procedural delays in entering the Indonesian market, particularly in agricultural and food and drink sectors. The UK also continues to request that Indonesia share a full list of products subject to the Commodity Balance Mechanism. The UK would welcome further information from Indonesia on any future developments regarding this policy and looks forward to future engagement on this subject.

32.18. The delegate of Switzerland indicated the following:

32.19. As indicated in the Council's previous meetings, Switzerland shares the concerns raised by Japan, the European Union, the United States, the Republic of Korea, and the United Kingdom, regarding Indonesia's Commodity Balance Mechanism. We are disappointed to note that this issue is not progressing. We strongly encourage Indonesia to provide more detailed answers to the concerns and questions raised by interested Members, in particular regarding the consistency of the Commodity Balance Mechanism with WTO rules.

32.20. The delegate of Indonesia indicated the following:

32.21. Indonesia thanks Members for their interest in the issue of the Commodity Balance Mechanism. 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 plans to restate its position from the CTG's previous meeting. Additionally, a better business climate, corporate certainty, and the free flow of goods are goals of the commodity balance.

32.22. The 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 Mechanism will provide complete, detailed, transparent and accurate data, which will be implemented by the relevant ministries and institutions.

32.23. 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.

32.24. The Council took note of the statements made.

### **33 UNITED STATES, JAPAN, NETHERLANDS – US-JAPAN-NETHERLANDS AGREEMENT ON CHIP EXPORT RESTRICTIONS (ID 204) – STATEMENT BY CHINA**

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

33.2. The delegate of China indicated the following:

33.3. China noted that both the United States and the European Union stated in previous meetings that they took issue with the agenda item description as put forward by China, but the facts speak for themselves. Within a short period of time, the three Members all introduced new export controls on the semiconductor industry against China, on 7 October 2022, on 23 July 2023, and on 1 September 2023, respectively. If no such agreement exists among the three Members, how could the three Members take similar actions in such a synchronized manner? With regard to the United States' export control on semiconductor manufacturing equipment, we will elaborate on it under Agenda Item 48.

33.4. With regard to Japan's export control on semiconductor manufacturing equipment, China's concern remains. We are concerned that the scope of products subject to the new export control is clearly excessive, as it covers the products that have long been removed from the Wassenaar Arrangement. In addition, the classification of export licensing and groupings of country or region under this export control reflect that the measures are discriminatory and targeted against China.

33.5. With regard to the new export controls on semiconductor manufacturing equipment issued by the Dutch government, we note that the relevant semiconductor manufacturing equipment can be exported to China until the end of this year. We are concerned that the new export controls go beyond the scope of the control list of items of the Wassenaar Arrangement and include products that are not covered by the EU dual-use export control list.

33.6. Finally, China urges the United States, Japan, and the Netherlands to notify the respective measures in accordance with their WTO commitments.

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

33.8. The United States continues to take issue with the agenda item description as put forward by China. Also, as we have stated previously, the United States does not believe that the WTO Council for Trade in Goods is the appropriate forum to discuss issues related to national security, including export controls.

33.9. The delegate of Japan indicated the following:

33.10. Japan has long been implementing 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, in a manner consistent with the WTO Agreements. We will continue to act in accordance with this policy.

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

33.12. The European Union recalls its statement made in previous meetings of the Council for Trade in Goods. Like the United States, the EU continues to take issue with the description of this agenda item 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.

33.13. The matter raised by China concerns national export control measures by the Netherlands relating to advanced semiconductor manufacturing equipment. The Dutch government published its national regulation on 30 June<sup>14</sup>, which entered into force on 1 September 2023.

33.14. The measure was adopted, in the same way as all existing restrictions of this type, in conformity with the applicable WTO rules. Most notably, the exceptions of the General Agreement on Tariffs and Trade 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.

33.15. The Dutch measure was published in a ministerial order under specific provisions of the EU Dual-Use Regulation that governs the export of dual-use goods and technology to destinations outside the European Union, allowing EU member States to take additional national export control measures for reasons of public security (Article 9). The Dutch ministerial order imposes an authorization requirement, allowing transactions that do not raise security concerns to proceed unimpeded.

33.16. As mandated under the European Union's Dual-Use Regulation, the EU published the Dutch controls on 20 October 2023 to ensure the transparency and legal clarity of the measures.

33.17. The Council took note of the statements made.

#### **34 CHINA – SUBSIDY TRANSPARENCY AND CHINA'S PUBLICATION AND INQUIRY POINT OBLIGATIONS UNDER CHINA'S PROTOCOL OF ACCESSION (ID 170) – STATEMENTS BY AUSTRALIA, CANADA, JAPAN, THE UNITED KINGDOM AND THE UNITED STATES**

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

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

34.3. As Members are well aware, this is the third consecutive year that the United States and other Members have raised 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. However, China rarely does so for its subsidy measures. 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."

34.4. As we have stated in past Council meetings, we tested out China's commitment on the enquiry point and came away with nothing. China simply refused to provide a written response to our request, telling us specifically that it would not respond to our request, even though China's Protocol of Accession enquiry point commitment covers "laws, regulations and other measures".

34.5. It is not about the specific measures we requested, but about any WTO Member's ability to understand the actions that China is taking. We should all uphold the principle that measures establishing and implementing subsidy programmes should be transparent. It is imperative to the fairness of the international trading system that Members are transparent in their measures impacting trade and investment.

34.6. This is not just unfair to the United States and our co-sponsors of this agenda item who can try to uncover these measures on our own, but is especially unfair to the developing and least developed Members who may wish to rely on these mechanisms to understand China's actions, but who may not have the capabilities to research these measures themselves.

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<sup>14</sup> <https://www.government.nl/latest/news/2023/06/30/government-publishes-additional-export-measures-for-advanced-semiconductor-manufacturing-equipment>

34.7. The delegate of Canada indicated the following:

34.8. 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.

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

34.10. The United Kingdom continues to support the concerns raised by other co-sponsors around China's compliance with its transparency obligations under its Accession Protocol. We note that this item has been on the agenda for many years, both at this Council and in the Committee on Subsidies and Countervailing Measures (SCM Committee). We would refer Members to previous statements that we have given on this item across both bodies. In particular, we recall the UK's suggestion during the 27 October regular meeting of the SCM Committee, in the spirit of progressing discussions and building greater understanding among Members, that China share its experiences on how it fulfils its transparency obligations under its Accession Protocol. We would like to thank China for its constructive engagement on this suggestion at that Committee, and for its willingness to share its experiences with Members on complying with its transparency obligations, including on the difficulties it faces. While we recognize that the SCM Committee only met recently, we would be interested in knowing whether China could provide an update to Members on whether it has considered when it plans to go ahead with this.

34.11. The delegate of Japan indicated the following:

34.12. Japan has repeatedly pointed out in the Committee on Subsidies and Countervailing Measures (SCM Committee) 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. Japan requests that China also fulfil its notification obligations under the Subsidy Agreement and its transparency obligations agreed to in its Accession Protocol to ensure the effectiveness of the mechanisms that contribute to improving transparency.

34.13. The delegate of Australia indicated the following:

34.14. 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 notify its measures promptly and comprehensively, 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.

34.15. The delegate of New Zealand indicated the following:

34.16. As noted in the July meetings of the Council for Trade in Goods, 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.

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

34.18. The European Union wishes to reiterate its support to the concerns raised by other Members 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 by responding to requests for information under the enquiry point without undue delay.

34.19. The delegate of China indicated the following:

34.20. China regrets that this issue has been raised again despite us having already provided explanations to the United States through the US Embassy in Beijing, and in this Council. In July's CTG meeting China clarified this matter further. We would like to include China's statement made at July's CTG meeting in the record of this meeting.<sup>15</sup>

34.21. China reiterates that Members can obtain its fishery development policies on the official website of the State Council. The other policies that the US enquired about are neither laws, regulations or other measures affecting trade, nor the information which falls within the scope of the information disclosure of relevant Chinese laws and regulations.

34.22. The Council took note of the statements made.

### **35 EUROPEAN UNION – COMMISSION REGULATION (EU) 2023/334 REGARDING MAXIMUM RESIDUE LEVELS FOR CLOTHIANIDIN AND THIAMETHOXAM IN OR ON CERTAIN PRODUCTS (ID 200) – STATEMENTS BY AUSTRALIA AND THE UNITED STATES**

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

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

35.3. 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. As the EU 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 US

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<sup>15</sup> Document [G/C/M/146](#), paragraphs 13.27-13.31 "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."

urges the EU to pursue a collaborative approach to protecting pollinators, using appropriate international venues to advance a shared understanding of this global challenge.

35.4. The delegate of Australia indicated the following:

35.5. Australia joins other Members in expressing concern over amendments to Regulation 396/2005 arising from Commission Regulation 2023/334 regarding maximum residue levels for clothianidin and thiamethoxam in or on certain products, consistent with our concerns previously expressed in relation to Agenda Item 19 (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 Committee on Technical Barriers to Trade (TBT Committee) and the Committee on Sanitary and Phytosanitary Measures (SPS Committee).

35.6. 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. Australia does not support using MRLs on imported products to achieve environmental outcomes outside the European Union's borders. This extraterritorial 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. Australia is concerned about the limitations of the 2018 European Food Safety Authority risk assessments cited by the EU in the 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 the EU to provide robust scientific evidence in support of this conclusion. We look forward to continuing to engage with the EU on this important topic.

35.7. The delegate of Paraguay indicated the following:

35.8. Paraguay reiterates its trade and systemic concern, as we have recently done in the Committees on Market Access (CMA), Technical Barriers to Trade (TBT Committee), and Sanitary and Phytosanitary Measures (SPS Committee), about the European Union's attempt to use the MRLs for clothianidin and thiamethoxam not to protect European consumers, but as a means to regulate the use of neonicotinoids in production processes and methods in third countries. The extraterritoriality of the measure ignores the ability of national authorities to establish regulatory frameworks based on sound scientific evidence, applied to registration processes in order to assess the risks of pesticides and their uses, which includes the assessment of risks to the environment and pollinators, and we would like to ask the EU how this is compatible with its obligations under WTO law, and even under its founding agreements. The imposition of the restrictions on international trade established in this regulation will make farmers in Paraguay and the region less competitive than farmers in Europe, who do not have to face the same pests and climatic conditions to produce food, and can benefit from emergency authorizations to continue using these substances, as we pointed out earlier, as they continue to benefit from authorizations issued even after the ruling of the European Court of Justice, which prohibits the continued granting of such authorizations.

35.9. Similarly, as noted in our intervention under ID 137 (Agenda Item 19), we continue to receive no answers to the questions of how long it takes to approve an emergency authorization and what the average cost of the emergency authorization approval process is in order to understand how emergency authorizations are compatible with the non-discrimination obligation. The European Union insists that this is up to Members, and while we welcome the confirmation that action will be taken on authorizations approved after the ECJ ruling in the recently circulated responses, we cannot help but note that authorization was granted by the Czech Republic on 4 April 2023 for the period 20 April 2023 to 16 July 2023, well after the ruling, and again, we cannot get that Member to respond directly today.

35.10. Regarding promises concerning the possibility of applying for import tolerances, if in cases of MRLs set with the objective of protecting human health member States are not giving a favourable vote for import tolerances, and we will not dwell again on the case of tricyclazole and rice, how can



the Commission argue that applying for import tolerances is a feasible avenue for MRLs set with environmental objectives, including those covered by this Regulation?

35.11. Paraguay has submitted written comments to the notification within the deadline, and so have several other Members, and the EU indicates that this is an important mechanism for third party participation in their regulatory processes. However, to date they have not been able to clarify how comments submitted by Members are taken into account, especially given the short time between the end of the comment period and the decision taken by the EU Standing Committee on Plants, Animals, Food and Feed (ScoPAFF), which approved the proposed reduction of the MRLs for these substances, without modifications.

35.12. Finally, regarding the erroneous mention of my country in the final version of Regulation 2023/334, although we appreciate the publication of a corrigendum, we wish to point out that, to date, the official EU website still does not have an updated version, such that, when consulting the Regulation, the erroneous reference to Paraguay in footnote 19 remains. We request the European Union to amend the documentation available on its official website as a matter of urgency.<sup>16</sup>

35.13. The delegate of Ecuador indicated the following:

35.14. Ecuador thanks Australia and the United States for their interest in including this issue again on the agenda of this meeting. My delegation would also like to reiterate its concern on this matter, in line with what we have already stated in this same Council and the Committees on Sanitary and Phytosanitary Measures, Market Access, and Technical Barriers to Trade. Ecuador wishes to stress that pesticides are one of the most important inputs in global agro-industrial development, which have enabled a significant increase in agricultural productivity to meet the growing demand for food. We insist that this regulation 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. This approach disregards and disqualifies the adequacy of the regulatory policies of other countries, which sovereignly set the conditions of food production and agricultural activity in their jurisdictions. Moreover, they do not seem to conform to WTO rules, and do not take into account the particular climatic conditions and economic and social development considerations of their various trading partners. With these arguments, we once again urge the European Union to reconsider its current policy on ceilings on third-country products, such as import tolerances, also taking into consideration the great efforts made by our productive sectors, many of them small and medium-scale, to adapt to an adverse international scenario.

35.15. The delegate of Brazil indicated the following:

35.16. Brazil is concerned that if the Regulation 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. Trade restrictions need to consider the variety of local conditions, including climate and soil. Different needs and challenges from producers must be taken into account in the design and application of the restrictions. A Member should not expect that its own trade restrictions have to be applied by other Members. Given its extraterritorial effects, the European Union's regulation raises concerns in relation to the multilateral trading system. Brazil remains interested in meaningful dialogue with the EU on the subject and hopes that the EU can take measures to avoid the creation of unnecessary barriers to trade. Brazil calls on the European Commission to consider a more balanced approach that harmonizes with the Codex Alimentarius recommendations for clothianidin and thiamethoxan MRLs.

35.17. The delegate of Argentina indicated the following:

35.18. Argentina thanks the delegations that presented this concern, which we share. While Argentina shares the concern about the environmental challenges that the international community must resolve, Argentina expresses its concern about the approach, and the related trade measures, that the European Union is implementing. Argentina questions the unilateralism and extraterritoriality of the measures, not only in political terms, as it ignores our own authorities, our

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<sup>16</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2023.047.01.0029.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2023.047.01.0029.01.ENG)

own regulatory systems, our good practices implemented to conserve and make a sustainable use of our biodiversity, but also because of the doubtful consistency with WTO rules and with the principles of international law, as the basis of multilateralism.

35.19. Argentina notes that this measure departs from the science-based approach required by current regulations. Moreover, the available scientific evidence shows that the decline in the number of pollinators is multi-causal and that, using good agricultural practices, the use of neocotinoids, clothianidin and thiamethoxam is safe. Regarding the purpose of the measure, if it were an environmental measure, it should also comply with the principles of general international law, and of international environmental law in particular. However, this is not the case, since the principle of permanent sovereignty over natural resources is disregarded, insofar as the measure limits the right of Members to manage their resources in accordance with national regulation. Moreover, the measure disregards the principle of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC), and the obligation to grant special and differential treatment, in that there is no differentiation of responsibilities in accordance with international law, and no consideration of the different needs of Members according to their level of development.

35.20. The delegate of Uruguay indicated the following:

35.21. Uruguay reiterates its concern at the approval, without substantive amendments, of Regulation 2023/334 modifying the MRLs for clothianidin and thiamethoxam, despite the numerous comments submitted by some twenty trading partners in the aforementioned consultation process, and by numerous WTO Members at recent meetings of the Goods Council and the Committee on Sanitary and Phytosanitary Measures (SPS Committee), the Committee on Technical Barriers to Trade (TBT Committee), and the Committee on Market Access (CMA). Uruguay understands that the establishment of MRLs is a tool designed to protect the health of consumers from the risks arising from ingestion and that it is, therefore, a type of measure that falls naturally within the scope of the SPS Agreement.

35.22. For these issues, the international reference body is the Codex Alimentarius Commission, where health issues are comprehensively considered for the adoption of MRLs. Without prejudice to other rules in the vast and complex European regulatory framework, in the European Union, the main and specific rule on MRLs for pesticides in food and feed is Regulation No. 396/2005, Article 3(d) of which also defines MRLs 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".

35.23. Uruguay shares the interest in promoting the protection of pollinators, in line 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 security or 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.

35.24. However, Uruguay maintains its doubts as to both the relevance and the legal basis, in European and WTO law, for establishing reductions of MRLs to the level of determination on the grounds of "environmental issues of global concern" or issues other than human health. As far as environmental aspects are concerned, while their importance is not unknown, we understand that they are not part of the MRL-setting process, but are, and should be, addressed by each country in its territory using the appropriate tools, taking into account its production and regulatory system, and its environmental and political conditions. This has been confirmed by the Codex Secretariat, which confirmed that environmental aspects are currently not considered in risk analysis for plant protection products under Codex.

35.25. 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. Uruguay also wishes to stress that sanitary and phytosanitary measures adopted or applied by WTO Members, such as the European Union, must conform to the objectives set out in paragraph 1 of Annex A of the SPS Agreement, and to 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 to the obligations under GATT 1994. Finally, we reiterate our interest in following up on the future consideration of requests for emergency authorizations for these and other substances subject to restrictions under Community-level regulations.

35.26. The delegate of India indicated the following:

35.27. India reiterates its concerns regarding the European Union's lowering of existing MRLs for clothianidin and thiamethoxam. In its response to this agenda item in the meetings of various WTO bodies, the EU acknowledges that non-EU countries may face production conditions and pest pressures different from those in Europe. However, the EU has not granted exemption to those countries where the use of clothianidin and thiamethoxam cannot be avoided due to (i) different soil and other production conditions and including pest pressures and environmental conditions; and (ii) non-availability of efficacious alternative pest control products. A blanket universal prohibition without taking into account the differences in the conditions prevailing in different countries is highly inappropriate. India requests the European Union to develop a methodology whereby difference in the conditions of the production and pest pressures are taken into account and appropriate derogations are granted.

35.28. The delegate of New Zealand indicated the following:

35.29. New Zealand refers to statements previously made on this matter and again shares and supports the concerns raised by other Members. New Zealand recognizes that Commission Regulation (EU) 2023/334 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 is now in effect and will apply from March 2026. New Zealand maintains previously raised concerns about the European Union's approach to this matter, including the proposed mechanism of implementation. New Zealand maintains that addressing global environmental themes, such as pollinator decline, is a challenge best dealt with by Members working with trade partners in the appropriate multilateral fora.

35.30. The delegate of Canada indicated the following:

35.31. Canada, like Australia and the United States, is disappointed with the European Union's decision to adopt regulation EC No. 396/2005 to lower the MRLs for clothianidin and thiamethoxam to the Limit of Quantification. We would like to note that this decision is not based on dietary risks, but on perceived environmental concerns for the global pollinator population, which does not take into account risk mitigation measures in exporting countries. This approach is unnecessarily trade restrictive and does not take into consideration the unique circumstances, such as climate and growing conditions, and risk management measures of exporting countries.

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

35.33. The European Union takes note of the interest by several Members on this issue. As previously communicated, the EU takes into account environmental objectives when setting maximum residue levels for substances no longer approved in the EU due to environmental concerns of a global nature, while respecting WTO standards and other international obligations. The EU addresses this matter on an incremental basis, considering and reviewing the position of each particular active substance on a case-by-case basis, founded on the best available scientific evidence and ensuring that its measures are not more trade restrictive than necessary to achieve their objective.

35.34. The European Union informed WTO Members about its new rules already two years ago, in November 2020 ([G/SPS/GEN/1868](#)). The EU has regularly updated the Committee on Sanitary and Phytosanitary Measures (SPS Committee) and the Committee on Technical Barriers to Trade (TBT Committee) on progress since then. The draft Regulation on lowering the maximum residue levels for the two neonicotinoid substances clothianidin and thiamethoxam was notified to the TBT Committee on 6 July 2022 ([G/TBT/N/EU/908](#)). The EU has carefully studied and replied to all comments received from WTO Members during the notification process.

35.35. Last February, the new rules were adopted through Commission Regulation (EU) 2023/334. This Regulation is the first such regulation implementing the new policy announced in the European Green Deal, and – more specifically – the Farm to Fork Strategy on imported food in relation to pesticides residues.

35.36. The European Union has explained in previous meetings the rationale for the measures and refers Members back to these explanations. The environmental objectives of global concern that this Regulation targets are those relating to the protection of pollinators. This is an issue of global concern, which goes beyond national boundaries and cannot be solved through actions at EU level alone. These two neonicotinoid substances clothianidin and thiamethoxam are known to contribute significantly to the decline of pollinator populations because of their intrinsic properties that lead to adverse effects on pollinators independent of where they are used geographically.

35.37. The European Union would like to clarify that the Regulation does not require third countries to prohibit the use of the neonicotinoids clothianidin and thiamethoxam in their own territory. The EU's objective is to ensure that food and feed consumed in the EU do not contribute to the global decline of pollinators, independently of whether the product is produced in the EU or imported from third countries. Therefore, if the harvested crop is destined to be placed on the EU market, it will have to comply with the maximum residue levels in place in the EU.

35.38. Regarding possible trade impacts, the Regulation defers the application date of the Regulation to 36 months after entry into force (instead of six months, which is the standard period given in the European Union). It allows products placed on the market before the application date to remain on the market until the end of their shelf life. The Regulation will therefore become applicable only at the beginning of 2026.

35.39. 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. Based on the best available current knowledge, reducing the use of neonicotinoids is an effective corrective action to tackle pollinators decline. The EU is acting in full compliance with WTO rules, which allow Members to adopt measures if they are necessary to achieve a legitimate objective.

35.40. On emergency authorizations in the European Union, the Commission is still considering the implications of the recent judgement of the European Court of Justice for the granting of other emergency authorizations.

35.41. The European Union 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 European Union provided that the submitted information demonstrates that the use is safe to pollinators.

35.42. Finally, let me highlight that the European Union has 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. Countries interested in receiving SPS-related technical assistance from the EU are invited to approach the EU Delegation based in their country or the relevant directorates of the European Commission.

35.43. The Council took note of the statements made.

### **36 AUSTRALIA, CANADA, EUROPEAN UNION, JAPAN, NEW ZEALAND, SWITZERLAND, UNITED KINGDOM, AND THE UNITED STATES – UNILATERAL TRADE RESTRICTIVE MEASURES AGAINST RUSSIA (ID 189) – STATEMENT BY THE RUSSIAN FEDERATION**

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

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

36.3. The Russian Federation would like to draw Members' attention once again to the destructive impact of unilateral trade restrictive measures of a coercive nature with extraterritorial effect

introduced by the WTO Members indicated in the title of this agenda item on international trade, supply chains, and the world economy. In our previous interventions throughout 2022 and 2023, we explained that given that Russia is one of the largest suppliers of energy products on the global market, the restrictions on its energy sector lead to global disruptions in this sector and higher energy prices. High energy prices result in higher consumer prices across the full board of products, including food. In fact, any restrictions, including on shipping companies, insurance companies, and the banking sector in international transfers, generate additional costs, which are passed on to global consumers resulting in higher global prices across various sectors, including food prices. Some of the aforementioned factors were particularly prominent in 2022; however, they continue to play their role in 2023.

36.4. The European Union and the United States keep claiming that their restrictions do not target food and fertilizer exports from Russia. However, in reality Russian exporters of these product categories face numerous difficulties with financial transactions, logistics, and insurance, among others. In this context, despite all the coercive restrictive measures, Russia continues to supply the Global South with food and fertilizers. Among the countries that receive Russia's fertilizers free of charge are Malawi (20,000 tonnes), Kenya (34,000 tonnes), Zimbabwe (23,000 tonnes), Nigeria (34,000 tonnes), and Sri Lanka (55,000 tonnes). Until end-2023, it is planned to ship 200,000 tonnes of wheat free of charge to Somali, the Central African Republic, Burkina Faso, Zimbabwe, Mali, and Eritrea.

36.5. On a different note, the recently issued 2023 World Trade Report by the WTO Secretariat is devoted to the topics of fragmentation in the world economy and re-globalization. Unilateral trade restrictive measures discussed under the present agenda item are definitely a contributing factor to such fragmentation. The report highlights some of the consequences of such measures. According to the report, fragmentation would leave economies less prosperous, less innovative, less resilient, and less willing and well-equipped to cooperate on the social, environmental, and security challenges they face. As one of a number of possible scenarios, the WTO Secretariat considers splitting the world trade system into separate trade blocks. In this case, it is estimated that the cost of such a split would be about 5% of real income at the global level, with some developing economies facing double-digit losses. The following are among other key findings in the report: (i) fragmentation would reduce global welfare as economies would forego gains from trade based on comparative advantage, increased product variety, the sharing of fixed costs, and the diffusion of ideas and technologies; (ii) fragmentation can lead to diminished production efficiency, decreased investor confidence, hindered innovation and higher prices; (iii) fragmentation can ultimately lead to reduced incomes for both the poor and the rich globally, resulting in increased poverty and exacerbated inequality between economies; and (iv) fragmentation risks reducing global welfare and promoting economic divergence. LDCs are likely to suffer the most. The firm conclusion of the report is that today's world needs more trade and more cooperation, not less.

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

36.7. Since Russia has accused us in the past of carrying out an "active disinformation campaign" against them, we want to – yet again – set the record straight in front of all Members of this Council. In the minutes, we would refer back to all previous UK statements under this item.<sup>17</sup> Frankly, we

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<sup>17</sup> Document [G/C/M/146](#), paragraphs 44.21-44.28: "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

think it's entirely self-evident how much Russia's aggression against Ukraine is harming global food security. The global trading system cannot and will not turn a blind eye until Russia ceases this aggression. Until that time, the United Kingdom is committed to standing in support of Ukrainian sovereignty and the Ukrainian people.

36.8. Russia's decision to withdraw from the Black Sea Grain Initiative has reduced global grain supply at a critical time for vulnerable people around the world, and contributed to further market volatility. Russia has also systematically attacked Ukrainian civilian grain and port infrastructure, clearly intending to degrade Ukraine's ability to export food to the world. Ukrainian grain has been a lifeline for countries on the cusp of famine, supplying 80% of the World Food Programme's global wheat grain delivered to Somalia, Sudan, and Yemen, among others. Since July, Russia has destroyed enough grain to feed one million people for a year. To be clear, since leaving the Black Sea Grain Initiative, Russia has destroyed more grain than all the grain it has promised to donate to African countries. This is unacceptable. The United Kingdom will keep condemning Russia's illegal and unprovoked assault on Ukraine, as it seeks to use violence to rewrite the rules, redraw borders, and impose its will on the Ukrainian people.

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

36.10. Russia's statement does not deserve a substantive response. We note again that Russia is complaining about a situation that it has created. Russia continues to try to shift blame for the suffering, death, and destruction that Russia has perpetrated on Ukraine, and for the disruption and deprivation being felt around the world.

36.11. Russia started and 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 sanctions are causing food insecurity. However, we have made it very clear, by providing exceptions and guidance, that banks, insurers, shippers, and other actors can continue to bring Russian food and fertilizer to the world.

36.12. The United States again condemns Russia's unjustifiable, unprovoked, and illegal aggression against independent and sovereign Ukraine. We 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.

36.13. The United States will continue to support Ukraine's courageous efforts to defend itself, uphold its territorial integrity, and protect its population.

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

36.15. 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

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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."

rules-based international order, and reaffirms its unwavering support for Ukraine's sovereignty, territorial integrity, and right of self-defence.

36.16. The European Union remains committed to maintaining collective pressure on Russia's ability to wage its war of aggression, including by further strengthening sanctions, and through their full and effective implementation and the prevention of their circumvention, especially for high-risk goods, in close cooperation with its allies and partners.

36.17. The European Union strongly condemns 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.

36.18. Russia's unilateral decision to terminate the implementation of the Black Sea Grain Initiative and its deliberate attacks on Ukraine's grain storage and export facilities, as well as its actions to hinder the freedom of navigation in the Black Sea, show that Russia continues to weaponize food and undermine global food security. The European Union will continue to support efforts to facilitate exports of Ukraine's grain and other agricultural products to the countries most in need, notably in Africa and the Middle East.

36.19. The European Union has taken all its measures in a fully transparent manner. The relevant EU measures are publicly available on its website. The EU calls on Russia to stop its acts of aggression and fully respect Ukraine's territorial integrity, sovereignty, and independence within its internationally recognized borders.

36.20. The delegate of Canada indicated the following:

36.21. Canada continues not to engage with Russia's delegation to the WTO in a business-as-usual fashion given Russia's unprovoked, unjustified, and illegal war of aggression in Ukraine. Canada strongly condemns Russia's use of food as a weapon of war and is deeply concerned by Russian disinformation over the causes of global food insecurity and the false narrative that Canada does not care about the potential indirect effects of sanctions or that sanctions cause food and energy insecurity.

36.22. Canada and its partners designed the sanctions in a targeted way to minimize harm for third countries and the global economy. Canadian sanctions do not target Russian agricultural commodities, fertilizer, food, medicine, or humanitarian assistance. Sanctions against Russia are not the cause of growing food or energy insecurity. Russia's illegal actions in Ukraine and deliberate weaponization of hunger and energy are to blame. The Russian invasion of Ukraine was a major shock to an already strained food system, resulting in record-setting food, fuel, and fertilizer prices.

36.23. 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. 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.

36.24. The evolving food crisis remains a top priority for Canada and other donors, as demonstrated by its continued prioritization within G7 and G20 agendas in 2023. 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 supportive of efforts to mitigate export shortfalls from the invasion of Ukraine and reduce global food prices and condemns the termination of the Black Sea Grain Initiative, as well as the use of food as weapon of war. 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.

36.25. 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.



36.26. The delegate of Switzerland indicated the following:

36.27. Switzerland condemns Russia's military aggression against Ukraine in the strongest possible terms and calls on Russia to take military de-escalation measures, cease hostilities, and immediately withdraw its troops from Ukrainian territory. In response to Russia's military aggression, Switzerland has taken a number of economic measures. These measures are of an exceptional nature. They have been taken because of Russia's violation of international law. The measures taken by Switzerland are in accordance with international law, including WTO law.

36.28. The delegate of New Zealand indicated the following:

36.29. 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.

36.30. 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.

36.31. 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 such as food, agricultural or medical products. 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 strategic goods intended for use by military or security forces from being exported to Russia and Belarus. New Zealand also supports G7+ energy measures.

36.32. 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.

36.33. The delegate of Australia indicated the following:

36.34. Alongside other Members who have already 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. Australia has imposed a comprehensive suite of measures against Russia in response to its invasion of Ukraine. 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. 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.

36.35. The delegate of Ukraine indicated the following:

36.36. The intervention by the representative of the Russian Federation is nothing more than another attempt at trying to conduct business as usual in this body as if nothing is happening outside these walls, while Russia continues its blunt disregard of the rules-based international order, including the rules of this Organization. Since the beginning of the full-scale military invasion of Ukraine, in February 2022, the UN General Assembly has adopted at least four resolutions condemning, in the strongest possible terms, the Russian armed aggression against Ukraine in blatant violation of Article 2(4) of the UN Charter, unequivocally condemning the attempted illegal

annexation by Russia of the occupied territories of Ukraine, calling on the states, international organizations and UN agencies not to recognize any changes in the status of Ukraine's regions, and demanding that Russia immediately, completely, and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.

36.37. Russia intentionally destroys the critical civilian infrastructure of Ukraine, thus endangering the international trade for my country, including in agricultural products. The Russian representative elaborated a lot about how many goods Russia supplies to some African states for free. I can add one more – the stolen Ukrainian grain. At least six million tonnes of Ukrainian grain was stolen by the Russian Federation during the invasion and given to some African states for free to buy their loyalty. The use by Russia of food as a blackmailing tool should be condemned.

36.38. The armed aggression of the Russian Federation deprives Ukraine of its rights within the WTO and does not allow us to implement properly our obligations before the WTO. Our trade partners also suffer from Russia's reckless actions, being unable to enjoy benefits from our bilateral and regional trade agreements. Ukraine is grateful to our partners for their strong and unwavering support in light of the Russian armed invasion. We call upon WTO Members to deprive the Russian aggressor state of its tools to commit the crime of aggression against Ukraine and to undermine the rules-based multilateral trading system and the work of this Organization. Thank you.

36.39. The delegate of Japan indicated the following:

36.40. 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 foundations 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 on 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.

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

36.42. The Republic of Korea has been strongly condemning Russia's armed invasion against Ukraine. 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 rules-based global trade order under the WTO. The way to end all this is to stop Russia's military action in Ukraine.

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

36.44. Article IV of the Marrakesh Agreement Establishing the World Trade Organization provides that the Council for Trade in Goods oversee the functioning of the Multilateral Trade Agreements in Annex I. Hence, the substantial part of the interventions that we heard a few minutes ago are clearly irrelevant to the mandate of the CTG. As underlined many times in this house, discussions on the regional or global security situation, UN Charter enforcement or compliance, evidently go 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 that Russia shares its position in detail concerning the roots and reasons for its special military operation in Ukraine, as well as on the issues that arise during its conduct. In addition, we would like to comment on some of the unfounded allegations made just now by some delegations.

36.45. Some delegations mentioned that Russia introduced export restrictions on agricultural products. In this regard, we reiterate that these export restrictions are in line with Russia's WTO obligations. Russia tries to supply as many customers as we can in the context of the economic aggression that we face. On the termination of the Grain Deal, if we are worried about global food security, we should tackle the whole food supply side rather than focus only on Ukrainian supplies. That is why unilateral trade restrictions prevent the Grain Deal from resuming. Russia reaffirms its position and is ready to explore opportunities for reviving the Black Sea Grain Initiative. However,

this can only happen once all the requirements are met to lift the restrictions imposed on the Russian companies dealing with agricultural products and fertilizers in deeds rather than in words. To name a few, such requirements are: (i) reconnecting Rosselkhozbank to the SWIFT system (Rosselkhozbank is the specialized bank servicing Russian agricultural production and export); (ii) unblocking transport logistics and insurance; and (iii) unfreezing the Russian companies' assets, as well as some others that have been explained in more detail during meetings of the Committee on Agriculture, as well as in the UN dedicated platforms.

36.46. We also note that Ukrainian sea exports of grain are not blocked. Existing sea routes allowed four million tonnes of grain to be sent overseas in October alone. Regarding attacks on Ukraine's port infrastructure, Russia reiterates that Russian military attacks exclusively target military resources and means of military attack hidden under their cover.

36.47. The Council took note of the statements made.

### **37 INDIA – IMPORT POLICIES ON TYRES (ID 165) – STATEMENTS BY THE EUROPEAN UNION, INDONESIA, THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU AND THAILAND**

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

37.2. The delegate of Thailand indicated the following:

37.3. Thailand emphasizes its serious ongoing concerns about India's restrictive import policy on tyres, a matter consistently raised in various WTO bodies. Unfortunately, there has been limited progress in addressing these concerns. Moreover, we are deeply troubled by the substantial decline in Thailand's tyre exports to India during the first nine months of 2023, experiencing a 21.5% drop compared to the same period the previous year, and a 65.1% decline compared to the same period in 2019. This decline raises significant alarms about the persisting adverse effects of India's import policy on our exports.

37.4. Additionally, there is a profound apprehension that India may have implemented import quotas on tyres, coupled with a lack of transparency in its import policy, potentially distorting trade to the disadvantage of international suppliers. In addition to the information on import licences granted to Thailand that India provided to us earlier, we urgently request India to furnish additional information to address our concerns, including details of the administration of restrictions and the time-frame for processing applications relating to tyre imports. We also seek information on the distribution of these licences among supplying countries.

37.5. Thailand calls upon India promptly to provide the requested information and take a proactive step toward resolving these concerns.

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

37.7. 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 in this Council, in the Market Access Committee (CMA), in the Committee on Technical Barriers to Trade (TBT Committee), in the Import Licensing Committee (CIL), and in the Committee on Trade-Related Investment Measures (TRIMs Committee). Stakeholders in the EU continue to be negatively impacted by this measure. The EU recalls the questions it had submitted to India in November 2020 in the CIL, to which it has not received a response. The EU remains concerned by India's measure and would like to repeat its request for further information from India.

37.8. The delegate of Indonesia indicated the following:

37.9. Indonesia seeks to reiterate its concerns to India due to the absence of a satisfactory response from the Indian government regarding the matter of the prohibition of tyre imports. The impediments faced by Indonesian tyre exports to India persist. Notably, tyres imported from India have recently entered the Indonesian market.

37.10. Indonesia plans to ask India for 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. 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.

37.11. 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. The ban on tyre imports, according to Indonesia, is discriminatory because it only applies to a small number of WTO Members that 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 world's major tyre producers 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.

37.12. Indonesia also intends to ask India for further 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.

37.13. Indonesia also requested India to review its import restrictions on tyre products right away to ensure their compliance with the WTO 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.

37.14. The delegate of Chinese Taipei indicated the following:

37.15. Chinese Taipei remains disappointed that Members' concerns regarding India's import licensing regime on new pneumatic tyres 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 August 2023 sharply decreased, by over 50% compared to the exports in 2019. At the same time, according to the Indian Automotive Tyre Manufacturers Association (ATMA), India's tyre exports in 2022 went up by 70%. These figures demonstrate that India's tyres have benefited from the unrestricted markets of other Members, whereas tyre producers in other WTO Members have to face increased trade barriers to enter the Indian market. Article 3.2 of the Import Licensing Agreement stipulates that "non-automatic import licensing shall not have trade restrictive or distortive effects on imports additional to those caused by the imposition of the restriction". However, in this case, the trade restrictive effect of India's tyre licensing policy is evident. We request India to address the problematic measures that result in quantitative restrictions and to ensure that its licensing regime is administered in a manner consistent with WTO rules.

37.16. The delegate of Canada indicated the following:

37.17. Canada would like to express its continued concerns, which have been raised on a number of occasions in various WTO bodies, including the CTG, about India's non-automatic import licensing system for tyres. Canada urges India to eliminate this quantitative import restriction in accordance with its WTO obligations.

37.18. The delegate of India indicated the following:

37.19. India would like to thank the 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 Council for Trade in Goods, 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 open to engaging bilaterally with the Members concerned.

37.20. The Council took note of the statements made.

### **38 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM (ID 148) – STATEMENTS BY CHINA, INDONESIA AND THE RUSSIAN FEDERATION**

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

38.2. The Russian Federation reiterates its statements made during the previous meetings of the Committee on Market Access (CMA), CTG, and the Committee on Trade and Environment (CTE). The transitional phase of the CBAM was launched on 1 October 2023. As of that date, the European Union started to apply additional reporting requirements on imports in respect of products covered by this mechanism. Now importers have to collect and provide the EU with the fourth quarter data on the imported goods and emissions embedded in their production. Specifically, the information to be submitted is the following: (i) the quantity of the goods imported; (ii) the installation where the goods were produced, identified by the applicable United Nations Code for Trade and Transport Location (UN/LOCODE) of the location; (iii) the company name of the installation, the address of the installation and its English transcript; (iv) geographical coordinates of the main emission source of the installation; (v) the production routes used, which shall reflect the technology used for the production of the goods, and information on specific parameters qualifying the indicated production route for determining the embedded direct emissions; and (vi) other information.

38.3. We find that such requirements constitute additional barriers to trade and in certain cases may significantly restrict or even prohibit imports. We would like to draw Members' attention to the fact that the supplier is not the manufacturer of the products in every case. In addition, not all manufacturers may be able to provide the requested information. In case of non-compliance, imports will be subject to a penalty regime from 10 to 50 euros per tonne of unreported emissions. Thus, even during the transitional phase, the CBAM not only establishes a substantial administrative burden and import restrictions but also places an additional financial burden on the importation of products.

38.4. The Russian Federation has repeatedly noted the protectionist nature of the CBAM. The European Union's desire to use this mechanism in order to protect its domestic industry is evident from the CBAM's text and the EU Commission's statements. In particular, according to the Commission, "the CBAM is the EU's landmark tool to fight carbon leakage. Carbon leakage occurs when companies based in the EU move carbon-intensive production abroad to take advantage of lower standards, or when the EU's products are replaced by more carbon-intensive imports".

38.5. The Russian Federation would like to remind the European Union that the UNFCCC and the Paris Agreement provide countries with the freedom to choose those measures for combating climate change that would be most effective for each of them. At the same time, the introduction of unilateral trade restrictive measures contradicts the UNFCCC. The Convention does not allow for the use of climate change-related measures to restrict international trade. Thus, we urge the European Union to bring its measures into consistency with both the WTO rules and the international climate agreements.

38.6. The delegate of China indicated the following:

38.7. China refers to its previous statements made in this Council<sup>18</sup> and the Committee on Market Access. We reiterate that climate change is a common challenge for all humanity and an important

<sup>18</sup> [G/C/M/146](#), paragraphs 22.2-22.7: "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.

area of global governance. All Members should uphold multilateralism and work together to address climate change through greater international cooperation. Since the European Union put forward its Carbon Border Adjustment Mechanism (CBAM), many WTO Members, including China, have raised concerns and questions about it. Members stress that CBAM should adhere to the principle of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC), comply with the basic principles and rules of the WTO, and avoid constituting protectionist measures and green trade barriers. We noted that, on 1 October 2023, the CBAM began to be applied in its transitional phase. We are closely monitoring the implementation of the EU's CBAM. In addition, China circulated a communication, namely Policy Issues for Dedicated Multilateral Discussions on Border Carbon Adjustment ([WT/CTE/W/258](#)), in the Committee on Trade and Environment (CTE) in November. We encourage all Members, including the European Union, to actively participate in the relevant discussions.

38.8. The delegate of Indonesia indicated the following:

38.9. Indonesia once again conveys its objections to the European Union regarding the adoption of the Carbon Border Adjustment Mechanism (CBAM) regulation. According to Indonesia, any trade policy pertaining to the environment and climate change, including the EU's CBAM, must be implemented with extreme caution in order to prevent it from becoming an unnecessary non-tariff trade barrier that breeds protectionism. While we acknowledge the EU's commitment to addressing climate change and achieving carbon neutrality with the implementation of the CBAM, Indonesia believes that certain aspects of it raise significant concerns that the EU might wish to reconsider.

38.10. Firstly, Indonesia would like to elucidate the fact that the lack of clarity and transparency in the CBAM is a major source of contention. The absence of detailed guidelines and specific methodologies for calculating carbon content and price differences may lead to ambiguity and a potential adverse impact on the industry, while noting that Members are allowed to determine their own carbon price calculation methodology. Furthermore, Indonesia urges and encourages the European Union to provide clear and comprehensive information on how the CBAM will be implemented, monitored, and evaluated to ensure that the industries affected can adequately prepare for the forthcoming changes.

38.11. We recognize that the European Union's policy objective is to combat climate change. However, the CBAM requires a rigorous assessment of how such a policy upholds both environmental goals and international trade principles, as well as the extent to which it complies with the rules and provisions of the WTO. In this context, Indonesia looks forward to engaging in a positive and constructive dialogue with the EU to address its concerns relating to these issues.

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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 UNFCCC 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."

38.12. Indonesia is aware that the European Union's CBAM will impose import taxes on a variety of goods, such as iron and steel, cement, aluminium, chemical base materials, fertilisers, refineries, and energy, depending on the amount of carbon emissions generated during the manufacturing process. Furthermore, it has been suggested that the scope of these products be expanded to include 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 utilized to adjust the carbon tax price.

38.13. Regarding this CBAM issue, Indonesia wishes to inform the European Union that, as a developing nation, 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 includes 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 Number 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) and Draft Regulation of Minister of Environment and Forestry concerning Procedures for Carbon Trading in the Forestry Sector and 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; 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.

38.14. 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.

38.15. Indonesia believes that the CBAM policy is discriminatory because it violates the WTO's most-favoured-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 EU'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.

38.16. By paying attention to the WTO principle of 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 EU. 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 EU. In relation to Article II of the GATT 1994, Indonesia believes that the EU's 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 Concession (SoC) Agreements.

38.17. Indonesia requests that the European Union quickly evaluate the CBAM laws to ensure that they adhere to WTO rules, including Article XI of the GATT 1994, as well as the most-favoured-nation (MFN) and national treatment principles of the WTO. Indonesia further requests that the EU take into account the UNFCCC and Paris Agreement's Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC) principles when creating and implementing its CBAM regulations.

38.18. 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.



38.19. The delegate of Brazil indicated the following:

38.20. The European Union's Carbon Border Adjustment Mechanism (CBAM) appears to pose challenges to a broad array of WTO rules, in disciplines related to tariffs, as well as in the fundamental principles of non-discrimination and national treatment. The EU's 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. Historical responsibilities mean that countries that industrialized first, benefiting from cheap and more polluting energy sources, should bear a larger brunt of the costs of emissions reductions. In both the UNFCCC and the Paris Agreement, the EU has agreed to take into account the principle of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC). This principle should, therefore, be correctly reflected in European trade-related climate measures, such as the CBAM. 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 EU. This is contrary to 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. Brazil urges the EU to observe the need for its trade-related climate measures to comply with both trade and environmental multilateral rules. We remain committed to working 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.

38.21. The delegate of India indicated the following:

38.22. India has expressed its concerns about the European Union's Carbon Border Adjustment Mechanism (CBAM) on numerous occasions in various WTO bodies, including the CTG, the Committee on Market Access (CMA), and the Committee on Trade and Environment (CTE). We have also been engaged with the EU bilaterally, where these concerns have been explained in significant detail to our EU counterparts. While the EU's CBAM is now in force, we would like to reiterate our views raised in various forums. We remain concerned with the use of the concept of leakage. This concept is today being applied to carbon leakage, but we risk global trade fragmentation if the concept is extended horizontally or vertically. The EU's CBAM is a trade and environment hybrid, going even by the EU's own explanation. Hence, well-established principles and rules of both international trade law and international environmental law should have been followed in designing the CBAM. In not doing so, and in ignoring the principle of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC), this measure upends the hard-built consensus in the multilateral environmental agreements over the last 50 years.

38.23. The European Union's CBAM forces an emissions reduction path on the EU's trading partners. It disregards the nationally determined contributions (NDCs) made by the EU's trading partners and effectively impinges upon their sovereign decisions. The worst effects of the EU's CBAM will be felt by MSMEs, who will not be able to meet the complexities of emissions tracking, measuring, and reporting. Overtime, MSMEs may be replaced by big firms in the EU's trading profile, thus having a negative impact on the sustainable development objective of the WTO enshrined in the Marrakesh Agreement. We remain concerned about the CBAM reporting and implementation which has kicked in now. Given the realities of trade, we may encounter situations where businesses have to share their trade secrets or sensitive information with intermediaries and EU authorities or choose not to operate in the EU market. Our businesses remain concerned about such second-order problems. Given so many design and implementation issues, we are compelled to believe that the EU's CBAM is effectively a trade protectionist measure rather an environmental intervention. Finally, we request the European Union to notify its CBAM to the relevant WTO bodies, such as the Committee on Technical Barriers to Trade (TBT Committee).

38.24. The delegate of Türkiye indicated the following:

38.25. Türkiye thanks China, Indonesia, and the Russian Federation for keeping this item on the agenda. We would like to refer to our previous statements in this Council<sup>19</sup>, as well as those delivered in the Committee on Market Access (CMA) and the Committee on Trade and Environment (CTE) with regard to this issue. We continue to closely follow the ongoing legislative and implementation processes under the European Green Deal, including the CBAM. Although we appreciate the fairly open process followed by the European Union, our concerns remain with regard to the compatibility of the EU's CBAM with international environmental and trade law, and many of the concerns that we have raised are shared by other major EU trading partners.

38.26. Türkiye would like to reiterate that trade-related measures for tackling climate change should pass the necessity test, prioritize international cooperation and collective action, take into account different circumstances and historical responsibilities of countries, respect social and economic development needs of others, and not constitute arbitrary or disguised restrictions and unjustifiable discrimination in international trade.

38.27. Specifically, with regard to the implementation of the transitional reporting phase of the European Union's CBAM, which started in October of this year, we are sure that the EU Commission is facing an enormous number of questions and concerns also from the private sector, as do we. There are many practical issues around calculating the emission values, difficulty including in obtaining emission values for input materials and concerns on sharing commercially sensitive production process data, to mention a few. In our view, fundamental concerns regarding the

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<sup>19</sup> Document [G/C/M/146](#), paragraphs 22.41-22.46: "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 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<sub>2</sub> 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."

non-discriminatory application of the mechanism and the ongoing questions as to the environmental soundness of the CBAM, as well as its compatibility with the WTO rules and environmental law, need to be addressed before the CBAM becomes definitive. In this regard, Türkiye looks forward to further engagement and updates from the European Union.

38.28. The delegate of Paraguay indicated the following:

38.29. Our intervention relates to concerns in Agenda Items 38 (ID 148) and 40 (ID 171) Paraguay thanks the European Union for the briefing held during the Environment Week, for documents [WT/CTE/GEN/31](#) and [WT/CTE/GEN/32](#) circulated in this regard, and for the new briefing organized in the framework of the last meeting of the Committee on Trade and Environment. However, Paraguay's systemic concerns presented repeatedly have not been duly taken into account and I wish to repeat them again in this Council.

38.30. When we asked the European Union how the principle of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC) in the light of national circumstances and nationally determined contributions (NDCs) is taken into account in this measure for environmental purposes, and how the historically low emissions of some countries are recognized as opposed to those of the European Union, whose Members developed with highly polluting methods, we received as an answer that we all must contribute to the global crisis, with which we agree. But when we ask how Members' efforts to contribute that are different from carbon pricing are taken into account, we receive the answer that they are not taken into account but that eventual payments under the CBAM will be calculated on the basis of emissions. When we ask whether products with lower emissions than the EU or neutral products will receive preferential market access, the answer is no, at most they will not have to pay the additional tariff resulting from the CBAM. Since this and other unilateral EU measures disproportionately affect countries with much lower historical emissions than the EU, one would at least expect the EU to provide a means of implementation and assistance for a just green transition and to redirect the revenues generated by CBAM to that effect. And from these elements we can only assume that the EU's intention has nothing to do with the environmental objective it claims to pursue.

38.31. We reiterate that, for Paraguay, this is not a measure with a direct impact in the short term given our generally low industrialization, similar to that of so many other developing countries like Paraguay, but a systemic concern about the application of unilateral measures with supposed environmental objectives, but clear negative implications for the trade and development of third countries. Without market or other incentives and restrictions alone, measures such as these will not drive green industrialization; rather, in countries like my own, they will impede it.

38.32. Linked to this, I would like to refer to measures under the European Green Deal in general. The concerns are the same, namely that environmental measures with a trade impact must comply not only with the principles of international environmental law or the rules of the World Trade Organization, but because of their duality, with both. They must also take into account the particularities of third countries and their development needs by providing assistance, sufficient means of implementation, sufficient time to adapt, and other special considerations. We take this opportunity to draw attention to another regulation in the framework of the "Directive on Corporate Sustainability Due Diligence" which is currently under inter-institutional negotiations between the Council and the European Parliament given again the possible implications and excessive burden to demonstrate compliance, which unfailingly ends up being passed on by European operators to producers in third countries. We urge the European Union to ensure, from the initial stage of this initiative, that it does not unnecessarily affect trade and also that it takes into account the concerns of its trading partners.

38.33. The delegate of Uruguay indicated the following:

38.34. Uruguay shares several of the concerns raised in the statements made by various delegations on different agenda items relating to policies in the framework of the European Green Deal. Although Uruguay shares the objectives of combating climate change and protecting the environment, as demonstrated by the commitments made in the framework of multilateral agreements on the subject, including the Paris Agreement and the policies adopted to comply with them, Uruguay nevertheless remains concerned that the European Union is seeking to impose a view that there is a single model of production and sustainable development that should be emulated

worldwide, without taking into account the local characteristics and specific conditions of the different countries and regions, the realities of their production systems, or their contributions to the problems to be combated.

38.35. There are also concerns about the excessively restrictive effects of the practical implementation of several of the strategies and policies announced in the European Green Deal, such as those referred to under other agenda items, which may have a negative impact on international trade and production beyond the borders of the European Union, as well as their possible incompatibilities with WTO rules. For these reasons, Uruguay urges the European Union to ensure the compatibility of its trade and environment-related measures with both its commitments and obligations under the WTO Agreements and the Multilateral Environmental Agreements (MEAs).

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

38.37. The Republic of Korea understands the European Union's objective in introducing the Carbon Border Adjustment Mechanism (CBAM), which includes tackling carbon leakage. However, Korea is concerned that this measure might significantly diminish EU market accessibility for foreign businesses. Specifically, under the CBAM, external companies face stringent obligations relating to information disclosure. Additionally, EU importers are confronted with an increased administrative load and potential penalties in relation to reporting obligations, making them more likely to forego the importation of external products. Therefore, Korea requests that the EU's CBAM implementing regulations be designed to ensure equal treatment for both EU internal and external businesses so as not to violate WTO rules, including the principle of national treatment. Furthermore, to ensure a level playing field, Korea requests that the EU thoroughly consider the systems of other Members in its detailed design of the regulation. The Republic of Korea stands ready to further engage with the European Union to resolve these issues constructively.

38.38. The delegate of Chinese Taipei indicated the following:

38.39. Chinese Taipei appreciates the efforts that the European Union has made in updating Members on the latest developments regarding the CBAM at the recent meeting, in mid-November, of the Committee on Trade and Environment (CTE). We also thank the EU for having a bilateral meeting with us at the margins of that CTE meeting. Ensuring the compliance of CBAM with WTO rules, and preventing the measures from being discriminatory or becoming a disguised restriction on international trade, are the fundamental obligations of all WTO Members, regardless of the underlying purpose or nature of the measures. With respect to the issue of discriminatory treatment, we would like to point out that CBAM applies to several downstream products in the iron and steel industry. In the EU, carbon emissions of such downstream products were neither subject to the EU ETS scheme, nor subject to the obligations to report and verify their emissions. However, CBAM imposes obligations on foreign manufacturers of such downstream products to report, and, after 2026, to verify the embedded emissions for such products. There is a genuine concern about the measure incorporating discriminatory elements against imported like products. Moreover, with respect to disguised restrictions on international trade, CBAM involves perplexing implementing procedures. EU importers are required to obtain an array of information from foreign exporters which could potentially involve trade secrets. Substantial fines for submitting incorrect information could be imposed. And there is a critical lack of EU-accredited verifiers to implement the mechanism. Collectively, these complicated procedures substantially and disproportionately increase compliance costs and create undue burdens to foreign exporters, especially small and medium-sized enterprises. They could give rise to a significant barrier and constitute a disguised restriction on international trade, hampering the rights of exporters seeking access to the EU market. To ensure the effectiveness of CBAM in combating climate change, while preserving the principle of fairness and non-discrimination enshrined in the WTO rules, we urge the European Union to continue engaging in comprehensive consultations with Members concerning the requirements and implementation of its CBAM.

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

38.41. The Kingdom of Saudi Arabia would like to reiterate its concerns over the European Union's Carbon Border Adjustment Mechanism (CBAM). This issue has also been addressed under the agenda of the Committee on Trade and Environment (CTE) and the Committee on Market Access (CMA), where Members discussed and will continue to discuss, in depth, their views and concerns in this

regard. The consistency of the EU's CBAM with the fundamental rules of the WTO is questionable. Therefore, the burden of proof to confirm that this mechanism is consistent with the EU obligations and commitments regarding most-favoured-nation (MFN), national treatment, rules of origin, and non-tariff barriers (NTBs) lies the EU. Furthermore, monitoring and calculating the carbon emissions embedded in the products covered by the CBAM is not a straightforward task and many details of the calculation methodology are not yet clear. As far as we understand, the EU ETS implies effective financial contribution measures, while the EU State Aid Guidelines provide compensations for the reduction of indirect GHG emissions. This scheme looks like a specific import-substitution subsidy that is prohibited by the WTO Agreements. Therefore, we would appreciate if the EU could provide further clarification on this matter. The Kingdom of Saudi Arabia kindly requests the EU to specify articles in the WTO Agreements that allow it to adopt this unnecessarily complicated mechanism. We also urge the EU to further engage in consultations with Members in order to ensure the full compliance of the CBAM with WTO rules and Agreements, and to ensure that the proposed mechanism will not create unnecessary barriers to trade, or be used as a means of arbitrary or unjustifiable discrimination, or be a disguised restriction on international trade, or be applied in a manner that constitutes protection to the EU domestic industries. Finally, unilateral trade measures must not be accommodated. We support the concerns raised by a number of Members about the effects of such measures, let alone their inconsistency with WTO rules.

38.42. The delegate of Japan indicated the following:

38.43. With regard to the European Union's Carbon Border Adjustment Mechanism (CBAM), which requires the reporting of information on emissions per unit of product and carbon price paid in the country of origin, which came into force in October this year, in a transition period, we are aware that the EU has explained it as being part of its climate change measures. With this in mind, we continue to stress that it should be an initiative that contributes to reducing emissions not only within the EU region, but also globally. In addition, as we have repeatedly stated, it is important that the mechanism does not discriminate between foreign and domestic products, and that it is carried out in conjunction with policy coordination efforts with other countries. The key is to reduce the "carbon intensity" as a "result" of the reduction efforts that each country has made according to its own circumstances. These policies should therefore be taken into account broadly. We believe that this point has not yet been adequately reflected in the mechanism. We are also concerned that the implementing regulations on the application during the transition period were published on 17 August, and that, despite new reporting obligations on operators, there has not been sufficient time for them to come into force by 1 October. The information required must be reported on a quarterly basis and on a product-by-product basis, which is more burdensome than for companies in the EU, and it also requires companies to submit their trade secrets, such as the ratios of steel scrap, which EU companies are not required to report. Furthermore, it is unclear whether there is adequate legal protection of the trade secrets of the production operator when the production operator and the import operator are different. We would like to request the European Union to continue to fully discuss the issue with each country, taking into account the actual response of companies, and other factors, so as not to impose excessive burdens that impede trade.

38.44. The delegate of South Africa indicated the following:

38.45. South Africa will be making this statement in support of the trade concern raised under Agenda Item 38 on the European Union's Carbon Border Adjustment Mechanism, and Item 40, on the EU Regulations on Deforestation-Free Commodities. South Africa thanks those Members that put and kept these items on the agenda. Like other Members that spoke before us on Item 38 and 39, South Africa is concerned that the CBAM and deforestation policies of the EU amount to prioritizing EU policy over those exporting countries and imposing a unilateral vision of how to address climate change. South Africa is concerned that the genuine and necessary climate change agenda is being undermined through the use of unilateral protectionist measures that create competitive disadvantages and eliminate foreign competition in the EU market. We have consistently raised this and other concerns in various WTO fora, including in engagements with the EU. There is no conclusive evidence that these unilateral measures of the EU will achieve their intended objective, yet the economic costs on South Africa and other economies like ourselves will be real in various sectors. It is estimated, in a hypothesis covering all imports into the EU from Africa, that the CBAM may reduce certain exports by as much as 5%, while reducing Africa's GDP by as much as 1.1%. South Africa, as one of the most exposed countries on the continent, is, like other Members, also concerned about the potential WTO-inconsistency of all CBAM and deforestation measures, particularly as they relate to the principles of national treatment and most-favoured-nation (MFN).

The effect of unilateral measures such as the EU's CBAM, and import restriction measures expressly, are that they undermine the multilaterally agreed mandates of nationally determined contributions (NDCs) of countries of exports. Second, they conflict with the CBDR principles. Third, they create a preferential treatment and restrict the market access of imported goods of developing countries and LDCs in particular, creating a distortive effect on international trade. Fourth, they diminish the development prospects of developing countries and LDCs. And lastly, they lead to changes in trade patterns. Beyond trade, all the policies are likely to have implications for investment, development, and job creation. The impact on the agricultural sector, including the livelihoods of farmers on the African continent, will be immeasurable and long-lasting unless more sensible measures that take account the limited capacity and resource constraints of developing countries like ourselves are taken into account. The administrative and compliance measures and costs for exporting will require adequate systems, controls, and procedures, which will be difficult and prohibitive for most if not all countries on the African continent, including South Africa. Sustainable development is important and includes environmental protections, but this must be achieved in a multilateral manner that is consistent with the respective needs and concerns of countries at different levels of economic development. It also requires respect and adherence to multilaterally agreed commitments and principles under relevant multilateral and environmental agreements, principles that the African Group has advocated in the submission in document [G/C/W/830](#).

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

38.47. The European Union has engaged with partners during the design stage of its Carbon Border Adjustment Mechanism (CBAM) and the EU remains committed to continuing this engagement now that the CBAM has entered into force with a transition period. The EU has been engaging here in the WTO, in Brussels, and in partner countries, through online seminars, physical events, distribution of guidance documents, and direct assistance. The objective is to assist third-country operators, exporters to and importers into the EU in performing all the new obligations required by the CBAM Regulation and its secondary legislation. The transition period will involve extensive consultation of stakeholders, including international partners to increase our mutual understanding of the instrument. One of the objectives of the transition period is to collect data on emissions reporting so it can be taken into account when designing the definitive CBAM methodologies. We encourage all interested parties to engage in this process. I would also like to use this opportunity to inform you that Mr Gerassimos Thomas, Director-General of Taxation and Customs of the European Commission, in charge of the European Union's CBAM, will be coming to Geneva on 18 December 2023. We will be delighted to welcome your Ambassadors to join this discussion.

38.48. The Council took note of the statements made.

### **39 EUROPEAN UNION – DEFORESTATION-FREE COMMODITIES (ID 203) – STATEMENTS BY COLOMBIA, INDONESIA, PARAGUAY AND THE RUSSIAN FEDERATION**

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

39.2. The delegate of Paraguay indicated the following:

39.3. The concerns we have about this measure are various and well-known to the European Union since we have raised them in various WTO bodies, as well as bilaterally and in other configurations. In response to your request, Chair, I will shorten my intervention by making special reference to the questions that Paraguay, together with other Members, submitted in the framework of the Committee on Trade and Environment (CTE) under the symbol [WT/CTE/GEN/33](#), to which we expect a written reply as proof of the transparency and true spirit of dialogue and cooperation of the European Union, considering that the same regulation includes the WTO among the fora for Cooperation with Third Countries. If we do not receive written answers in the forum in which we submit them, we will be obliged to reply to them in other bodies, including this Council. With regard to the specific concerns and respecting the announcement made about the brevity of my intervention, I will limit myself to requesting that the intervention made by Paraguay at the previous

Council meeting be reflected in its entirety in the minutes<sup>20</sup> and to reiterate some elements regarding the implementation of this measure.

39.4. The European Union insists that this measure provides for 18 months of transition before implementation, yet there is little more than a year to go before the measure is implemented and third countries are still unclear about to what producers and operators must adapt. There is no clarity on whether the EU will accept national or other certification schemes as sufficient, nor clarity on the implementation of the measure, as it will largely depend on the national authorities of EU member States, which will also create even more uncertainty. We reaffirm our commitments to environmental objectives and principles and are convinced that international trade can and should contribute positively to their achievement; however, unilateral measures such as this one, with dubious environmental results but a clear trade impact, do not effectively contribute to these objectives and affect the development of other countries. To conclude, Paraguay again urges the European Union "to cooperate effectively and establish a productive dialogue with its trade and sustainable development partners to jointly address the impact of EU legislation and its implementing instruments, including trade facilitation support".

39.5. The delegate of Colombia indicated the following:

39.6. Firstly, Colombia would like to express that it shares the objectives of reducing deforestation and forest degradation at the global level as part of efforts to promote sustainability and combat climate change. Notwithstanding the above, we have concerns that the implementation of the

<sup>20</sup> G/C/M/146 paragraphs 39.44-39.51: "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 nonproductive 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 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).



measures and their enforcement may become barriers to trade for certain exports, even though they have little or no relationship to deforestation. In this regard, we express our concern about the implications of this regulation on the multilateral trading system.

39.7. The application of measures that are more restrictive than necessary, and potentially discriminate between Members, runs counter to the spirit of fair and equitable trade promoted by the WTO. It is crucial that the measures adopted not only pursue a legitimate environmental purpose, but that they are also proportionate and with differentiated implementation mechanisms. In this context, I reiterate that Colombia values environmental objectives and is committed to efforts to combat deforestation and to uphold multilateral commitments, but under the principle, of course, of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC). I conclude by indicating our willingness to have a constructive dialogue to achieve a balance between conservation objectives and respect for trade needs.

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

39.9. The Russian Federation reiterates its position regarding this issue, as stated during the previous meetings of the Committee on Trade and Environment (CTE), the Committee on Market Access (CMA), and the CTG. The Regulation constitutes another example of the protectionist policy conducted by the European Union under the cloak of fighting climate change. Currently, the Regulation covers trade in live cattle, meat and meat products, cocoa, coffee, oil palm, rubber, soya, and wood. However, this list can be expanded in the future. The covered products may be imported into the EU only if they comply with the EU Commission-established criteria concerning legislation compliance in the country of their production, including in relation to the following: (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. It is not clear how these criteria are consistent with the WTO rules or the international climate agreements. Therefore, we urge the European Union to provide us with the clarification of this measure's compliance with the WTO rules.

39.10. The delegate of Peru indicated the following:

39.11. First, we thank the delegations that have raised this agenda item. As in other areas of this Organization, we wish to express our concern with the EU Regulation, due to its potential to generate significant disruptions in the trade flows of the products that fall under its scope of application. In our opinion, this unilateral measure ignores the different realities and efforts that countries like mine have been making in terms of deforestation. We are sincerely concerned that there are still so many unclear aspects regarding the implementation of the Regulation, or that require complementary regulations despite the fact that the entry into force of the regulation is so close. We are also sincerely concerned about the unilateral rating of the level of deforestation risk, whose specific criteria and methodology have not been properly communicated and coordinated with the countries potentially affected by it. In this regard, if this classification is based on general indices and does not take into account the particular situations that may arise within each of the countries, it could negatively affect producers and exporters in low-risk areas, putting them at a disadvantage compared to exporters of similar products in other countries.

39.12. We believe that there are multiple ways to tackle deforestation, and we regret that the EU standard has chosen the least appropriate one, removing the opportunity for small producers to continue to develop their economic activity in order to lift themselves out of poverty. Not to mention how this could also affect the programmes that countries such as my own have undertaken to replace illicit crops with crops such as coffee and cocoa. I will conclude by reiterating that the implementation of this regulation should be carried out only once it has undergone a thorough debate at the multilateral level, when there is complete clarity regarding the requirements and deadlines that have been established, and when there is certainty that the European Union will have the necessary tools to solve any problems that may arise in its implementation. As mentioned by Paraguay, we are very interested in the responses to the questions posed in document [WT/CTE/GEN/33](#).

39.13. The delegate of Indonesia indicated the following:

39.14. Indonesia intends to again convey 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 upon, and originate from, deforestation and degradation land-forest. 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.

39.15. In essence, this DFC law imposes stringent traceability standards, links the in-issue commodity 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 EUDR (European Union Deforestation-Free Commodities Regulation), 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.

39.16. Indonesia thus hopes that the European Union will adopt EUDR indicators that are more sensible and favoured by developing countries, like Indonesia, as well as least developed countries (LDCs). In this instance, Indonesia also wishes to inform the European Union that it has made significant progress in terms of sustainability, both through laws and through corporate practices that support sustainable agriculture and industry. This is true for both the government and business players in Indonesia.

39.17. There are several Indonesian government policies that have been supporting 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 with a focus on smallholders, carried out by the Ministry of Agriculture.

39.18. Indonesia plans to ask the European Union for clarification as to 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. Indonesia understands that 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.

39.19. Indonesia also believes that the intended DFC regulation has the potential to provide different treatment between European Union domestic products and imported products, creating unnecessary barriers to international trade, and having the potential to threaten the livelihoods of small farmers, so 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 Agreement on Agriculture.

39.20. 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 produced domestically by the European Union. The most-favoured-nation (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.

39.21. In relation to this issue, Indonesia emphasizes that the European Union needs to consider the Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC) principles in the process of formulating and implementing trade policies relating to the environment and climate

change, including DFC regulations, as contained in discussions at the UNFCCC and the Paris Agreement.

39.22. Indonesia believes that country classification criteria and methodologies for assessing deforestation risks must be rigorous and fair, taking into account the complexities of global supply chains. In addition, Indonesia emphasizes that any policy relating to trade and environment must not be discriminatory or a disguised restriction on international trade.

39.23. The delegate of Brazil indicated the following:

39.24. On 7 September, a joint letter was sent from 17 developing countries regarding the entry into force, on 29 June, of the European Union's so-called "anti-deforestation law" ("EU Deforestation Regulation") to the main EU authorities. The letter was signed by a significant group of countries from Latin America and the Caribbean, Africa, and Asia. In addition to Brazil, Argentina, the Plurinational State of Bolivia, Colombia, Côte d'Ivoire, the Dominican Republic, Ecuador, Ghana, Guatemala, Honduras, Indonesia, Malaysia, Mexico, Nigeria, Paraguay, Peru, and Thailand signed the document.

39.25. The objective of the initiative is to reiterate concerns about the punitive and discriminatory nature of this particular European regulation, as well as to highlight the importance of the European Union maintaining an effective dialogue with producing countries, with a view to avoiding disruptions in trade and excessive burdens on producers of agricultural goods and derivatives covered by the measure. Since this is a trade measure that hinders access to the EU market, we firmly believe it is in the interests of the Membership to be aware of it.

39.26. Brazil remains firmly committed to combating deforestation and has strengthened inspection and preservation activities in Brazilian forests, particularly in the Amazon. However, in Brazil's view, European law, in addition to conflicting with the principles that govern international trade and the multilateral understandings on climate and biodiversity, imposes imbalances in the economic, social and environmental aspects of the problem it aims to address, as well as jeopardizing sustainable development.

39.27. The delegate of India indicated the following:

39.28. India has raised its concerns on the proposed European Union measures under the Carbon Border Adjustment Mechanism (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 (CTE) in March 2023, which pointed out that we are witnessing potential trade fragmentation if Members continue to take unilateral trade measures which apply extraterritorially. 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).

39.29. It is not clear how the European Union will undertake the country-risk classification, and if there would be a nuanced approach of using a combination of product and subnational classification, or if the classification would remain a standard national label irrespective of the product concerned or regional variations. Our businesses have also expressed concerns that there may be situations where business-critical information would have to be shared with EU importers and authorities. The EU suggestion that the importing entities look at geo-spatial imagery and satellite data is also concerning. Such intrusive measures do not respect the sovereignty of the EU's trading partners. The measure as proposed right now will hurt agriculture exports in the chosen commodities to the EU. 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. Finally, we request the European Union to notify its Deforestation-Free Commodities measure to the relevant WTO bodies, such as the Committee on Technical Barriers to Trade (TBT Committee).

39.30. The delegate of Argentina indicated the following:

39.31. Argentina thanks the delegations that registered this agenda item. Argentina reiterates its commitment to the 2030 Agenda for Sustainable Development, its goals and environmental objectives at the multilateral level. In this context, we consider that our efforts and achievements in the sustainability of national agri-food systems deserve fair recognition. Given our role as partners of the European Union in multilateral environmental fora and in the WTO, we expect that the elaboration of the directives for the implementation of regulations and risk assessment by the European Commission will be done in a cooperative and consultative manner. In particular, we believe that, in this process, the European Commission has the opportunity to consider the challenges that a unilateral regulation such as the EUDR poses to developing countries, especially to their small producers, which is an issue that was not taken into account in the drafting of the regulation. In the same vein, Argentina has a firm belief in the sustainability of its cattle, soybean and timber production. We value instances of dialogue as a means for the recognition of the environmental achievements of our agri-food system, backed by national regulations and certification systems that deserve adequate consideration.

39.32. Argentina is convinced that there is room for improvement of the European regulations to adequately reflect local circumstances, national legislations, and certification mechanisms in developing countries. We strongly believe that an equitable and collaborative approach is always more constructive than the imposition of "one-size-fits-all" solutions. Indeed, we advocate a collaborative approach to tackling global challenges such as climate change, biodiversity loss, and pollution, recognizing the particularities of both our country and those of developing countries.

39.33. The delegate of Türkiye indicated the following:

39.34. Türkiye would like to thank Colombia, Indonesia, Paraguay, and the Russian Federation for keeping this item on the agenda. Again, we would like to refer to our previous statements in this Council and in the Committee on Market Access (CMA) regarding this item. Once again, we would like to emphasize the importance of cooperation with partner countries in making risk classifications and using solid scientific data. This is also valid for any possible extension in the scope of this legislation. In addition, burdens imposed on small producers that discourage them from participating in supply chains have to be separately reevaluated. We would appreciate further updates from the European Union on this item.

39.35. The delegate of Ecuador indicated the following:

39.36. Ecuador takes note and appreciates the interest of Members in including this trade concern on the agenda of this meeting of the Goods Council. Ecuador once again wishes to express its concern over the development of policies within the framework of the Green Deal and deforestation-free products. My delegation reaffirms its commitment to environmental objectives and principles, but regrets that the particularities of each trading partner are not taken into consideration. On the other hand, and in line with our intervention in the Committee on Market Access (CMA), I would also like to refer to the letter of 7 September, which was signed by several Ambassadors to the European Union – including Ecuador – and addressed to the Parliament, the Council, and the Commission of the European Union, in which the main elements underpinning this concern were detailed, among them: (i) the Deforestation-Free Commodities Regulation does not take into account local capacities and practices, as well as their national legislations; (ii) the unilateral assessment system is inherently discriminatory and punitive, which could be incompatible with the EU's WTO obligations; (iii) small producers are particularly vulnerable to these regulations, who may end up being excluded from international value chains not because they deforest their land, but because they lack the capacity and resources to demonstrate compliance; and (iv) the implementation of these guidelines will entail high costs for exporters and importers, as well as for producers and consumers.

39.37. Therefore, Ecuador joins other Members in urging the European Union to maintain a more proactive dialogue than has thus far been the case, in which the practices developed in the different producing countries are properly evaluated in order to achieve the common and shared objective of environmental protection and sustainability. Ecuador renews its commitment to continuing a constructive dialogue on this issue.

39.38. The delegate of Guatemala indicated the following:

39.39. Guatemala thanks the delegations of Colombia, Paraguay, Ecuador, the Russian Federation, and Indonesia for including this item on today's agenda. As other delegations have indicated, we wish to reiterate our concerns that have been expressed in different fora regarding the EU Deforestation-Free Commodities Regulation. This new regulation includes a comparative assessment of countries in which the EU will assign a risk level to countries. It means that this encompasses challenges that go beyond environmental ones, such as the geolocation of plantations, which is a complicated issue in particular for small producers. In our view, this regulation does not take into account the specific circumstances and characteristics of our developing countries. This one-size-fits-all approach does not seek to solve the legitimate environmental interest, but will rather produce other adverse effects. Depending on the risk, certain requirements will be imposed on operators that imply new procedures for our producers and exporters. This regulation will enter into force in 2025, allowing approximately 13 months to make the necessary internal preparations. This is why the time-period must take into account the different conditions in each of our countries. We reiterate Paraguay's comment regarding the questions that were sent in document [WT/CTE/GEN/33](#), which seeks to provide more clarity on the implementation of this measure. We urge the European Union to engage in dialogue with affected producer countries to mitigate the harmful impacts of this new policy, taking into account the implementation of compliance support. We reiterate our commitment to addressing global challenges, always taking into account the multilateral agreements of the WTO.

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

39.41. The United States shares the European Union's objective in combating deforestation. However, we are concerned about the EU's prescriptive approach to addressing global deforestation connected to agricultural commodity production. The US emphasizes that deforestation is a global issue that requires cooperative approaches by national competent authorities and civil society organizations. For this reason, the US has strong concerns with the EU's approach in this space.

39.42. Specifically, the United States is deeply concerned that the European Union's approach may not be well-calibrated to effectively address root causes of deforestation and that may adversely impact trade by imposing significant costs and burdens to global supply chains without providing measurable benefits to curb global deforestation.

39.43. The United States requests that the European Union engage in two-way consultations between our technical experts to discuss ways this regulation can be better calibrated to address global deforestation and avoid imposing undue burdens on producers that do not contribute to global deforestation. Further, the US respectfully requests that the EU delay implementation of this regulation, notify the regulation to the WTO TBT Committee, provide adequate time for stakeholder comment, and take those comments into account before implementing the final regulation.

39.44. The delegate of South Africa indicated the following:

39.45. South Africa will be making this statement in support of the trade concern raised under Agenda Item 38 on the European Union's Carbon Border Adjustment Mechanism, and Item 40, on the EU Regulations on Deforestation-Free Commodities. South Africa thanks those Members that put and kept these items on the agenda. Like other Members that spoke before us on Item 38 and 39, South Africa is concerned that the CBAM and deforestation policies of the EU amount to prioritizing EU policy over those exporting countries and imposing a unilateral vision of how to address climate change. South Africa is concerned that the genuine and necessary climate change agenda is being undermined through the use of unilateral protectionist measures that create competitive disadvantages and eliminate foreign competition in the EU market. We have consistently raised this and other concerns in various WTO fora, including in engagements with the EU. There is no conclusive evidence that these unilateral measures of the EU will achieve their intended objective, yet the economic costs on South Africa and other economies like ourselves will be real in various sectors. It is estimated, in a hypothesis covering all imports into the EU from Africa, that the CBAM may reduce certain exports by as much as 5%, while reducing Africa's GDP by as much as 1.1%. South Africa, as one of the most exposed countries on the continent, is, like other Members, also concerned about the potential WTO-inconsistency of all CBAM and deforestation measures, particularly as they relate to the principles of national treatment and most-favoured-nation (MFN).

The effect of unilateral measures such as the EU's CBAM, and import restriction measures expressly, are that they undermine the multilaterally agreed mandates of nationally determined contributions (NDCs) of countries of exports. Second, they conflict with the CBDR principles. Third, they create a preferential treatment and restrict the market access of imported goods of developing countries and LDCs in particular, creating a distortive effect on international trade. Fourth, they diminish the development prospects of developing countries and LDCs. And lastly, they lead to changes in trade patterns. Beyond trade, all the policies are likely to have implications for investment, development, and job creation. The impact on the agricultural sector, including the livelihoods of farmers on the African continent, will be immeasurable and long-lasting unless more sensible measures that take account the limited capacity and resource constraints of developing countries like ourselves are taken into account. The administrative and compliance measures and costs for exporting will require adequate systems, controls, and procedures, which will be difficult and prohibitive for most if not all countries on the African continent, including South Africa. Sustainable development is important and includes environmental protections, but this must be achieved in a multilateral manner that is consistent with the respective needs and concerns of countries at different levels of economic development. It also requires respect and adherence to multilaterally agreed commitments and principles under relevant multilateral and environmental agreements, principles that the African Group has advocated in the submission in document [G/C/W/830](#).

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

39.47. 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 six-month flexibility for SMEs. The European Union has been engaging on the Deforestation regulation, here in the WTO and bilaterally during the design stage of the Regulation and will continue to do so during its implementation. The last information session was held on 15 November here in the WTO, where many of your questions have been answered. The Commission has a Frequently Asked Questions document to support the compliance of operators and traders, in particular SMEs, with the requirements of this Regulation. We will be updating this FAQ to reflect the practical implementation issues raised during these sessions.

39.48. The delegate of Paraguay indicated the following:

39.49. Just to express our disappointment with the European Union's response. Although it is a measure that generates concern from a large number of Members, as can be seen from the interventions and support for these concerns in the Council and other WTO bodies, we still do not receive substantive answers to our questions. And we do not agree with the statement that the questions were answered in the briefing. While such briefings are useful, they are generally not of sufficient length; this is why we submitted written questions, along with other Members. So, thank you, but no, the questions were not properly answered in these sessions.

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

39.51. The United States appreciates that the European Union has organized multiple sessions to inform WTO Members about this regulation. However, the US notes that one-way information-sharing sessions are not sufficient for all relevant stakeholders to review and comment on this regulation. The US requests that the EU suspend implementation of this regulation until it has been notified to the WTO TBT Committee, and to provide adequate time for stakeholder comment and take those comments into account before implementing the final regulation.

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

39.53. The European Union has taken due note of the concerns which have been expressed by several Members, which will be conveyed to Capital.

39.54. The Council took note of the statements made.



#### 40 EUROPEAN UNION – THE EUROPEAN GREEN DEAL (ID 171) – STATEMENT BY 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 its statements made during previous meetings of the CTG.<sup>21</sup> Under the umbrella of the Green Deal, the European Union is implementing many measures aimed at restricting trade, including its Carbon Border Adjustment Mechanism (CBAM), its regulation on deforestation, its chemical strategy, its additional requirements for new batteries, and its new proposal on packaging and packaging waste. Under the Green Deal, the EU introduces new charges, quantitative restrictions that include import and export prohibitions, and new technical requirements in the absence of international standards. All these measures are subject to discussions in the relevant WTO working bodies.

40.4. The consequences associated with the full operation of the policies such as the CBAM or due diligences directive, as well as other regulations implementing the European Green Deal, appear to be distorting traditional trade flows and supply chains, which undermines Members' rights to apply appropriate policies in the field of decarbonization, as well as decreasing the global prosperity, especially of developing countries. The measures that the EU tries to justify by "sustainability" are

<sup>21</sup> [G/C/M/146](#) paragraphs 22.8-22.15: "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."



based neither on the rules and principles of the multilateral trading system nor on global agreements in the field of combating climate change. The EU merely aims to protect its domestic industries from imports while improving its competitive advantages in the global market. Furthermore, from the systemic point of view, the EU seeks to replace the concept of a "product" as an object of consumption, as implied in the GATT, with the idea that a product is the "result of a production process", while completely ignoring the current understanding of a "like product", which is the result of a long-standing consensus. Along with that, I wish to recall that the reasons why this Organization was founded in the first place were to enhance trade and increase prosperity, rather than create new restrictions.

40.5. Bearing all this in mind, I would like to point out that Brussels neglects attempts to find a common solution at multilateral level to the existing challenges, preferring a unilateral agenda and trying to establish a friend shoring approach that leads to the fragmentation and destruction of the MTS. To conclude, the Russian Federation would like to urge the European Union once more to respect the WTO rules and international agreements in the field of environmental protection.

40.6. The delegate of Paraguay indicated the following:

40.7. Our intervention relates to concerns in Agenda Items 38 (ID 148) and 40 (ID 171) Paraguay thanks the European Union for the briefing held during the Environment Week, for documents [WT/CTE/GEN/31](#) and [WT/CTE/GEN/32](#) circulated in this regard, and for the new briefing organized in the framework of the last meeting of the Committee on Trade and Environment. However, Paraguay's systemic concerns presented repeatedly have not been duly taken into account and I wish to repeat them again in this Council.

40.8. When we asked the European Union how the principle of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC) in the light of national circumstances and nationally determined contributions (NDCs) is taken into account in this measure for environmental purposes, and how the historically low emissions of some countries are recognized as opposed to those of the European Union, whose Members developed with highly polluting methods, we received as an answer that we all must contribute to the global crisis, with which we agree. But when we ask how Members' efforts to contribute that are different from carbon pricing are taken into account, we receive the answer that they are not taken into account but that eventual payments under the CBAM will be calculated on the basis of emissions. When we ask whether products with lower emissions than the EU or neutral products will receive preferential market access, the answer is no, at most they will not have to pay the additional tariff resulting from the CBAM. Since this and other unilateral EU measures disproportionately affect countries with much lower historical emissions than the EU, one would at least expect the EU to provide a means of implementation and assistance for a just green transition and to redirect the revenues generated by CBAM to that effect. And from these elements we can only assume that the EU's intention has nothing to do with the environmental objective it claims to pursue.

40.9. We reiterate that, for Paraguay, this is not a measure with a direct impact in the short term given our generally low industrialization, similar to that of so many other developing countries like Paraguay, but a systemic concern about the application of unilateral measures with supposed environmental objectives, but clear negative implications for the trade and development of third countries. Without market or other incentives and restrictions alone, measures such as these will not drive green industrialization; rather, in countries like my own, they will impede it.

40.10. Linked to this, I would like to refer to measures under the European Green Deal in general. The concerns are the same, namely that environmental measures with a trade impact must comply not only with the principles of international environmental law or the rules of the World Trade Organization, but because of their duality, with both. They must also take into account the particularities of third countries and their development needs by providing assistance, sufficient means of implementation, sufficient time to adapt, and other special considerations. We take this opportunity to draw attention to another regulation in the framework of the "Directive on Corporate Sustainability Due Diligence" which is currently under inter-institutional negotiations between the Council and the European Parliament given again the possible implications and excessive burden to demonstrate compliance, which unfailingly ends up being passed on by European operators to producers in third countries. We urge the European Union to ensure, from the initial stage of this initiative, that it does not unnecessarily affect trade and also that it takes into account the concerns of its trading partners.

40.11. The Council took note of the statements made.

#### **41 INDIA – IMPORT RESTRICTION ON AIR CONDITIONERS (ID 161) – STATEMENTS BY JAPAN AND THAILAND**

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

41.2. The delegate of Thailand indicated the following:

41.3. Thailand would like to express its serious concerns about India's import prohibition on air conditioners containing refrigerants, an issue that we have persistently raised in various WTO bodies to date without any progress. We believe that this prohibition is inconsistent with the GATT 1994, specifically Articles XI:1 and XX, as these measures represent a *de facto* trade restriction. And we urge India to ensure that its policies comply with the principles and obligations enshrined in the GATT.

41.4. Moreover, we draw attention to India's notification [G/LIC/N/2/IND/21](#), which, in our view, violates the principle of national treatment. This is because the importation of hydrofluorocarbons into India is still permitted if a non-automatic import licence is granted, while the importation of the same substance is banned when it is contained within an air conditioner. This inconsistency raises concerns about the discriminatory nature of India's import prohibition and the adverse impact it may have on international trade. For these reasons, Thailand therefore reiterates that India shall amend or discontinue the measure as soon as possible to ensure that it is in compliance with India's commitments under the WTO.

41.5. Moreover, Thailand has noted a significant delay in the implementation of India's IS Mark Certification, which is based on the Quality Control Orders for air conditioners and their associated components. Specifically, the Bureau of Indian Standards (BIS) has stopped issuing certificates to all Thai manufacturers since June 2023, while continuing to issue them to all domestic Indian producers. We stress the importance of India ensuring that the implementation of the IS Mark Certification does not unfairly discriminate against foreign suppliers, especially those meeting the standard requirements. Such actions could run counter to the principles of non-discrimination.

41.6. Consequently, we urge India to provide information on certificate holders and processing times, including details of certificates that have not yet been processed. Additionally, we request India to expedite the issuance of certificates at the earliest opportunity or consider delaying the implementation of the IS Mark Certification based on the Quality Control Orders for air conditioners and their related parts until it can issue certificates to all qualified manufacturers in a timely and non-discriminatory manner.

41.7. The delegate of Japan indicated the following:

41.8. As we have stated in past CTG meetings, Japan remains very concerned about India's import ban on air conditioners containing refrigerants, introduced in October 2020, which is highly likely to be contrary to Article XI:1 of the GATT and Article 2.1 of the TRIMs Agreement. Although India stated at the CTG's previous meeting that "India has updated in the relevant Committees", no clarification of this measure has been given in a WTO committee. The notification in the Import Licensing Committee relates to the import 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.

41.9. In addition, India referred to the share of Japan's air conditioners and said that raising this issue in the Committee was inappropriate. However, the share of Japanese products has nothing to do with the consistency with the WTO Agreements of the measures, and it is difficult to understand the intention behind this. Rather, it is possible that the share has not increased due to the trade restrictive effects of the import restrictions. We look forward to a sincere and prompt response from India, including in response to the written questions we submitted in September 2020.

41.10. Third, while we are aware of India's response to the review by the Bureau of Indian Standards (BIS) at the TBT Committee, we again request that the significant delays in the

certification process for real imports are resolved. With regard to the certification system for IS standards based on Quality Control Orders for air conditioners and their components, it is highly regrettable that the certification system came into force on 1 October, despite the fact that Japan had requested, via a letter from its Ambassador, that the date of enforcement be once again postponed. Nevertheless, we would like to request the smooth implementation of overseas factory audits by the BIS and measures to ensure that the certification procedures are not delayed, so that import restrictions are not caused by delays in the certification procedures by BIS.

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

41.12. The Republic of Korea shares the concerns expressed by Thailand and Japan 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.

41.13. The delegate of India indicated the following:

41.14. India wishes to reiterate our previous responses on this issue provided in various WTO bodies. The measure in question was necessary to apply standards in reducing risks to human, animal and plant life and health. The measure is consistent with India's commitment to the Montreal Protocol. Further, as per the Ozone-Depleting Substances (Regulation and Control) Amendment Rules 2014, the import of air conditioners containing Group VI substances (HCFCs) has been prohibited since 1 July 2015. We have shared the details of these measures, including their intention and the ongoing developments, with the delegations concerned. It is also pertinent to mention that this measure was adopted based on consultations with the relevant industry groups comprising of representatives from all sectors of the air conditioning industry. These discussions with industry led to policy reforms aimed at meeting the cooling requirements of the country in a responsible manner. The measures were designed after several rounds of discussions with the industry groups, which included industry players from domestic and international markets, including firms representing at least one Member raising the trade concern. The additional comments made today on the QCO by various Members will be communicated to Capital for its consideration.

41.15. The Council took note of the statements made.

## **42 NEPAL – IMPORT BAN ON ENERGY DRINKS (ID 181) – STATEMENT BY 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 expresses its understanding and empathy for the economic challenges and balance-of-payment difficulties faced by the people of Nepal. While acknowledging these hardships, we feel compelled to reiterate our concerns about Nepal's ongoing import ban on caffeinated mixed energy drinks and flavoured synthetic drinks from Thailand, which has been in effect since 2019. Despite the passage of time, Thai exporters continue to suffer from this measure, and we observe that Nepal has not initiated consultations with the Committee on Balance-of-Payments Restrictions, as stipulated by Article 6 of the Understanding on the Balance-of-Payments Provisions, as well as Article XII, paragraph 4(a), and Article XVIII, paragraph 12(a) of the GATT 1994.

42.4. Thailand urges Nepal to promptly adhere to and abide by these provisions. They constitute vital elements of the international trade framework, and compliance is essential for fostering a fair and equitable trading environment. Consultations through the Committee on Balance-of-Payments Restrictions are designed to facilitate constructive dialogue and provide an opportunity to address concerns, leading to mutually beneficial resolutions.

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 Committee on Market

Access (CMA). In response to the concern raised today, my delegation wishes to refer to its previous statement delivered at the CTG's meeting of July 2023.<sup>22</sup> Furthermore, my delegation would like to inform you that the reviewing process has already begun, and we are of the view that it requires the engagement of several agencies. It may take a longer time to come with some conclusion.

42.7. The Council took note of the statements made.

### **43 SRI LANKA – IMPORT BAN ON VARIOUS PRODUCTS (ID 157) – STATEMENT BY THAILAND**

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

43.2. The delegate of Thailand indicated the following:

43.3. Thailand would like to express our concern about Sri Lanka's import ban on various products, which has had a significant impact on Thailand's exports to Sri Lanka, particularly as concerns small passenger vehicles. The export of such vehicles from Thailand to Sri Lanka has practically come to a standstill since 2021. Nevertheless, Thailand appreciates the positive steps taken by Sri Lanka to gradually eliminate its restrictive import policies. As per Sri Lanka's statement during the last meeting of the Committee on Market Access (CMA), as of 10 October 2023, all HS codes except for 304 items under Chapter 87 have been removed from the Schedule of Temporary Suspension. However, this indicates that import restrictions on vehicles still persist. We seek further clarification and updates from Sri Lanka regarding the timeline for lifting the remaining restrictions and urge Sri Lanka to notify the WTO about these measures.

43.4. The delegate of Sri Lanka indicated the following:

43.5. Sri Lanka would like to thank Thailand for its continued interest in Sri Lanka's import trade policy measures. At the last CTG meeting, held in July 2023, my delegation mentioned that Sri Lanka would remove its restrictive import policy measures in a progressive manner. Accordingly, since the CTG's previous meeting, Sri Lanka has arranged to relax its temporary suspension on 327 HS codes on 20 July, and 14 HS codes on 14 August. Finally, through Import and Export Control Regulation No. 14 of 2023, published in the Gazette Notification No. 2353/16, dated 9 October 2023, Sri Lanka arranged to relax temporary suspension on all remaining HS codes except some items under Chapter 87. Accordingly, as of 10 October 2023, Sri Lanka has removed all the HS codes from the Schedule of Temporary Suspension, except 304 HS codes under Chapter 87. Sri Lanka will also arrange to progressively remove temporary suspension on all these remaining few items, and to update this Council accordingly. My delegation has taken note of new non-topic concerns expressed by Thailand today, which will be conveyed to Capital.

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<sup>22</sup> [G/C/M/146](#) paragraphs 42.5-42.6: "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.  
[G/C/M/145](#) paragraphs 14.7-14.9: "14.7 The delegate of Nepal indicated the following:  
14.8 Nepal would like to thank Thailand for its statement and continued interest in its trade policy measures and notes that this concern has also been raised in the Committee on Market Access (CMA). Accordingly, Nepal wishes to refer to its earlier statements delivered at the meetings of the CMA held in October 2022, and at the Council's meeting held in July 2022, in response to the concern raised today, while noting that Nepal is still facing challenges in its balance of payments.  
14.9 Nepal's export-import ratio of trade in goods was 1:2.5 in 2004/2005, when Nepal became a WTO Member; it has widened and reached 1:15.3 in 2017/2018; and the export-import ratio was more than 1:10 in the year 2022, which has been placing huge pressure on its balance of payments. The Government of Nepal is assessing the measure periodically in view of the pressure on its balance of payments. In this regard, Nepal has made some progress, which has been notified through document [G/MA/QR/N/NPL/1](#), on 11 October 2022. Once again, Nepal would like to inform Members that the measure was not intended to impact any area in particular. I would also like to assure Members that I will update them as soon as I receive a further progress report from Capital. Finally, Nepal wishes to resolve this matter at the bilateral level."

43.6. The Council took note of the statements made.

#### **44 UNITED STATES – SECTION 301 TARIFFS ON CERTAIN GOODS FROM CHINA (ID 117) – STATEMENT BY CHINA**

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

44.2. The delegate of China indicated the following:

44.3. China wishes to express our serious concern that the United States continues imposing Section 301 tariffs on some of China's exports to the US, even if it is a measure manifestly inconsistent with WTO rules. The Section 301 tariffs do not serve the interests of either the Chinese or American enterprises and people. The cost of Section 301 tariffs is almost entirely borne by US importers, driving up the price of US enterprises inputs. We urge the United States to immediately remove all Section 301 tariffs imposed on Chinese products.

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

44.5. China's decision to continue to raise this matter in this and other WTO committees has been a pointless waste of WTO resources, given that China has already unilaterally imposed the only remedy that the WTO Dispute Settlement Body (DSB) could potentially authorize: the suspension of WTO concessions.

44.6. China has already applied tariff measures to imports from the United States in excess of its WTO commitments for the explicit purpose of retaliating against the measures for which it now seeks legal findings. We understand that, from July 2018 to September 2019, China imposed four rounds of tariffs, ranging from 2.5% to 30%, in retaliation against US Section 301 tariffs, which covered approximately 71% (USD 109 billion) of 2017 imports into China from the United States.

44.7. China, of course, did so without obtaining the authorization from the DSB pursuant to the Dispute Settlement Understanding. China does not dispute the fact that it has already imposed retaliatory tariff measures in response to the US measures at issue. Nor does China dispute that these retaliatory measures remain in effect.

44.8. The United States urges China to be mindful of the Council's and Members' time and resources when raising matters in Council meetings in the future.

44.9. The delegate of China indicated the following:

44.10. China must respond to the statement made by the United States that it considers China's decision to be a waste of this Council's time and resources. As Members are aware, the mandate of this Council is to oversee the functioning of the Multilateral Trade Agreements in Annex 1A of the WTO Agreement. Section 301 tariffs imposed by the United States clearly fall within the mandate of this Council, so it is justified and necessary for China to raise this ongoing and WTO-inconsistent measure in this Council. We believe that the best way to save this Council's time and resources is for the United States immediately to remove the WTO-inconsistent Section 301 tariffs. This will not only save time and resources, but also save the multilateral trading system.

44.11. The Council took note of the statements made.

#### **45 UNITED STATES – TRADE DISTORTING AND DISCRIMINATORY SUBSIDIES MEASURES OF THE INFLATION REDUCTION ACT OF 2022 (ID 194) – STATEMENT BY CHINA**

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

45.2. The delegate of [China](#) indicated the following:

45.3. China wishes to refer to the statements made in previous meetings in this Council.<sup>23</sup> We take note that the proposed guidance on the new clean vehicle provisions of the Inflation Reduction Act ("Guidance") took effect on 18 April 2023. The Guidance sets forth various local content requirements to qualify for electric vehicles (EV) tax credits. For example, to obtain the EV tax credit, the new clean vehicle's final assembly should occur within North America. The Guidance also introduces various discriminative measures, for example, an eligible clean vehicle may not contain any battery components that are manufactured by a foreign entity of concern. These measures violate the WTO rules, in particular, the most-favoured-nation (MFN) and national treatment principles and the Agreement on Subsidies and Countervailing Measures.

45.4. In addition, the United States intends to provide the bilateral arrangements on critical minerals with some Members the status of free trade agreements, and make their products eligible for the tax credit. We believe that treating bilateral arrangements, which only cover a limited number of products, such as critical minerals, as free trade agreements is an arbitrary interpretation of the concept of a free trade agreement. It is inconsistent with the understanding of the free trade area under the WTO framework, which requests the parties to a free trade agreement to eliminate the duties and other restrictive regulations on substantially all the trade in question. It is also worthwhile highlighting that a free trade agreement concluded by certain Members should not raise any barriers to other Members.

45.5. Finally, China reiterates that measures introduced by Members to address climate change must be consistent with WTO rules. We urge the United States to eliminate the WTO-inconsistent subsidies and measures in the Inflation Reduction Act.

45.6. The delegate of the [United States](#) indicated the following:

45.7. On this issue, rather than repeating our previous statements, the United States refers China to our previous statements from earlier meetings.<sup>24</sup>

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<sup>23</sup> [G/C/M/146](#) paragraphs 19.2-19.6: "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. 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."

<sup>24</sup> [G/C/M/146](#) paragraphs 19.11-19.12: "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."

[G/C/M/145](#) paragraphs 15.12-15.17: "15.12. The delegate of the [United States](#) indicated the following:

15.13. We all share an urgent need to increase investments in clean energy technologies to seriously combat the climate crisis, as well as to address supply chain issues. The Inflation Reduction Act signed by President Biden is a key tool for the United States to meet these critical objectives.

15.14. The transportation sector is the highest source of greenhouse gas emissions in the United States, and we will not meet our Paris commitments and other climate goals without bold action to promote major new investments in clean energy technology, especially incentives for electric vehicle production and their adoption. The Act provides clean vehicle tax incentives to encourage a rapid transition to clean transport. It ensures we



45.8. The Council took note of the statements made.

#### **46 EUROPEAN UNION – REGULATION (EU) 2017/2321 AND REGULATION (EU) 2018/825 (ID 144) – STATEMENT BY THE RUSSIAN FEDERATION**

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

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

46.3. 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: (i) the European Commission can punish the exporters twice for the same situation labelled by the amendments as "significant distortions" and "raw material distortions"; and (ii) the European Commission has issued only two "reports" on so-called "significant distortions" in two particular exporting countries. This clearly shows the discriminatory nature of the EU's approach regarding the application of anti-dumping measures. Without going into further detail, we would like once again to reiterate our systemic concern about the WTO-inconsistency of the amendments. We urge the European Union to refrain from their application and not to violate its WTO obligations.

46.4. The Council took note of the statement made.

#### **47 CHINA – IMPLEMENTATION OF TRADE DISRUPTIVE AND RESTRICTIVE MEASURES (ID 152) – STATEMENT BY AUSTRALIA**

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

47.2. The delegate of Australia indicated the following:

47.3. Australia appreciates the opportunity to update Members on developments on this agenda item since the previous meeting of this Council in July. Australia welcomes our increased engagement and dialogue with China this year, which has led to the resolution of a number of trade disruptive and restrictive measures and helped revitalize our China-Australia Free Trade Agreement (ChAFTA) architecture. Australia looks forward to continuing to share a mutually beneficial trading relationship through ChAFTA and also the Regional Comprehensive Economic Partnership. Australia and China share the benefits, as do all WTO Members, of a stable, predictable, and open global trading system. We will continue to work constructively with China, in this and other WTO bodies and under our Comprehensive Strategic Partnership, to resolve remaining concerns in a timely way,

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can create more diverse and robust supply chains and promote the domestic adoption of clean vehicles. In addition to the Clean Vehicle Tax Credit for new clean vehicles purchased, the Inflation Reduction Act also provides for a Commercial Clean Vehicle Credit and a Previously Owned Clean Vehicle Credit. These provisions create tax credits for certain eligible light, medium and heavy-duty clean vehicles purchased by businesses, and, for used clean vehicles. Final assembly, battery and critical mineral requirements do not apply to these credits. We believe these vehicles will account for a significant share of the total clean vehicle purchases in the future and our Congressional Budget Office estimates these vehicles will receive roughly 40% of overall Clean Vehicle Tax Credit funding.

15.15. We are in the early stages of developing the regulations for this program. We are considering input from all stakeholders as the Department of Treasury moves forward with its public process in implementing these credits as required by the legislation. We note that several of our trading partners already have taken advantage of the opportunity to participate in our transparent process, and that there will be future opportunities to engage in this process.

15.16. We would note that many of our trading partners, including China, have also prioritized investment in EV technologies, and taken a range of domestic measures to support zero emission vehicles.

15.17. In discussions regarding electric vehicle measures, the starting point should be the importance of working to achieve our overall climate, supply chain, and related goals in parallel – and to do so in a way that we can maintain support from our stakeholders. This includes, for example, our shared goal in ensuring we achieve the Paris commitments."



including those impacting wine, live rock lobster, and red meat, in the interests of both China and Australia.

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

47.5. The United States takes note of Australia's intervention, including its report of recent bilateral developments. We reiterate our concern that China continues to apply trade restrictive measures on a number of products without adequate transparency or justification. We remain deeply troubled by the information provided by Australia and from other credible sources since the beginning of this episode.

47.6. 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.

47.7. 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 and norms in order to inflict harm on others to advance its geopolitical and economic ends. China's actions threaten and undermine the rules-based multilateral trading system and harm relations between its Members.

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

47.9. The United Kingdom continues to support Australia's concerns about trade restrictive measures taken by China. Since this is a long-standing item on which we have intervened many times, we will keep this short and would like to refer Members to previous statements that we have given on this concern, both at this Council<sup>25</sup> and at the Committee on Market Access (CMA). We continue to note progress on measures being lifted by China and welcome a full resolution to follow.

47.10. The delegate of Canada indicated the following:

47.11. Canada shares Australia's concerns with the ongoing challenges caused by China's continued adoption of trade disruptive and restrictive measures. We note that some of China's trade measures against Australia have been lifted, welcome this as a step in the right direction, and hope full resolution will follow. As previously noted, Canada's agricultural market access in China continues to be negatively impacted by the following: (i) a lack of transparency and scientific justification for China's measures; (ii) long delays in China's approval process for Canada's market access requests; and (iii) discriminatory treatment compared to that provided to the same products from other Members. Canada hopes that the recent engagement at the official's level will lead to the resolution of the outstanding issues. We encourage all WTO Members, including China, to abide by their WTO commitments.

47.12. The delegate of Japan indicated the following:

47.13. Japan shares Australia's concerns regarding China's trade measures, including trade remedies. If China is operating its trade measures in an arbitrary manner, as reported, it is contrary to a free and fair rules-based international trading system. We call on China to respond to Australia's concerns in good faith and in a timely manner. We are cognizant that progress has been made

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<sup>25</sup> G/C/M/146 paragraphs 9.16-9.17: "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."

bilaterally towards resolving the wine case, but we will continue to monitor developments closely. Japan has repeatedly expressed concern about economic coercion that undermines the function and credibility of the rules-based multilateral trading system.

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

47.15. As stated in previous meetings of this Council and the Committee on Market Access (CMA), the European Union shares the concerns of Australia and others. Australia has reported on progress concerning some measures, while others remain unresolved, now for an ever longer period of time. There seems to be no technical justification that would make these measures permissible under the WTO Agreement. Many Chinese measures are informal and unpublished, again in violation of WTO rules. Also, the measures were implemented as measures of economic coercion, in an attempt to force the Australian government to change policies that were fully within Australia's rights internationally. As the European Union has also experienced, China and several other countries are occasionally adopting such measures of economic coercion, which general international law also prohibits because of their illegal interference in the affairs of another State.

47.16. The delegate of New Zealand indicated the following:

47.17. 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.

47.18. If Members step away from their commitments, or adopt remedies or other measures provided for under the WTO Agreements for unassociated 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.

47.19. The delegate of Chinese Taipei indicated the following:

47.20. Chinese Taipei thanks Australia for providing updates on this agenda item. We continue to share Australia's concerns about some of China's trade measures, which apparently have adverse implications on the rules-based multilateral trading system. We would like to emphasize that Members' trade measures, whether formal or informal, published or unpublished, should be implemented in a WTO-consistent manner and should never be based on unrelated issues. My delegation will continue closely to follow the development of this subject from a systemic perspective.

47.21. The delegate of China indicated the following:

47.22. China wishes to refer to its statements made in previous meetings.<sup>26</sup> As pointed out by Australia just now, there is some positive progress on this issue. We hope both sides can continue working together to improve, maintain, and strengthen bilateral economic and trade cooperation.

47.23. The Council took note of the statements made.

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<sup>26</sup> [G/C/M/146](#) paragraphs 9.22-9.23: "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."

#### **48 UNITED STATES – A SERIES OF DISRUPTIVE POLICY MEASURES ON THE GLOBAL SEMICONDUCTOR INDUSTRY CHAIN AND SUPPLY CHAIN (ID 195) – STATEMENT BY CHINA**

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

48.2. The delegate of China indicated the following:

48.3. China wishes to continue expressing our serious concerns on the disruptive and discriminatory measures taken by the United States against China with regard to the semiconductor industry. We have serious concerns on the latest measures taken by the US in October to further tighten the export controls against China on advanced computing semiconductors, semiconductor manufacturing equipment, and supercomputers.

48.4. Regarding the notice of Funding Opportunity CHIPS incentive Program, issued by the US Department of Commerce, our concern remains. The notice requests the applicants for CHIPS funds to demonstrate whether and how they intend to utilize domestically produced iron, steel, and construction materials as part of their projects. This may not comply with WTO rules, in particular those in the SCM Agreement and TRIMs Agreement. We also note that the notice requests the applicant to demonstrate why the investments would not occur without the CHIPS incentives. It seems to us that the applicant's investment decisions are not based on market orientation and commercial logic.

48.5. In addition, the Final National Security Guardrails for CHIPS for America Incentives Program, issued on 22 September 2023, prevents the recipients of CHIPS funds from expanding both advanced facilities and Legacy Facilities in China. This is a typical example of "Cold War mentality", "zero-sum game" and "trade bullying".

48.6. The "small yard, high fence" approach the United States is taking is detrimental not only to China's interests, but also to the interests of the US itself, and other Members. It severely undermines the global semiconductor industry chain, violates market principles, disrupts the normal order of international trade and investment, and negatively affects the rules-based multilateral trading system. We call on the WTO to strengthen the monitoring of the relevant measures.

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

48.8. On this issue, rather than repeating our previous statements, the United States refers China to our previous statements from earlier meetings.<sup>27</sup>

48.9. The Council took note of the statements made.

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<sup>27</sup> G/C/M/146 paragraphs 20.13-20.15: "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. 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."

**49 UNITED STATES – DISRUPTIVE AND RESTRICTIVE MEASURES IN THE NAME OF NATIONAL SECURITY (ID 205) – STATEMENT BY CHINA**

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

49.2. The delegate of China indicated the following:

49.3. As the Council is aware, the United States has implemented a series of trade-restrictive measures since 2018, in the name of national security, against some Members, including China. The 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) extraterritorial 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; and (viii) ICTS transaction reviews – such as the US review of commercial transactions for a very broad range of ICT products and services.

49.4. In addition, in August 2023, the United States issued an executive order to restrict its investments into Chinese semiconductor, quantum computing, and artificial intelligence companies, in the name of national security. This will affect the normal commercial decisions of enterprises.

49.5. China believes that the broad scope and growing number of the measures taken by the United States in the name of national security reflects how the US is abusing national security. We are all aware of how the United States raised tariffs on imported steel and aluminium products in the name of so-called "national security", and then lowered tariffs only for certain Members, and put in place quotas, which are explicitly prohibited by the WTO rules. We also note that the US even considers battery components of electric vehicles made by China as a potential threat to US national security, therefore requiring discriminatory treatment in its subsidies policy.

49.6. The United States 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. 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. Finally, China believes that it is necessary to enhance reviewing and monitoring of the abusing security exemptions under the WTO framework.

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

49.8. As we have previously indicated, the United States does not consider that the Council for Trade in Goods is the appropriate venue to discuss issues relating to national security.

49.9. The Council took note of the statements made.

**50 CHINA – DRAFT REVISION OF CHINESE GOVERNMENT PROCUREMENT LAW (ID 202) – STATEMENT BY JAPAN**

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

50.2. The delegate of Japan indicated the following:

50.3. 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. 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 the revised law, foreign products may be treated in a discriminatory manner and violate Article III:4 of the GATT. At the same time, it may also violate Article 2.3 of the Regional Comprehensive Economic Partnership (RCEP) Agreement. In addition, if China were to join the Agreement on Government Procurement (GPA) at a later stage, it could violate Articles 4.1 and 4.2 of the GPA, which stipulate non-discriminatory treatment as a general principle. Therefore, when the State Council determines "other procurement entities" in accordance with Article 12 of the draft amendment to the Law, it should be ensured that discriminatory treatment is not extended without limitation.

50.4. If "other procurement entities" are also subject to the GPA after joining it, this should be clarified. In addition to the issue on the local content requirements regulation, as just mentioned, 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 cannot be permitted under the government procurement exception of Article III:8(a) of the GATT either, unless it truly falls under government procurement, and this local content requirement may also violate Article III:4 of the GATT, Article 2.1 of the TRIMs Agreement, and Article 2.3 of the RCEP Agreement. If China were to join the GPA at a later stage, this could violate Articles 4.1 and 4.2 of the GPA.

50.5. In addition, local governments such as Shaanxi, Hangzhou in Zhejiang, and Anhui have issued notices stating that they give preference to domestic products in government procurement, and that expert argumentation, the submission of an application, and approval of the finance department are required when purchasing imported products, which may violate Article III:4 of the GATT, unless if it truly falls under government procurement in the sense of Article III:8(a) of the GATT. If China joins the GPA, this may also be in violation of Article 4.1 and 4.2 of the GPA.

50.6. At the CTG's meeting of last November, China stated that it treated foreign companies and domestic Chinese companies equally in government procurement, except in matters relating to security, but it continues to discriminate in the treatment of a wide range of goods. In addition, at the CTG's meeting in July, China stated that it would like to discuss the issue within the process of the negotiations on its accession to the GPA, but as previously mentioned, the issue should be addressed by the CTG, as the revised law would leave room for LCR measures to be applied to the procurement beyond "procurement by governmental agencies", as defined in Article III:8(a) of the GATT.

50.7. Regarding these issues, no convincing explanation was provided by China at the Committee on Government Procurement meeting held this month (November). These new provisions in the proposed amendments represent a move backwards, rather than to meet the standards required by the GPA, to which China has already been negotiating for accession for many years. 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.

50.8. On the other hand, as we mentioned at the Committee on Government Procurement meeting this month, we are aware that the Chinese government enacted and published the "Opinions of the State Council on Further Optimizing the Foreign Investment Environment and Increasing Efforts to Attract Foreign Investment" in August this year. The premise that there is a difference in treatment between domestic goods and services provided by Chinese companies and those provided by foreign companies seems problematic from the perspective of national treatment, but the State Council's Opinions include statements such as ensuring equal participation of foreign companies in government procurement and other fields, which is noteworthy, in that it may improve the unfavourable treatment of products and services provided by foreign companies.

50.9. Together with the related "Notice on Improving Unreasonable Discriminatory Treatment between Domestic and Foreign Investors" issued in November this year, we will closely monitor the future operation of the system. What we would like to clarify here is that the State Council's Opinion seems to cover only "foreign companies with a registered office in China", and does not cover "foreign companies with an office abroad", but if this is the case, the discrimination between domestic and foreign products will not be resolved in the end, which may cause problems in terms of national treatment. We would also like to confirm the scope of the relevant notice published by the Ministry of Commerce in November this year, from a similar perspective.

50.10. The delegate of China indicated the following:

50.11. China regrets that Japan has again raised this issue in this Council. We believe that this Council is not an appropriate place to discuss this issue, as the mandate of this Council is to oversee the functioning of the Multilateral Trade Agreements in Annex 1A of the WTO Agreement, to which the Agreement on Government Procurement (GPA) does not belong. We request Japan to raise this issue in an appropriate body. Meanwhile, we note that China and Japan had an opportunity to discuss this issue bilaterally during the Committee on Government Procurement (CGP) meeting in November, and we provided detailed responses to Japan's concerns in that meeting. We are willing to continue engaging with Japan on this issue under the framework of China's accession negotiation to the GPA.

50.12. The Council took note of the statements made.

#### **51 CHINA – DRAFT OF CHINESE RECOMMENDED NATIONAL STANDARD (GB/T) FOR OFFICE DEVICES (INFORMATION SECURITY TECHNOLOGY-SECURITY SPECIFICATION FOR OFFICE DEVICES) (ID 201) – STATEMENT BY JAPAN**

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

51.2. The delegate of Japan indicated the following:

51.3. Japan understands that the amendment of the Recommended National Standards of China (GB/T) has recently been submitted for public comment and opinions have been sought on it. Regarding this Draft National Standard, Japan has previously raised concerns in various bodies, including at the CTG, that provisions requiring multifunctional peripherals and printers, including their components to be designed, developed, and manufactured in China may be inconsistent with various WTO Agreements, including Article 2.1 of the TRIMs Agreement, Articles 2.1, 2.3 and 5.1.2 of the TBT Agreement, Article III:4 of the GATT, and Article 7.3 of China's Protocol of Accession.

51.4. However, Japan has noted that no such provisions are included in the current Draft National Standards. We understand that studies and procedures will be conducted in the future to establish this National Standard, but we request that it does not include content that will treat foreign products in a discriminatory manner or that could lead to *de facto* technology transfer requirements. At the same time, the provisions of this Draft National Standard still raise concerns about the leakage of trade secrets or technology leakage, depending on the content of the information provided by the provider of office equipment for the security testing of office equipment. For example, the Draft National Standard requires the provision of materials on the supply chain, materials on third-party technology, and materials on the manufacturing process of office equipment, which contain information on trade secrets and sensitive technology. This may violate Article 5.1.2 of the TBT Agreement.

51.5. Japan requests that the design and operation of the security test, including these previously mentioned points, be consistent with China's existing international commitments, including under the WTO Agreements. Japan has submitted its comments on this Draft National Standard in accordance with the public comment procedure, and we would like to request that these comments be taken into account.

51.6. The delegate of China indicated the following:

51.7. As Japan pointed out just now, we published the draft Security Specification for Office Devices for public comment on 25 August 2023. The current draft does not have provisions requiring the development and production of multi-function devices and printers within China. During the comment period, from 25 August to 24 October, we received 234 comments. We thank the relevant associations, enterprises, and other entities from Japan and the United States for submitting their comments. We are currently working on these comments.

51.8. The Council took note of the statements made.

## **52 CHINA – EXPORT CONTROL LAW AND RESTRICTIONS ON TRADE IN STRATEGIC PRODUCTS (ID 112) – STATEMENTS BY THE EUROPEAN UNION AND JAPAN**

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

52.2. The delegate of Japan indicated the following:

52.3. 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 this regard, 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.

52.4. 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 on the details of the regulations related to the law. In this regard, China stated in the CTG's previous meeting 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. 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.

52.5. 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 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. They may therefore fall under the export restrictions that are not justified under the GATT, making them inconsistent with the WTO Agreement.

52.6. 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, and so on, because the predictability of its operation is extremely low.

52.7. 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, and so on, is noted. 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 that there is a possibility that China might introduce controls on exports of rare earths-related products in accordance with the aforementioned Export Control Law.



52.8. Japan wishes 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. On 1 August, the Ministry of Commerce of the People's Republic of China enforced a measure to impose a permit system for the export of gallium and germanium-related items on the grounds of protecting national security and interests, and Japan is concerned about the intention of this measure.

52.9. While China mentioned that a number of export applications have been approved since the implementation of the export control, Japanese companies have expressed concerns that it is taking a very long time to obtain export licences. We request an explanation of the status of the examination from China and request that the permit procedure is carried out fairly and promptly. On 20 October, the Ministry of Commerce of the People's Republic of China issued a public notice on the export control of graphite-related items on the grounds of protecting national security and interests, which is scheduled to come into effect on 1 December, and this measure changes the description of the scope of artificial graphite from "other artificial graphite", and so on, to "artificial graphite materials and their products". We understand that natural graphite has been newly added to the scope of the regulation. Japan is closely monitoring the situation. If China's export control measures are being applied to Japan in an unfair manner in light of international rules such as the WTO, we will take appropriate action based on those rules.

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

52.11. At previous meetings, 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 EU would like to ask China when the review will be completed and when the Regulation will be published. The EU reiterates the concerns expressed in previous meetings of this Council over certain aspects of China's export control regime, notably as regards its extraterritorial application to foreign individuals and organizations, its broad objectives, and the broad scope of controls, particularly with respect to the notion of "national interests". We also continue to be concerned by China's criteria for risk assessment with regard to destination countries or regions, and control lists. Recently, China has announced several export controls on the alleged basis of "national security and interests".

52.12. First, China's Ministry of Commerce announced on 3 July 2023 new controls on exports of items containing gallium and germanium. As noted in the July meeting, the scope of the announced export restrictions is very broad, and China appears not to have defined technical parameters that would circumscribe controls to items with military applications. There is thus a risk that this could negatively impact trade in broadly commercially available items.

52.13. Second, on 31 July 2023, China announced controls on advanced unmanned aerial vehicles (UAVs), which address exports with clearer security implications, considering the use of drones in the context of Russia's war of aggression against Ukraine.

52.14. Third, on 20 October 2023, China announced the modification of its control on graphite and graphite products, which raises similar concerns to those targeting gallium and germanium. Namely, they have a broad scope and China appears not to have defined technical parameters that would limit controls to items with military applications, which creates a risk that they could negatively impact trade in broadly commercially available items.

52.15. Therefore, the European Union is concerned that these export restrictions appear at least in part unrelated to the need to protect international peace and stability under China's non-proliferation obligations arising from international treaties, and that they may not be justified on the grounds of protecting "essential security interests". The EU urges China to provide more information on the security-related rationale of the measures, particularly with respect to items such as natural graphite, which is widely used in normal commercial applications, and the control of which therefore poses a particular threat of disrupting trade and civilian value chains.

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

52.17. The United States shares similar concerns with the imposition of this export measure on gallium and germanium. We are concerned with the lack of transparency around this restriction and the uncertainty it is causing for traders. We urge China to notify this measure in accordance with its WTO commitments and we will continue to monitor this situation closely.

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

52.19. 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 have noted that, in addition to the expansion to export controls on gallium and germanium that were announced in July, China has announced new expanded controls on exports of graphite from 1 December. We do understand that licences have been granted for gallium and germanium, which is a welcome step, and something the UK hopes will continue into the future. However, we would like China to clarify the rationale for these measures, especially on what China would define as its "national interest" for the purposes of this law. More specifically, 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. We call on China to provide a justification for these controls with regards to its WTO commitments, for example, through notification to appropriate Committees. Export restrictions without clear justification and transparent administration disrupt global supply chains, and the UK joins the calls for further transparency from China around their Export Control Law's implementation.

52.20. The delegate of Canada indicated the following:

52.21. Canada notes China's announcement to impose export controls on graphite products as of 1 December, which are in addition to China's imposition of export controls on gallium and germanium on 1 August. Given that China is the largest global supplier of these minerals, Canada is requesting clarification on China's objectives and rationale for the application of export controls on these minerals. Canada will continue to closely monitor China's application of export controls on these minerals.

52.22. The delegate of Australia indicated the following:

52.23. Australia notes 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 announcements on the implementation of export controls on certain graphite, 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. 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. 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.

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

52.25. The Republic of Korea is closely monitoring the potential ramifications of China's recent export control measure on certain products, particularly regarding their impact on global supply chains and the multilateral trading system. Korea expresses its desire for the measure to be implemented in a fair and transparent manner, in accordance with WTO principles.

52.26. The delegate of Switzerland indicated the following:

52.27. 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 regard to its WTO compatibility.

52.28. The delegate of China indicated the following:

52.29. China wishes to refer Members to its previous statements on this issue.<sup>28</sup> Concerning the gallium and germanium-related items, we would like to note that they can be used for both military and civilian purposes. Imposing export controls on gallium and germanium-related items is an international common practice. Since 1996, some gallium and germanium-related items have been gradually included in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Good and Technologies. Forty-two member States of The Wassenaar Arrangement have implemented it.

52.30. China imposes export controls on some gallium and germanium-related items in a justified, reasonable, and non-discriminatory manner under the framework of the WTO, with the aim to better fulfil its international non-proliferation obligations. It should be noted that the export control does not prohibit exports, and exports that are used for lawful purposes and meet the relevant regulations will be allowed. We have already approved a number of export applications since the implementation of the export control. We will continue reviewing the export applications and make proper decisions in accordance with the relevant regulations in an open, transparent, and non-discriminatory manner.

52.31. Regarding the export control on some graphite items, we would like to point out that China has long been imposing temporary export controls on some graphite items in accordance with the relevant laws and regulations to fulfil its international non-proliferation obligations. Recently, we conducted comprehensive assessments of the temporary export controls on some graphite items and decided to adjust these export control measures. Starting from 1 December 2023, China will impose formal export controls on three highly sensitive graphite items, which were previously subject to temporary export control, and remove the temporary export controls on five less sensitive graphite items. We believe that, with this adjustment, we can better fulfil our non-proliferation obligations and support the security and stability of global industry and supply chains. It should be noted as well that the new export control on some graphite items does not target any specific Members. Exports that meet the relevant regulations will be allowed.

52.32. The Council took note of the statements made.

### **53 EUROPEAN UNION – PROPOSED MODIFICATION OF TRQ COMMITMENTS: SYSTEMIC CONCERNS (ID 127) – STATEMENT BY URUGUAY**

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

53.2. The delegate of Uruguay indicated the following:

53.3. Uruguay wishes to refer to its interventions at previous meetings of this Council<sup>29</sup> and reiterates its systemic concern about the unilateral modifications of concessions in the form of tariff

<sup>28</sup> [G/C/M/146](#) paragraphs 32.27-32.30: "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 Draft 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."

<sup>29</sup> [G/C/M/146](#) paragraphs 34.2-34.4: "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

rate quotas by the European Union under Article XXVIII of the GATT 1994 after Brexit, in particular with regard to the lack of necessity and legal basis under the WTO Agreements to proceed in this regard. Likewise, Uruguay reiterates its disagreement, given that, so far, we do not see substantial willingness to consider even the most modest and reasonable requests, despite the damage studies presented in due course, and the special relevance and sensitivity for our country of the conditions and concessions of access to the markets under discussion. Once again, Uruguay reaffirms its willingness to seek a mutually agreed solution, for which it will be necessary for the European Union to recognize Uruguay's specific conditions and needs, and to demonstrate the political will required to reach an agreement.

53.4. The delegate of Paraguay indicated the following:

53.5. Paraguay reiterates our trade and systemic concerns, and once again calls on the European Union to report on when they plan to circulate their AMS reduction, as reported to Members, as a result of their apportionment methodology with the United Kingdom.

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

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

53.8. WTO partners have also asked the European Union to exclude the United Kingdom from the access to its WTO *erga omnes* TRQs (and vice versa). The EU has fully met this request, as it could at the given stage of the proceedings, and together with the UK, by laying down this exclusion in Article 33 of the EU-UK Trade and Cooperation Agreement.

53.9. As far as the Aggregate Measurement of Support is concerned, for technical reasons it will be possible to address this only when the Article XXVIII process is concluded and new schedules are certified, but the European Union can assure Members that it is respecting a proportionally reduced ceiling already now. The EU therefore cannot share the view that it did not have a sound legal basis for these actions or that it was not willing to take into consideration valid proposals and requests by other Members.

53.10. Indeed, 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 fifteen partners, and are close to being signed or otherwise concluded with three more partners.

53.11. The European Union welcomes the increased engagement of many WTO Members and remains fully committed to bringing the pending negotiations to a successful conclusion in the coming weeks. The EU will use the just promulgated six-month prolongation (until end of June 2024) to implement internally any agreement that may still be concluded in the next weeks.

53.12. The Council took note of the statements made.

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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."

## 54 UNITED KINGDOM – DRAFT GOODS SCHEDULE AND PROPOSED UK TRQ COMMITMENTS: SYSTEMIC CONCERNS (ID 145) – STATEMENT BY URUGUAY

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

54.2. The delegate of Uruguay indicated the following:

54.3. Uruguay wishes to reiterate once again its position and concerns with respect to the United Kingdom's claim to a large Total Bound AMS of GBP 4,949.3 million; the proposed currency conversion in the draft Schedule of concessions of that Member and its implications for the proposed levels of domestic support and market access commitments; and the United Kingdom's intention to replicate the rights to invoke the agricultural special safeguard for all products and under the same criteria and conditions as set out in the European Union's Schedule. Regarding the ongoing Article XXVIII process, Uruguay reaffirms its 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.

54.4. The delegate of Paraguay indicated the following:

54.5. My delegation would like to reiterate its systemic concern on this item and requests that our earlier statements be reflected in the minutes.<sup>30</sup> We would simply like to point out two elements that we believe are central to our concerns: (i) until the effective reduction of the EU AMS, the existence of an AMS by the United Kingdom is, in fact, generating a new duty and not a simple "apportionment"; we understand that this is out of the UK's hands, but we urge the UK to push the European Union to make the corresponding rectifications as soon as possible; and (ii) we also question the UK's maintenance of SSG duties for tariff lines for which it has not retained the corresponding tariff quotas.

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

54.7. The United Kingdom would like to thank Uruguay and Paraguay for their continued interest in this Article XXVIII process regarding the obligations within the UK's Schedule of concessions and commitments on goods. We further thank those Members with whom we have formally concluded discussions in recent months. The UK has now been operating on the basis of its own Goods Schedule since January 2021, and since that time we have been engaging with partners to protect existing rights, obligations, and the continuity of trade. Members will be aware that the UK's negotiations and consultations are now largely completed.

54.8. The United Kingdom refers to document [G/L/1386/Add.5](#), which was circulated by the Secretariat on 30 November. The document outlines that the UK has extended the timelines under Article XXVIII:3 of the GATT by six months, until 1 July 2024. This recent extension to timelines under the Article XXVIII process will provide sufficient time for those Members working through internal processes to conclude formally.

54.9. Regarding the statement made on Aggregate Measurement of Support (AMS) and special safeguards (SSG) by the delegate from Paraguay, we would like to refer Members to the UK's

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<sup>30</sup> Document [G/C/M/146](#), paragraphs 34.5-34.7: "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."

previous statements made in this Council<sup>31</sup>, and at the Committee on Market Access, which set out our position on these issues. We would also like to note that, following technical level engagement, many Members who once initially held similar concerns, have since received sufficient reassurances to enable them to remove their objections. The United Kingdom will further update Members and this forum following the conclusion of Article XXVIII negotiations, in line with WTO practice.

54.10. The Council took note of the statements made.

## 55 REPORTS TO THE GENERAL COUNCIL

### 55.1 Consideration of Annual Reports of the Subsidiary Bodies of the Council for Trade in Goods

55.1. The Chairperson indicated the following:

55.2. Pursuant to the "Procedures for an Annual Overview of WTO Activities and for Reporting under the WTO" ([WT/L/105](#)), which were adopted by the General Council on 15 November 1995, all bodies constituted under the Agreements in Annex 1A of the WTO Agreement are required to submit a factual report to the Council for Trade in Goods annually, and the Council is to take note of these reports. Such factual reports were adopted at the last meeting of each subsidiary body and are now submitted to the CTG for consideration. These reports are contained in the following documents:

CTG Subsidiary Body	Report (Document Symbol)
Committee on Agriculture (COA)	<a href="#">G/L/1520</a>
Committee on Anti-Dumping Practices (ADP)	<a href="#">G/L/1501</a>
Committee on Customs Valuation (CV)	<a href="#">G/L/1516</a>
Committee on Import Licensing (IL)	<a href="#">G/L/1512</a>
Committee on Market Access (CMA)	<a href="#">G/L/1507</a>
Committee on Rules of Origin (ROO)	<a href="#">G/L/1499</a>
Committee on Safeguards (SG)	<a href="#">G/L/1503</a>
Committee on Sanitary and Phytosanitary Measures (SPS)	<a href="#">G/L/1519</a>
Committee on Subsidies and Countervailing Measures (SCM)	<a href="#">G/L/1506</a>
Committee on Technical Barriers to Trade (TBT)	<a href="#">G/L/1518</a>
Committee on Trade Facilitation (TF)	<a href="#">G/L/1514</a>
Committee on Trade-Related Investment Measures (TRIMs)	<a href="#">G/L/1492</a>
Committee of Participants on the Expansion of Trade in Information Technology Products (ITA)	<a href="#">G/L/1510</a>
Preshipment Inspection and Independent Entity	<a href="#">G/L/1517</a>
Working Party on State Trading Enterprises (STEs)	<a href="#">G/L/1496</a>

55.3. Unless there are any comments from delegations, can the Council take note of the submitted factual reports?

<sup>31</sup> [G/C/M/146](#) paragraphs 34.8-34.9: "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."

55.4. The Council so agreed.

**55.2 Adoption of the Annual Report of the Council for Trade in Goods to the General Council ([G/C/W/837](#) and [G/C/W/837/Rev.1](#))**

55.5. The Chairperson indicated the following:

55.6. I would like to draw your attention to the Draft Report of this Council to the General Council, circulated in document [G/C/W/804](#). In accordance with the "Procedures for an Annual Overview of WTO Activities and for Reporting under the WTO" ([WT/L/105](#)), it was agreed that "[t]he respective sectoral Councils should report in November each year to the General Council on the activities in the Council as well as in the subsidiary bodies", and that the reports of the sectoral Councils should be "factual in nature, containing an indication of actions and decisions taken, with cross-references to reports of subordinate bodies and could follow the model of the GATT 1947 Council reports to the CONTRACTING PARTIES". I would like to remind delegations that all sections of the Draft Report before you will be updated in light of today's meeting and will be circulated to Members for comments.

55.7. In addition, please note that the Secretariat has adjusted the way in which the information on trade concerns is presented, which is now summarized in table format in the annexes. With this in mind, would any delegation wish to comment on, or propose a change to, the Draft Report? The floor is open.

55.8. The delegate of Paraguay indicated the following:

55.9. Just to note that in the revision of the document, in the presentation of the Annex on trade concerns, we have found some inconsistencies that we have already sent to the Secretariat to be taken into account in a correction of the document.

55.10. The Chairperson indicated the following:

55.11. Thank you, Paraguay. I see no further comments. Therefore, the Secretariat will circulate by email a revised version of the Annual Report by close of business on Monday, 4 December, at the latest, and will track all of the changes. If no objection is received by the Secretariat by 1pm CET of Wednesday, 6 December, this revised draft will be considered to be approved and the Annual Report will be circulated under the [G/L document](#) series for presentation to the General Council. Is this agreeable? I see no objections.

55.12. The Council so agreed.

**56 OTHER BUSINESS**

**56.1 Tentative Annual Plan of Meetings – Subsidiary Bodies of the Council for Trade in Goods ([JOB/CTG/40](#))**

56.1. The Chairperson indicated the following:

56.2. I would like to draw your attention to document [JOB/CTG/40](#) containing the latest version of the Tentative Annual Plan of Meetings for the CTG and its subsidiary bodies for the year 2024. This document was prepared in close coordination between the Secretary of the Goods Council and the Secretaries of the CTG subsidiary bodies with the aim of avoiding overlaps and to ensure an optimal scheduling of meetings. Please note that the dates are tentative and some of the meetings may need to be rescheduled. Would any Member like to comment on the Tentative Annual Plan of Meetings or raise any other issue relating to the functioning of the CTG and its subsidiary bodies?

56.3. The Council took note of the statement by the Chairperson.



## 56.2 eAgenda

56.4. The Chairperson indicated the following:

56.5. Under this agenda item, I would like to request the Secretariat to inform us briefly about the implementation of some improvements in the eAgenda. Secretariat, you have the floor.

56.6. A representative of the Secretariat (Mr Roy Santana) indicated the following:

56.7. We are pleased to report that we have successfully included practically all the comments and additional functions that were requested at the last meeting. We are constantly working to try to improve it. You may even have noticed that, during the meeting, some changes were introduced, and some errors were fixed, so please let us know if there are any other issues that you notice and you think should be fixed. You will also notice that there is going to be a countdown in terms of the time you will have to upload your statements. We noticed that about 80% or 90% of the statements have already been included, so thank you very much for this. We believe that it's going to be quite useful for you once all of these statements and reports become available. Finally, I would also like to note that we have introduced some changes to the function "download all the statements", where we have aligned with the format and the way in which the information is presented in the Committee on Market Access.

56.8. The delegate of Paraguay indicated the following:

56.9. Just to thank the Secretariat for all the work done both on the changes to the eAgenda and the tireless work of the Goods Council Secretariat to ensure that we have today what we see on the e-Delegates portal. Few in this room will remember when there was no mailing list and we had to search one by one by phone for delegates to find out who covered what. This is an example of how we have evolved slowly but surely in this Council. We also thank the Secretariat for the website.

56.10. The delegate of Japan indicated the following:

56.11. We just wish to extend our appreciation for the Secretariat efforts on the eAgenda. It is very useful – thank you very much. And just a clarification for today's interventions: do we have any deadline for the system, as we need to check the delivered statement, by way of final scrutiny? So please clarify if there is any deadline for the uploading of statements.

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

56.13. Just to quickly underline firstly our massive thanks to the Secretariat and IT colleagues for the introduction and management of the eAgenda and the proactive desire to make it better, easier, more practical, and more useful, along with the other digital tools. It has made such a difference to the way we work and made our lives so much easier. And I would also like to take the opportunity to thank Renata from Paraguay, bearing in mind that this is her last CTG after being here for nearly six years, and to thank her for being such an active member of the Council and the whole WTO. In particular, she has done so much on this broader work, including on the digital side, using her experience to help make everyone's lives easier, so thank you, and good luck, Renata. Cheers!

56.14. The delegate of India indicated the following:

56.15. We commend the Secretariat for their work on this system and all Members for adopting the system very openly. I see a lot of statements available on eAgenda already. This makes a huge difference to our collective productivity.

56.16. A representative of the Secretariat (Mr Roy Santana) indicated the following:

56.17. On Japan's question, I would like to confirm that delegations have until next Friday, 8 December, to upload their statements on eAgenda.

56.18. The Council took note of the statements made.

### **56.3 Date of Next Meeting**

56.19. The Chairperson indicated the following:

56.20. The next CTG meeting is scheduled to take place on 30 April and 1 May 2024. However, since the Council agreed to hold an annual information session on the WTO digital tools, which should, to the extent possible, take place back-to-back with the Council's first formal meeting, please note that the Secretariat may need to slightly adjust these dates. In addition, please note that the first information session for CTG delegates is scheduled to take place on 18 April 2024. The dates will be confirmed in due course.

56.21. As a final note, the Chairperson thanked those delegates leaving Geneva for their important, valuable, and much appreciated contributions.

56.22. The meeting was closed.

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