



**MINUTES OF THE COMMITTEE ON MARKET ACCESS  
28 MAY 2019**

CHAIRPERSON: MS ZSÓFIA TVARUSKÓ (HUNGARY)

The Committee adopted the agenda as reproduced in document WTO/AIR/MA/10, with the inclusion of the following items under Other Business: "United States – Measures Regarding Export Control and Market Access Prohibition for ICT Products – Statement by China", and "Pakistan – Import Policy Orders – Statement by Thailand". An annotated agenda was circulated in document JOB/MA/140. The Committee agreed to exclude the review of the notification of quantitative restrictions (QRs) of the Kingdom of Bahrain, which had been circulated by the Secretariat erroneously.

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## **1 INTRODUCTION OF HARMONIZED SYSTEM CHANGES TO SCHEDULES OF CONCESSIONS – STATUS REPORT**

1.1. The Chairperson informed the Committee that considerable progress had been made on several of the transpositions and that the Secretariat would now begin the relevant work regarding HS2017 transposition further to the recent adoption of the "Notes on Methodology" at the Committee's meeting of 10 April 2019 (G/MA/366).

– **HS96 (L/6905 and WT/L/756)**

1.2. The Secretariat (Mrs Alya Belkhodja) reported that one file remained pending in HS96, namely that of the Bolivarian Republic of Venezuela; this file was under review under a separate procedure, based on GATT document L/6905.<sup>1</sup>

1.3. The Committee took note of the Secretariat's report.

– **HS2002 (WT/L/605 and WT/L/807)**

1.4. The Secretariat (Mrs Alya Belkhodja) reported that 116 schedules of concessions had been transposed and had either been certified or were in the process of certification. One schedule remained pending, from the Bolivarian Republic of Venezuela.<sup>2</sup>

1.5. The Committee took note of the Secretariat's report.

– **HS2007 (WT/L/673 and WT/L/830)**

1.6. The Secretariat (Mrs Alya Belkhodja) reported that 110 schedules of concessions had been transposed and had either been certified or were in the process of certification. The Secretariat noted that 15 schedules remained pending and that it had been in contact with four of those Members to finalize their files, namely: Argentina; the Dominican Republic; Indonesia; and Paraguay. Comments were still pending with regard to Thailand's file.<sup>3</sup>

1.7. The Committee took note of the Secretariat's report.

– **HS2012 (WT/L/831)**

1.8. The Secretariat (Mrs Alya Belkhodja) reported that 95 schedules of concessions had been transposed and had either been certified or were in the process of certification; a further 38 files were still under review.<sup>4</sup>

1.9. The Committee took note of the Secretariat's report.

– **HS2017 (WT/L/995)**

1.10. The Secretariat (Mrs Alya Belkhodja) noted that the "Notes on Methodology" for HS2017 had been agreed by the Committee on Market Access on 10 April 2019 (document G/MA/366); she informed the Committee that the Secretariat had begun the technical work on the computer programmes necessary for automatic transposition, the implementation of simplification cases, and the verification of inconsistencies. The Secretariat expected to have a first batch of files ready to be circulated to Members by end-2019. With regard to the Consolidated Tariff Schedules (CTS) database, the Secretariat informed the Committee that the CTS files had been made available to all Members on the WTO website; of these 135 CTS files, 91 were available in HS2012, 29 were available in HS2007, 12 were available in HS2002, and three remained in HS96. She further noted that a new release of the CTS DVD was under preparation and would be distributed to Members over

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<sup>1</sup> See document RD/MA/47.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

the summer; in addition, this new release would include a compilation of original legal instruments, listed by Member.

1.11. The representative of Switzerland asked whether it was possible to receive the content of the CD-ROM in an electronic version, since few computers could read CD-ROMs.

1.12. A member of the Secretariat (Mrs Alya Belkhodja) replied that a decision had not yet been taken regarding if to use a CD-ROM or a USB key; she noted that the information could also be made available via the IDB File Exchange Facility. Another member of the Secretariat (Mr Roy Santana) added that the Secretariat had been developing a new website to serve as a Goods Schedules Library, which would be released later in the year. The work on this project had begun six months before and considerable progress on it had already been made; indeed, a demonstration was foreseen for the Committee's autumn meeting.

1.13. The representative of Sri Lanka noted that the HS2017 transposition had introduced 233 amendments, the majority of which concerned fishery products. She asked how the Secretariat would guide developing countries in their transposition and when the documents would be ready to be submitted to Capital for verification, considering the ongoing negotiations on fishery subsidies.

1.14. The Secretariat (Mrs Alya Belkhodja) responded that it would prepare the files for developing countries in line with the agreed procedures. The process had already begun, and a first group of files was expected to be sent to Members for their review and approval by the end of the current year.

1.15. The Committee took note of the Secretariat's report.

## **2 THE HARMONIZED SYSTEM AND THE WORK OF THE WORLD TRADE ORGANIZATION – WCO CONFERENCE ON THE FUTURE OF THE HARMONIZED SYSTEM – COMMUNICATION FROM THE WTO SECRETARIAT (G/MA/W/142)**

2.1. The Chairperson informed the Committee that the WTO Secretariat had been invited by the World Customs Organization (WCO) to participate in a Conference on the Future of the Harmonized System, which had taken place in Brussels from 2-3 May 2019. The Secretariat had prepared a background document for this Conference that had also been circulated as document G/MA/W/142 and its corrigenda.

2.2. The Secretariat (Mr Roy Santana) reported that the Conference had been endorsed last year by the WCO Policy Commission with the objective of brainstorming on a possible strategic review of the Harmonized System (HS), looking in particular at how the HS was working across its user base, what might need to be done to improve its functioning, and formulating recommendations on whether or not to proceed with a full Strategic Review. The Conference was attended by more than 300 participants, representing WCO Members, international organizations, industry associations, private companies, and academia. Mrs Suja Rishikesh-Mavroidis, Director of the WTO's Market Access Division, had been invited to deliver the keynote speech, which focused on the importance of the HS for international trade. The Secretariat had also been asked to make a presentation on how the HS had been used in the context of WTO trade negotiations. In addition, the Secretariat prepared and submitted a document explaining how the HS had been used in the various WTO Agreements, in the WTO's databases and statistical work, and in terms of the impact of the HS amendments on the WTO Agreements and the work of transposition. The Secretariat also noted that, given the profound impact that HS amendments had had on Members' applied trade regimes and the work of the WTO, it would be advisable for any eventual HS review to endeavour to commit, to the extent possible, to circulate exhaustive correlation tables that would provide clear guidance to Members on the nature of any changes made. Other Conference participants spoke of the challenge of transposing into newer HS versions legal commitments undertaken in the context of other trade agreements beyond the WTO. In particular, it appeared that many countries had not undertaken this work with regard to bilateral and regional trade agreements, thereby making it difficult for the private sector to benefit from them. Nevertheless, while praising the considerable efforts that had been made at the WTO to catch up with and to align the legal commitments of WTO Members as set out in their schedules of concessions with their trade regimes as actually applied, including the transparency with which that technical work had been undertaken, certain participants had expressed concern over the delays that persisted in terms of reflecting in the

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relevant data the most recent changes. The Conference recognized that the HS was an essential tool for the global trading system and that it played a central role in the area of trade and statistics. Furthermore, it acknowledged the current strength of the HS as a multipurpose tool and as a universal language in world trade. Nevertheless, while expressing the view that the HS remained relevant, the Conference also endorsed the view that there was still room for improvement in order to ensure that it remained relevant to 21<sup>st</sup> century trade and technology, and to the needs of its users. In addition, the WCO Secretariat had recommended its Policy Commission to support the implementation of a project to further examine potential areas for improvement in the Harmonized System that, in the first instance, would focus on the following: (a) the continuation of the consultation process; (b) a further gathering of information on current issues in relation to the use of the HS; (c) the carrying out of a feasibility study to examine the desirability and potential impact of the proposals resulting from the Conference and the subsequent consultations, including an initial cost and benefit analysis; and (d) making subsequent recommendations to the Policy Commission on how to advance with those changes that are viable on the basis of the most appropriate bodies and mechanisms. In making these recommendations, the Conference emphasized the need to adopt a transparent and inclusive approach to HS reform, whose execution would be efficient and timely. The WCO Policy Commission was scheduled to meet in June 2019 to look at the results of the Conference and to decide upon next steps.

2.3. The representative of the United States stated that it was useful for the WCO and its delegates to better understand how the HS underpinned the market access commitments that had been made by WTO Members, and how changes to the HS, including more frequent amendments to the HS, could have an impact upon the implementation of those commitments in the future. The United States was of the view that ensuring that Members' bound schedules were up to date ensured transparency and promoted trade. Frequently, the time lag between Members' more current applied schedules and the often out-of-date bound schedules could lead to significant concerns, as evidenced by some of the issues on the agenda. The US recognized and appreciated the Secretariat's work to ensure that the transposition of Members' schedules was accurate, transparent, and efficient. Therefore, the US would not want WCO changes to the HS to strain the Secretariat and its resources. The US urged the Secretariat to strengthen its collaboration with the WCO on this issue and to keep Members apprised of those activities.

2.4. The representative of Canada had found the paper to be interesting and requested to return to the issue at the Committee's next meeting. He asked the Secretariat to elaborate on how the idea of an exhaustive correlation table providing clear guidance on the nature of HS changes related to the correlation tables currently circulated to the Committee in the G/MA/- document series.

2.5. The representative of South Africa also requested that the paper be discussed again at the Committee's next meeting. She noted that, as had been stated in the paper's summary, the WCO should endeavour to agree to the extent possible on exhaustive correlation tables that would provide clear guidance on the nature of changes made each time that such changes were introduced. At the same time, she expressed concern regarding the legal basis and implications of having such agreed exhaustive correlation tables in a context where Members sometimes provided the Secretariat with their own correlation tables along with their data submissions.

2.6. The Secretariat (Mr Roy Santana) recalled that there were typically three main types of structural changes introduced in an HS amendment, as followed: (i) one subheading was split into two or more new subheadings ("splits"); (ii) two or more HS codes were merged into one new subheading ("mergers"); or (iii) mergers and splits occurred at the same time ("complex cases"). The Secretariat used the WCO's correlation tables as a guide to how the concessions in the Schedules of Concessions must be transposed. While in many cases the correlation tables were straightforward, in others the guide proved incomplete. In this regard, he noted that page 10 of document G/MA/W/142 provided examples of three types of situations where some of the correlations had been presented only as "examples" or were incomplete. In these situations, it was a challenge for the Secretariat to know how best to approach these transpositions, because the examples actually provided were intended to be used only as general guidance. Moreover, the types of products that had been listed in those cases were precisely some of the products where there had been most disagreement among Members as to how the transposition in the WTO Schedules of concessions should be done. For this reason, the Secretariat had recommended that the clarity of these correlations be improved upon. On the questions by Canada and South Africa, the Secretariat responded that the issue could be included on the agenda of the next meeting. The Secretariat was also available to meet bilaterally with any Members wishing to learn more about this issue.

2.7. The representative of Sri Lanka asked if each HS transposition that had been adopted by the WCO had been issued with amended explanatory notes.

2.8. The Secretariat (Mr Roy Santana) replied that the Secretariat was a heavy user of the different instruments produced by the WCO, including the HS Explanatory Notes. His understanding was that the WCO and the HS Committee worked to update the explanatory notes every time there was an HS amendment. Although the explanatory notes were very useful to know where a specific product should be classified within one particular version of the HS, they did not address how the classification of that product may have changed across different versions of it; indeed, the only tool available to do so was, precisely, the correlation tables.

2.9. The Committee took note of the Secretariat's report and of the statements made.

### **3 OPERATION OF THE INTEGRATED DATABASE (IDB), INCLUDING STATUS OF SUBMISSIONS (G/MA/IDB/2/REV.49), AND THE CTS DATABASE – STATUS REPORT**

3.1. The Chairperson recalled that the three issues included under this agenda item were as followed: (i) the status report by the Secretariat on the IDB and CTS databases; (ii) the IDB Draft Decision; and (iii) a communication from the International Grains Council.

#### **– STATUS REPORT**

3.2. The Secretariat (Ms Adelina Mendoza) began its report<sup>5</sup> with the status of the notifications of applied tariffs for 2019, which had fallen due on 31 March 2019. Fewer than one third of the notifications due had in fact been submitted (43 out of the 135 expected notifications, or 32%). With regard to the 2017 imports notifications, which had fallen due last September or October 2018, the data of 57 Members had been notified or collected by the Secretariat, which represented 42% of the total notifications due. With regard to the 2018 imports notifications, which had fallen due in the last quarter of 2019, the IDB had received 12 notifications. With regard to compliance based on the latest deadlines, 31 notifying Members had no outstanding obligation on tariffs and 33 notifying Members had no outstanding obligations on imports. However, there remained 53 and 54 Members with a six-year or more data gap for tariffs and imports, respectively. In addition, a greater number of Members were reporting most-favoured-nation (MFN) data with their additional voluntary non-MFN tariff schemes, even if the number of these without any notification remained still significant.

3.3. The Committee took note of the Secretariat's report.

#### **– MODALITIES AND OPERATION OF THE INTEGRATED DATABASE (IDB), DRAFT DECISION (JOB/MA/139/REV.1)**

3.4. The Chairperson recalled that the Committee had carried out considerable work on this issue in recent months. At its formal meeting of 9 October 2018, the Committee had agreed to explore the possibility of revisiting the IDB Decision through an informal open-ended discussion to hear Members' views on this issue. This discussion had taken place at the Committee's informal meeting of 6 November 2018, where the Secretariat had described the Decision, the notification requirements, and how the data had been disseminated. The Secretariat had prepared a background note that had been e-mailed to delegations on 14 November 2018, and circulated in document JOB/MA/137. During this open-ended informal meeting, the Committee had asked the Secretariat to prepare an additional document, this time describing the problems faced in the operation of the IDB; this document had been circulated in January 2019 under the symbol JOB/MA/137/Add.1. This second document had identified eight problem areas and possible areas for improvement, in particular as concerned the fragmentation of the rules across different documents; it had been discussed at the Committee's informal open-ended meeting of 21 February 2019. At the end of this informal meeting, the Committee had instructed the Secretariat to prepare a draft Decision that would consolidate into one document all of the existing rules and procedures, which had previously been spread across several documents, as well as including new ideas. The draft Decision had been e-mailed to Members and then circulated as document JOB/MA/139, on 4 April 2019. The Chairperson recalled that she had discussed this document previously with Members, both at a small group meeting with those delegations that had made substantive

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<sup>5</sup> See document RD/MA/50.

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comments on or expressed a particular interest in the document, plus all group coordinators, and then again during another informal open-ended meeting of the Committee, which had taken place on 9 April 2019. During the latter meeting, several Members had taken the floor to thank the Secretariat for its draft; they had also clarified certain issues and identified provisions that could be improved. In addition, bilateral meetings had also been held with the Chairperson and the Secretariat to collect Members' views and to further clarify the issues outstanding. On this basis, a revised version of the draft Decision (document JOB/MA/139/Rev.1) had been e-mailed to Members and discussed at a small group and informal open-ended meeting on 13 May 2019. Following these discussions, two issues remained pending; these were then further discussed on 21 May 2019, with those interested Members. The Chairperson reported that the concerns in question had been resolved, and that the slight additions proposed had been e-mailed to Members in the three official languages and circulated in document JOB/MA/139/Rev.1/Add.1. The Chairperson understood that no outstanding issues remained and proposed that the Committee adopt the Decision as set out in document JOB/MA/139/Rev.1 and Addendum 1, on the basis of the following understandings:

- Only the notification elements in paragraph 1 of the Decision were mandatory. Nothing in the Decision obliged Members to submit the voluntary elements listed in paragraph 2, even if the information were publicly available at the tariff line level;
- with regard to subparagraph 2(d), and as stated in the chapeau, this provision applied only to internal taxes and other duties and charges in connection with importation when these were available at the tariff line level;
- as stated in paragraph 3, nothing in the Decision would be interpreted to modify the existing notification requirements pursuant to the "Regional Trade Agreements Transparency Mechanism" or the "Preferential Trade Arrangements Transparency Mechanism";
- the notification deadlines set out in paragraph 4 were only for the mandatory elements listed in paragraph 1 and, as clarified by the footnote, the deadlines only applied to Members that based their tariffs on the calendar year. For other Members, the deadlines could be adjusted to take into account the dates when the national tariff came into force. Members would be able to submit the voluntary elements listed in paragraph 2 at any time;
- paragraph 9 of the Decision only authorized the Secretariat to work with other international organizations in developing standards and tools to facilitate the automatic transmission of data. It did not authorize the Secretariat automatically to obtain data without first communicating with the Member to obtain that Member's consent. Any automatic transmission of data from the Member to the Secretariat would need to respect the rules of paragraph 8 and be based on an agreement between the Member and the Secretariat;
- on paragraph 26, since this Decision had replaced the Committee Decisions in documents G/MA/238 and G/MA/239, it followed that it also replaced the guidelines and other associated documents that had been prepared by the Secretariat, including those in the G/MA/IDB/1 document series, document G/MA/IDB/W/6, and the information note by the Secretariat contained in document G/MA/288;
- Members remained the masters of their own data. As stated in paragraph 11, each Member had the right to transmit modifications to their own data at any time.

3.5. The Chairperson asked if any Members wished to make any further comments.

3.6. The representative of Sri Lanka expressed her delegation's appreciation for the extensive consultations that had been held in the preparation of the draft IDB Decision. Sri Lanka proposed an amendment to paragraph 6, to replace the phrase "or equivalent format" with "other formats referred to above". Sri Lanka also requested to include paragraphs 8 and 9 to the understandings regarding the work of the Secretariat with international organizations.

3.7. The Chairperson thanked Sri Lanka for its comments on paragraph 6 and recalled that Sri Lanka's comments on paragraphs 8 and 9 had already been included. She recalled that paragraph 9 of the Decision only authorized the Secretariat to work with other international organizations to develop standards and tools to facilitate the automatic transmission of data. It did not authorize the

Secretariat automatically to obtain data without communicating with the Member concerned. Any automatic transmission of data from the Member to the Secretariat was required to respect the rules of paragraph 8.

3.8. The representative of the United States thanked the Chair and the Secretariat for their work in preparing the draft Decision. The US believed that the streamlined IDB requirements would help to improve the quantity and quality of the data reported by Members to the IDB. Ultimately, this increase in transparency would benefit Members' stakeholders and traders. With regard to paragraph 2(d), the US shared the interpretation expressed by the Chair, that this measure applied only to internal taxes applied at the border as well as to other duties and charges in connection with importation. Her delegation was prepared to support the adoption of the Decision.

3.9. The representative of South Africa noted that the concerns that had been raised by her delegation during the initial consultations had been taken into consideration; it believed that this would further simplify the notification obligations of Members and thereby allow the WTO Secretariat to provide the necessary technical assistance and capacity building for developing countries, with the objective of assisting Members in implementing the Decision.

3.10. The representative of Canada thanked the Chair and the Secretariat for their work. Canada submitted that the Decision was a great improvement over the mishmash of notification requirements that currently existed; furthermore, it was a good example of how Members could modernize the Committee. Canada supported the adoption of the Decision.

3.11. The representative of India also thanked the Chair and the Secretariat for their work and sincere discussion of the issues. His delegation considered that the Chair's statement had clarified a number of important issues relating to paragraphs 2, 8, and 9. He noted that there had been an initial confusion with regard to paragraphs 8 and 9 since these were separate but related paragraphs, as the Chair's statement had clarified.

3.12. The representative of the European Union stated that this process had offered an encouraging example of constructive engagement among Members, with solid and efficient support from the Secretariat. She thanked the Secretariat for all its work on the consolidated text. The EU confirmed its support for adoption of the Decision.

3.13. The representative of Japan expressed her delegation's appreciation to the Chair and the Secretariat for facilitating the process of consolidating the relevant documents relating to the IDB Decision. She recalled that several meetings had been held on the issue, including in small groups and bilaterally, and that, as a result, Members would no longer need to refer to different documents to prepare their tariff and import data notifications. Japan believed that the revised IDB Decision would facilitate the notification process and supported the Decision's adoption.

3.14. The representative of New Zealand supported the adoption of the Decision and thanked the Secretariat and others for their work.

3.15. The Chairperson proposed the adoption of the Decision.

3.16. The Committee adopted the Decision.<sup>6</sup>

#### **– COMMUNICATION FROM THE INTERNATIONAL GRAINS COUNCIL (G/MA/W/141)**

3.17. The Chairperson noted that the Committee had received a communication from the International Grains Council (IGC) requesting access to the IDB and CTS databases, pursuant to the terms and conditions in the dissemination policy contained in document G/MA/238.

3.18. The representative of Japan supported the request made by the IGC, whose objective was to seek to promote the trade in grains and, in that context, to collect and analyse the relevant data. She noted that the IGC enjoyed permanent observer status in the Committee on Agriculture, and that the WTO and the IGC Secretariat had already been collaborating in many ways, including by sharing their respective analytical tools. Cooperation among international organizations helped to

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<sup>6</sup> See document G/MA/367.



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increase the amount of information and improve the quality of the data available to the WTO Secretariat. This cooperation was consistent with the IDB Decision.

3.19. The representative of Canada echoed Japan's statement and supported the request made by the IGC. Canada submitted that this was a good example of an exchange of information that would help both organizations and contribute to a clearer understanding of the grains trade.

3.20. The representative of Australia supported the request.

3.21. The representative of Argentina supported the request.

3.22. The representative of Sri Lanka requested the IGC to provide information on how they would use the data provided and stated that, with this understanding, it would join others in accepting the request.

3.23. The Chairperson responded to Sri Lanka that the IGC would be invited to the next Committee meeting. She also noted that the IGC would need to be asked if they accepted the terms and conditions of the dissemination policy contained in the new IDB Decision that Members had approved.

3.24. The Committee took note of the statements made and approved the IGC's request to for access to the IDB and CTS databases pending the acceptance of the terms and conditions in the new dissemination policy contained in the IDB Decision.

#### **4 ENHANCING TRANSPARENCY IN APPLIED TARIFFS – COMMUNICATION BY THE RUSSIAN FEDERATION (JOB/MA/138)**

4.1. The Chairperson drew Members' attention to a communication by the Russian Federation entitled "Enhancing Transparency in Applied Tariffs", which had been circulated on 20 March 2019 as document JOB/MA/138.

4.2. The representative of the Russian Federation made a presentation<sup>7</sup> that sought to answer Members' questions regarding document JOB/MA/138. She recalled that tariffs constituted a core pillar of the WTO system, and of the GATT in particular, and that the existing rules only required Members to provide transparency at the national level. She also recalled that the legal background concerning how Members were to provide transparency on customs tariffs included three different obligations: (i) in accordance with Article X of the GATT, Members were required to publish their information on customs tariffs; (ii) in accordance with the Trade Facilitation Agreement (TFA), Members were required to notify where they published this information; and (iii) in accordance with the IDB Decision, Members were to submit their information on applied tariffs annually. This information afforded Members an opportunity to become acquainted with their applied tariffs. However, when changes to tariff rates were introduced during a calendar year it was difficult to determine when the change had occurred and the new rate entered into force. Traders frequently asked how they could promptly get acquainted with the information available on tariff changes. In this context, she submitted that the WTO was missing the link between the transparency mechanism at the national level, and notifications at the WTO level. The purpose of the proposal was to provide Members with prompt information regarding when a tariff rate had been changed, when adopted, and when published. It sought to connect traders with such information in an efficient way and to fill in the legal gap between national level and WTO-level transparency. The Russian Federation proposed to draw up a road map to set out the different options available to resolve this issue, primarily through addressing the existing legal gaps in the WTO rules. The Russian Federation also proposed to initiate discussions on the challenges faced by businesses in order to identify traders' concerns and jointly to elaborate solutions to address the legal lacunae. She encouraged Members to engage in discussions on how to provide additional information to the business sector concerning changes in applied tariffs.

4.3. The representative of Australia welcomed the paper from the Russian Federation, which had highlighted various issues concerning tariff transparency. His delegation considered that transparency was vital to the proper functioning of the markets. Without transparency, businesses

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<sup>7</sup> Document RD/MA/49.

had to operate in an uncertain environment; this uncertainty increased risk and discouraged businesses, especially smaller businesses, from entering markets. The gap between applied and bound tariffs created particular uncertainty for traders. Australia submitted that Members should indeed consider how to ensure greater transparency concerning applied tariff changes beyond the regular annual applied tariff notification requirements. Australia proposed that this could be achieved through some form of early warning system in the WTO. He added that Members needed to consider what level of advance notice would be appropriate, given that, as the Russian paper had highlighted, a significant number of applied tariff changes entered into force on the same date as their publication. Australia believed that a deeper exploration of how Members treated shipments already in transit when their applied tariffs had been altered would be of particular value. Technical discussions could be held in conjunction with other committees dealing with this subject in order to consider issues such as the following: how did different Members treat shipments already in transit when they altered their applied tariffs; best practices with regard to shipments in transit; differences in the treatment of shipments in transit between Members when they raised tariffs and when they lowered them; and options to improve the treatment of shipments in transit when a Member altered its tariffs.

4.4. The representative of Paraguay considered that the Russian proposal was a good initiative to reduce uncertainty caused by changes in applied tariffs, which had a significant impact on exports. The initiative could also help to improve transparency and predictability for businesses. Nevertheless, he noted that any possible mechanism should not be difficult for Members to comply with or increase their workload.

4.5. The representative of Canada thanked the Russian Federation for the presentation as well as for the paper and the data that had been provided. He noted that the Secretariat's Trade Monitoring Reports already provided data on tariff increases and tariff decreases. In Canada's view, one area that could be further explored was the extent to which changes in tariffs were simply MFN applied changes or changes linked to trade defence, other instruments or other types of tariff changes that had been autonomously adopted by a Member. Canada agreed with Australia that it was important to highlight good regulatory practice regarding transit shipments. He noted that tariff changes often occurred immediately, although advance warning was sometimes given. In Canada's case, there existed a system that allowed goods in transit to be exempt from subsequent tariff changes. He concluded by noting that a further elaboration of this subject might prove to be a useful exercise for this Committee, as it had for others.

4.6. The representative of the European Union noted her delegation's interest in initiatives to enhance transparency on trade measures in general; in this particular case, she welcomed the Russian Federation's communication and thanked Russia for having elaborated bilaterally and at this meeting on the issues that the EU had sought to address. The EU agreed that "water" between applied and bound tariffs could create significant uncertainty for traders; this uncertainty was further exacerbated if tariff changes occurred suddenly. The EU considered that more transparency on applied tariffs might alleviate some of this uncertainty. With regard to existing transparency tools on applied tariffs in the WTO, she recalled that, in addition to the annual notifications to the IDB, some Members, including the EU, provided to the WTO information on their changes in applied tariffs every six months as part of the reporting on trade developments for the Trade Monitoring Report. In the case of the EU, these were typically tariff suspensions, which were referred to in the Trade Monitoring Report as trade facilitating measures.

4.7. The representative of the United States thanked the Russian Federation for its communication and presentation on increasing transparency in applied tariffs. Enhancing transparency was a top priority for the United States in the WTO because it would benefit all Members. The US considered that the information that had been presented by the Russian Federation had been insightful. The US wished to further examine the issue of applied tariff changes and to identify those Members that changed their applied tariffs frequently (for example, in the course of days, weeks, or months); such information would not be captured in the analysis as currently presented. Her delegation hoped that such additional analysis would help Members to understand the reasons for any changes in applied tariff, and their impact on trade.

4.8. The representative of Colombia welcomed the Russian proposal and noted that Colombia was willing to participate in any further discussion of it. In Colombia's view, this proposal would help to increase transparency for the Organization and thereby also benefit small and medium-sized enterprises. She added that this initiative could be complemented by other exercises being

undertaken within the Organization, such as the MSMEs initiative, and also by the business support offered by the ITC.

4.9. The representative of Japan thanked the Russian Federation for its proposal. Japan understood how important it was for Members to be informed in a timely manner of any changes made to another Member's applied tariffs. Japan published its own applied tariffs on its customs website shortly after any change had been introduced. In this context, Japan expressed concern in terms of its domestic administrative procedures over the mention in document JOB/MA/138 of a notification of applied tariffs before publication.

4.10. The representative of Singapore thanked the Russian Federation for the proposal and supported the proposal's overall goal of enhancing transparency.

4.11. The representative of Switzerland thanked the Russian Federation for its communication and presentation and noted that her delegation shared the goal of enhancing transparency. For trade operators, it was essential to know what tariffs would have to be paid when goods arrived at the border, and a gap between bound and applied tariffs posed a real challenge in this regard. As mentioned in the communication, the TFA had addressed the issue of transparency in Article 1, paragraph 1.1(b), where it established a clear obligation for Members promptly to publish, in an easily accessible manner, their applied rates of duty and taxes of any kind imposed on, or in connection with, importation or exportation. Switzerland recognized that the obligation by WTO Members to publish these changes was perhaps not especially trade facilitating for MSMEs, due to their lack of capacity to track changes in applied tariffs on official websites. It was also true that there was no WTO requirement for Members to notify information on any changes in their applied tariffs throughout the year. However, like many other Members, Switzerland notified such changes to the trade monitoring mechanism. In addition, the importance of complying with the yearly obligation to notify applied MFN duties was something that was perhaps not obvious to all Members; nevertheless, this was the only way to know the level of MFN duties for the current year. Although Switzerland was open to discussing Russia's proposal, her delegation believed that, as a first step, it would be appropriate to find ways to improve the level of compliance with Members' annual obligation to notify their MFN applied duty rates. In this regard, Switzerland had been encouraged by the adoption of the draft IDB decision. Another possible option for the Committee to explore would be for Members to indicate to the Secretariat the websites where their current applied tariffs were listed so that these applied tariff rates could be compiled and updated, given that the current list was already quite old.

4.12. The representative of New Zealand thanked the Russian Federation for its work and supported greater transparency, especially given that up-to-date applied tariff information was greatly useful to exporters. In this regard, he pointed out that his own delegation had recently launched an updated "Tariff Finder" website, based on WTO data. However, such resources were only as accurate and current as the underlying WTO data, and New Zealand was conscious of the fact that an increased provision of changes to applied MFN tariff rates might only serve to increase the burden on Members. As such, it might be useful to have a discussion between Members in which they shared how they alerted domestic stakeholders of tariff changes. In this regard, he considered it potentially useful to seek improvements based on Members' existing systems and to avoid than requiring additional work.

4.13. The representative of China thanked the Russian Federation for its communication and presentation. China supported the objective of improving transparency and registered its interest in this issue. China would willingly engage in any follow-up discussions of this issue.

4.14. The representative of Chinese Taipei joined others in thanking the Russian Federation for raising this issue, and for their communication. Chinese Taipei asked the Russian Federation what the time-frame would be for a Member to notify its adoption of any new applied tariff.

4.15. The representative of South Africa took note of the proposal by the Russian Federation. She noted that, to date, Members had attempted to simplify the notification obligations by the Decision on Modalities and Operation of the IDB. The report on the status of notifications to the IDB had revealed that there were Members that were not up-to-date with their notification obligations or were not able to notify to the IDB according to the required format. These were the types of challenges that the Market Access Committee should try to find ways to mitigate against. Her delegation considered that the proposal set out in document JOB/MA/138 would create additional

obligations for Members and place a strain on the human resources necessary to comply with the additional transparency; it would be onerous and burdensome for developing and least developed countries. She noted that certain Members, including South Africa, also had additional transparency undertakings concerning applied tariffs through the bi-annual TPRB Trade Monitoring Reports to take into consideration. The tariff conditions that had been agreed upon by Members for the entry of specific goods into their markets were the bound rates set out in each Member's schedule of concessions. These schedules represented commitments not to apply tariffs above the listed rates, as these duty rates had been "bound". The WTO bound rates were the legal basis and the commitments undertaken in the WTO, and not the applied rates. South Africa concluded that the proposal would overload the Committee with transparency issues and divert its attention away from its work and terms of reference.

4.16. The representative of Thailand thanked the Russian Federation for its efforts in this initiative and looked forward to engaging in discussions to address the existing gaps in transparency with regard to applied tariffs.

4.17. The representative of Hong Kong, China also thanked the Russian Federation and registered his delegation's interest in participating in future discussions of this issue.

4.18. The representative of Mexico thanked the Russian Federation for the document and presentation. Mexico believed that this was a valuable signal in terms of improving transparency, which was an issue of great importance to Mexico. Mexico reiterated its position of wishing to work towards greater transparency in the Committee.

4.19. The representative of India thanked the Russian Federation for the paper and its presentation. India asked the Russian Federation to provide more information about the calculation of protectionist measures to which reference had been made, and also with regard to the use of "water" by Members (that is, the difference between bound and applied rates), and the relationship between changes in MFN simple average duties with Free Trade Agreements (FTAs). In this regard, India noted that MFN tariffs may be applied in the case of certain imports but that most were in fact occurring under an FTA. In addition, India asked how the Russian Federation correlated the imports that were taking place at a much lower duty under FTAs. Moreover, he stated that Members had been facing difficulties in updating their IDB notifications due to administrative challenges and capacity constraints in their countries. In this regard, India noted that there were other instruments available, such as the TPRB monitoring reports, and the list of websites under the Trade Facilitation Agreement, where information on tariffs could be found by Members. With regard to time-frames, he noted that India could provide a notification of its tariff changes but not an advanced notification because of internal administrative procedures. Therefore, Members should carefully consider the feasibility of requiring advanced notifications. India considered that the existing notification obligations, together with the various tools that were already available, already allowed traders to become acquainted with the information that they required.

4.20. The representative of the Russian Federation thanked those delegations that had expressed their interest in this matter and reiterated that the Russian Federation considered that it would be useful to have a WTO instrument to alert small and medium sized enterprises (SMEs) of changes in Members' applied tariffs. Regarding the issue of time-frames for notifications, the Russian Federation noted that more discussions were necessary to understand the difference in the time-frames between the publication of the draft legal act and the adoption of the new tariffs for each Member. Regarding the data to be provided, she encouraged delegations to engage each other bilaterally. She stated that the goal of the proposal was to give prompt access to business to information on applied tariff rates to allow them to adjust their business operations in relation to changes in a Member's trade policy. The idea was to connect businesses directly to the work of the WTO, which in turn would add value to the Organization. She also saw value in Members exchanging their experiences regarding possible options and instruments that they used domestically to promptly publish information on tariff changes; similarly, if Members already had such data on tariff changes, these too could be shared with other Members.

4.21. The Committee took note of the statements made.

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## 5 NOTIFICATIONS PURSUANT TO THE DECISION ON NOTIFICATION PROCEDURES FOR QUANTITATIVE RESTRICTIONS (G/L/59/REV.1, JOB/MA/101/REV.1)

5.1. The Chairperson recalled that the two issues under this agenda item were as followed: (i) the examination of notifications received; and (ii) the Secretariat's introduction of its report concerning the factual information contained in these notifications.

### A. NOTIFICATIONS

– *Albania (G/MA/QR/N/ALB/1)*

5.2. The Chairperson drew Members' attention to a new notification from Albania for the period 2018-2020.

5.3. The Committee took note of this notification.

– *Argentina (G/MA/QR/N/ARG/1/Rev.2)*

5.4. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notification by Argentina that had been circulated in document G/MA/QR/N/ARG/1/Rev.2.

5.5. The Committee took note of this notification.

– *Brazil (G/MA/QR/N/BRA/2)*

5.6. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by Brazil that had been circulated in documents G/MA/QR/N/BRA/1 and G/MA/QR/N/BRA/2.

5.7. The representative of the United States recalled that her delegation had addressed questions to Brazil regarding Brazil's restrictions on colour prints of motion pictures; the United States was looking forward to Brazil's further engagement with the US on this question. In addition, the US noted that a list that had been published on the website of Brazil's Ministry of Industry, Foreign Trade, and Services, had suggested that a relatively large list of goods were currently subject to import prohibitions and non-automatic import licences; however, many of these measures had not been listed in Brazil's QR notification. In this regard, the US expressed its interest in seeing all of the measures reported on Brazil's QR notification, along with each measure's justification.

5.8. The representative of Switzerland stated that, in addition to the points that had been made by the US delegation regarding Brazil's long list of products for which there were prohibitions or non-automatic licences, her delegation had a suggestion specifically with regard to QR No. 10, which related to narcotics. Switzerland requested Brazil to clarify whether or not this specific case was an export prohibition, since the text seemed to suggest that it applied both to imports and exports.

5.9. The representative of Brazil responded to the question from the United States by saying that it had only recently had access to the tariff codes for the products that had been mentioned at the last Committee meeting and, therefore, that his delegation was not yet in a position to give a definitive answer. Brazil also noted that the measures in question had been included in its notification pursuant to Article 7.3 of the Agreement on Import Licensing. In Brazil's understanding, a non-automatic import licence should be notified under QR procedures if its purpose was to implement any kind of QR restriction. Brazil considered that this was not the case for the measures in question. Brazil had taken note of the questions from the US and Switzerland, which would be sent to Capital for consideration. And Brazil stood ready to provide more information on the issue, as required.

5.10. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *China (G/MA/QR/N/CHN/4/Rev.1, G/MA/QR/N/CHN/5/Rev.1)*

5.11. The Chairperson drew Members' attention to two new notifications from China for the periods 2016-2018 and 2018-2020.

5.12. The representative of the United States noted that China's most recent QR notification included two new import prohibitions on certain recyclable materials. The US had significant concerns over the trade restrictiveness of China's import bans and contaminant standards pertaining to recyclable materials. The US was also concerned about the fairness of these measures because it did not appear that China had applied the same bans and restrictive contaminant standards to domestically sourced products. In addition, she noted that China had yet to provide sufficient technical information on this issue. The US reiterated its request to China, which had been asked across several forums, to provide technical information supporting the adoption of these measures. The US further asked if China planned to apply the same bans and restrictive contaminant standards to domestically sourced recyclable materials and, if this were not the case, to explain its reasoning. Finally, the US reiterated its prior request to China to halt its implementation of the existing and planned measures and to consider less trade-restrictive alternatives instead.

5.13. The representative of Switzerland requested China to indicate more precisely which paragraphs of GATT Article XX it had invoked in the prohibitions and restrictions in its notification, and to provide a more precise description than it had so far done, other than saying "certain solid waste", as was needed to better understand the scope of the restriction in place. Switzerland further asked China to indicate the reason why it had not listed the restrictions regarding ozone depleting substances, although China was a participant to the Montreal Protocol. Switzerland had the same question regarding the Minamata Convention on Mercury.

5.14. The representative of China took note of the questions, which would be forwarded to Capital for consideration. Regarding the prohibition on solid waste prohibition, China had made comments at previous meetings of the CTG and the Committee on Import Licensing. In China's view, solid waste was inherently polluting, which made it different from other normal goods. According to the Basel Convention and other internationally recognized principles, every Member had the obligation properly to handle and dispose of its domestically-produced solid waste. However, over the course of past decades, huge amounts of solid waste had been exported to China. China was now seeking a path towards modernization that would ensure the harmonious co-existence of humans and nature. In this context, China hoped that exporting countries could actively shoulder their international responsibilities.

5.15. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *Costa Rica (G/MA/QR/N/CRI/3)*

5.16. The Chairperson drew Members' attention to a new notification from Costa Rica for the periods 2016-2018 and 2018-2020.

5.17. The Committee took note of this notification.

– *Hong Kong, China (G/MA/QR/N/HKG/4)*

5.18. The Chairperson drew Members' attention to a new notification from Hong Kong, China, for the period 2018-2020.

5.19. The representative of Switzerland asked Hong Kong, China to clarify the difference between the use of "non-automatic licenses" and "permits" in the context of its notification. For example, for QRs Nos. 2, 4, and 26, they had referred to a "permit".

5.20. The representative of Hong Kong, China took note of the question, which would be forwarded to Capital.

5.21. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *India (G/MA/QR/N/IND/2, G/MA/QR/N/IND/2/Add.1)*

5.22. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notification by India for the periods 2014-2016 and 2016-2018, which had been circulated in document G/MA/QR/N/IND/2. Since then, India had submitted an addendum to this notification, circulated in document G/MA/QR/N/IND/2/Add.1, which had clarified that the notification also covered the period 2018-2020.

5.23. The representative of the United States recalled that, at the Committee's previous formal meeting, her delegation had enquired about the import prohibition on goods classified under HS heading 85.17, which included telephones, cell phones, and other apparatus that transmitted voice, images, and other data. The US asked whether the prohibition had been applied to all products classified under HS 85.17 and, if not, it requested India to specify which products classified under HS8517 had been subject to the prohibition, and under what circumstances. If India was not able to provide an answer to these questions, the US asked India to indicate when it would be able to do so. Separately, the US noted that item No. 14 of the agenda of this meeting addressed quantitative restrictions implemented by India on certain pulses. Previously, India had told this Committee that its restrictions on pulses were temporary, but some of the restrictions had already been in place since August 2017, and India had recently extended them for an additional full year, through March 2020. In this regard, the US questioned how these measures could be considered temporary. Furthermore, she noted that the 2012 Decision on Notification Procedures for Quantitative Restrictions did not differentiate between temporary and more permanent restrictions. Rather, Members were required to report "complete notifications of all quantitative restrictions in force." The US thus urged India to update its notification accordingly.

5.24. The representative of India responded to the first question from the United States by noting that the measure on HS 85.17 applied to all products covered by this heading, without exception. With regard to the QRs on certain pulses, India recalled that it had informed Members, in different committee meetings, of the reason why these measures had been necessary, and how the quota system had been built into them. India would respond to this question under the relevant agenda item. India submitted that its notifications were up-to-date; at the same time, India noted that it would notify its import licensing notifications in due course.

5.25. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *Japan (G/MA/QR/N/JPN/4)*

5.26. The Chairperson drew Members' attention to a new notification from Japan for the period 2018-2020.

5.27. The Committee took note of this notification.

– *Kazakhstan (G/MA/QR/N/KAZ/1, G/MA/QR/N/KAZ/1/Corr.1, G/MA/QR/N/KAZ/2/Rev.1)*

5.28. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notification by Kazakhstan for the period 2016-2018, which had been circulated as document G/MA/QR/N/KAZ/1 and G/MA/QR/N/KAZ/1/Corr.1. Since then, Kazakhstan had submitted a revised notification, which had been circulated as document G/MA/QR/N/KAZ/2/Rev.1.

5.29. The Committee took note of these notifications.

– *Macao, China (G/MA/QR/N/MAC/4)*

5.30. The Chairperson drew Members' attention to a new notification from Macao, China, for the period 2018-2020.

5.31. The Committee took note of this notification.

– *Nicaragua (G/MA/QR/N/NIC/3)*

5.32. The Chairperson drew Members' attention to a new notification from Nicaragua for the period 2018-2020.

5.33. The Committee took note of this notification.

– *Norway (G/MA/QR/N/NOR/1)*

5.34. The Chairperson drew Members' attention to a new notification from Norway for the period 2018-2020. The Chairperson thanked Norway for its first QR notification.

5.35. The Committee took note of this notification.

– *Russian Federation (G/MA/QR/N/RUS/2, G/MA/QR/N/RUS/3, G/MA/QR/N/RUS/3/Corr.1, G/MA/QR/N/RUS/4, G/MA/W/119)*

5.36. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to two notifications by the Russian Federation for the periods 2014-2016 and 2016-2018, which had been circulated as documents G/MA/QR/N/RUS/2 and G/MA/QR/N/RUS/3, respectively. The European Union had raised questions, which had been circulated in document G/MA/W/119. Since then, the Russian Federation had submitted a new document, which had been circulated as document G/MA/QR/N/RUS/3/Corr.1, and a new notification for the period 2018-2020, which had been circulated as document G/MA/QR/N/RUS/4.

5.37. The representative of the European Union reiterated its concerns with regard to two measures contained in the Russian Federation's latest QR notification: the export prohibition on hides and skins (measure No. 28) and the export restriction on birch logs (measure No. 30). With regard to the export prohibition on hides and skins, the EU pointed out that the measure had first been introduced in August 2014, for six months, and had been presented as "temporary". Since then, it had been regularly renewed for periods of six months. The latest measure, contained in Decree No. 194, dated 27 February 2019, had introduced the same ban for the period from March to September 2019. In September 2019, this ban would have been in force for five years; the European Union submitted that it could therefore not be considered a "temporary ban". The EU asked the Russian Federation to provide detailed explanations to the following questions regarding the export ban: (i) could Russia elaborate on what basis it justified this measure and explain why it had indicated two different legal bases in two different notifications, namely GATT Article XXI(b)(ii) in their 2016 notification (G/MA/QR/N/RUS/3) and GATT Article XXI(b)(iii) in their recent notification (G/MA/QR/N/RUS/4); (ii) to clarify whether the ban was related to the protection of essential security interests; (iii) to explain why hides and skins were critical for defence procurement; (iv) to clarify what volume of hides and skins was necessary for defence procurement; (v) to clarify what volume of domestic production was actually subject to the export ban; and (vi) to explain how much domestic production subject to the export ban was also conveyed to other uses. The EU added that if Russia was not in a position to address these questions at the meeting, it would appreciate it if the Russian Federation could follow-up on this matter with the EU bilaterally. With regard to the export restriction on birch logs, her delegation regretted the Russian Federation's adoption of this measure as it considered that it deviated from the prohibition of quantitative restrictions set out in Article XI of the GATT. The EU asked the Russian Federation to confirm that its temporary measure on certain birch logs would not be extended beyond June 2019.

5.38. The representative of Ukraine shared the concerns that had been raised by the European Union, from a systemic point of view, regarding the approach that had been taken by some Members when introducing "temporary" bans on the export of certain products, and then repeatedly extending the period of application of such measures.

5.39. The representative of the Russian Federation noted that it would engage bilaterally with the EU to respond to its questions.



5.40. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *Singapore (G/MA/QR/NZ/SGP/4)*

5.41. The Chairperson drew Members' attention to a new notification from Singapore for the period 2018-2020.

5.42. The representative of Switzerland asked Singapore for clarification regarding QRs No. 19 and 22 to 25. Regarding QR No. 19, the entire Chapter 29 was mentioned, which gave the impression that the importation of all the products falling under Chapter 29 had been prohibited. Switzerland asked Singapore to further specify which products, in terms of HS codes, had been prohibited. Regarding QRs No. 22-25, a non-automatic import licence appeared to be applied for different kinds of goods that were classified in Chapters 29 and 30. Switzerland requested an indication of the most relevant HS headings or subheadings, since it seemed from the product description that only certain tariff lines required non-automatic import licensing.

5.43. The representative of Singapore took note of the questions, which would be sent to Capital.

5.44. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *Chinese Taipei (G/MA/QR/N/TPKM/3)*

5.45. The Chairperson drew Members' attention to a new notification that had been submitted by Chinese Taipei for the period 2018-2020.

5.46. The Committee took note of this notification.

– *Thailand (G/MA/QR/N/THA/2, G/MA/QR/N/THA/2/Add.1)*

5.47. The Chairperson drew Members' attention to a new notification from Thailand for the periods 2014-2016, 2016-2018, and 2018-2020.

5.48. The representative of the European Union noted that Thailand's notification did not include the import licensing requirements for feed wheat. The EU had already expressed concerns over the import procedures for feed wheat in the Committee on Import Licensing and the Committee on Agriculture, including on the fact that the measure had not been notified to the WTO. The EU had also submitted written questions to Thailand in the context of the WTO Committee on Import Licensing (documents G/LIC/Q/THA/3 and G/LIC/Q/THA/4). The EU had asked for a detailed description of the import licensing procedures to be applied but it had thus far not received any replies to its questions; nevertheless, her delegation looked forward to receiving them. The assessment by the European Union was that the licensing requirements were non-automatic. Therefore, the EU asked Thailand to add them to its QR notification to this Committee. She noted that these requirements had been introduced in early 2017 as a "temporary measure", but they were still in place. In view of recent developments in Thailand's corn market, the EU asked Thailand to inform the Committee when the measure would cease to apply; the EU also underscored that, for a measure to be considered temporary, the end date should be known. Lastly, the EU asked if, pending its removal, Thailand intended to notify this requirement, in accordance with Articles 1.4 and 5 of the Import Licensing Agreement.

5.49. The representative of Thailand thanked the European Union for its interest in Thailand's import licensing regime for feed wheat. She had taken note of the questions, which would be conveyed to her Capital.

5.50. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

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– *Ukraine (G/MA/QR/N/UKR/4, G/MA/QR/N/UKR/4/Add.1)*

5.51. The Chairperson drew Members' attention to a new notification from Ukraine for the periods 2016-2018 and 2018-2020.

5.52. The Committee took note of this notification.

– *United States (G/MA/QR/N/USA/2, G/MA/QR/N/USA/3, G/MA/QR/N/USA/4, G/MA/W/116, G/MA/W/127)*

5.53. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to three notifications from the United States for the periods 2014-2016, 2016-2018, and 2018-2020. The European Union had circulated questions to the United States in documents G/MA/W/116 and G/MA/W/127.

5.54. The representative of the European Union noted that her delegation had been raising concerns over US trade prohibitions on sturgeon products since 2015. In its latest notification (G/MA/QR/N/USA/4), the United States had listed these restrictions in measures Nos. 9 and 10. The EU had submitted written questions to the US on two occasions. Her delegation had received limited explanations and had asked the United States to explain the following: (i) why it considered that wild and farmed sturgeons and their products were not separate categories; and (ii) why it considered that captive-bred sturgeon and its products were detrimental to the survival of wild stocks. The EU recalled that, during past meetings, the US had informed Members about an ongoing review carried out by the US Fish and Wildlife Service on the listing of sturgeon species as endangered, and requested to receive an update of this review.

5.55. The representative of Brazil noted that his delegation shared the concerns that had been expressed by several Members with regard to the issue of overcapacity in the global steel industry. However, Brazil believed that the problem of overcapacity was not one that could be solved by introducing trade restricting measures. He also expressed concern over measures that were based on questions of interpretation regarding the WTO's rules. In this regard, Brazil recalled that it had been working in coordination with several Members within the G-20's Global Forum on Steel Excess Capacity to seek solutions to the problem. Although overcapacity persisted in the industry, Brazil noted that there had been some improvement since 2016 in terms of capacity reduction and price increase. In this context, Brazil requested that the United States review its quantitative restriction on Brazilian steel with a view to re-establishing normal trade conditions between the two countries.

5.56. The representative of China noted that the import restricting measures on steel mill and aluminium products had been notified by the United States based on Section 232 (QR Nos. 17 to 20 in the most recent US notification). China requested the US to provide more detailed information on these measures, including with regard to the specific quantities of the quotas, their requirements, and how they would address US so-called National Security concerns. China believed that these import restricting measures were inconsistent with Articles XI and XXI of the GATT.

5.57. The representative of Japan recalled Japan's belief that all trade measures should be consistent with the WTO Agreements, as it had previously stated both at the CTG and the General Council. Regarding US imposition of additional duties and quantitative restrictions on imports of steel and aluminium based on its Section 232 investigations, Japan believed that these measures should not be justified on the basis of national security concerns. Japan expressed its deep concern over the US justification in terms of its consistency with the WTO Agreements, and Japan would continue to monitor this issue closely.

5.58. The representative of the United States appreciated the EU's continued interest in sturgeon and recalled that there were ten species under review by the US Fish and Wildlife Service. In December of 2017, the US Fish and Wildlife Service had published a preliminary determination that one of the species, the Yangtze River sturgeon, was in danger of extinction and should be considered as "endangered" under the Endangered Species Act. The preliminary determination provided an opportunity for public comment. The next step was for the US Fish and Wildlife Service to issue a final determination, which it was anticipated would be published within the fiscal year, ending on 30 September 2019. With regard to the status of the other nine proceedings under review by the

US Fish and Wildlife Service, the US Service was conducting a 12-month status review of the petition to list nine species of sturgeon under the Endangered Species Act. The Service was collecting and evaluating information and had not yet made a determination regarding the listing of these species, but would do so at the appropriate time on the basis of the best scientific and commercial information available. At any time during the Service's review, the EU would be able to provide additional information to assist it in reaching its determination. Once the status review had been concluded, and if the Service found that a listing was warranted, the Service would then prepare a proposed rule. At that time, the public would be given 60 days to comment on the proposed listing. This would give the EU and any other interested Member an additional opportunity to provide the Fish and Wildlife Service with any relevant information. The United States had taken note of the comments and questions that had been raised by Brazil, China, and Japan, regarding the WTO consistency of the Section 232 quotas. This question concerned issues that were currently the subject of dispute settlement proceedings under the DSU. Nevertheless, with regard to any questions about the operation of the Section 232 quotas, the US referred Members to the proclamations that had been issued by the President under Section 232 itself, and to the quota implementation information that had been published on the website of US Customs and Border Protection.

5.59. The Committee took note of the statements made and agreed to revert to these notifications at its next meeting.

## **B. QUANTITATIVE RESTRICTIONS: FACTUAL INFORMATION ON NOTIFICATIONS RECEIVED (G/MA/W/114/REV.2, G/MA/W/114/Rev.2/Corr.1)**

1. The Chairperson drew Members' attention to document G/MA/W/114/Rev.2, entitled "Quantitative Restrictions: Factual Information on Notifications Received", which provided an update from the Secretariat on the nature of the information that had been contained in Members' QR notifications. The document reflected information received up to 10 May 2019.

2. The Secretariat (Mr Simon Neumueller) made a presentation<sup>8</sup> concerning the report on the factual information on the Notifications of Quantitative Restrictions that had been received from Members. First, he provided an overview of the number of QR notifications received by region:

- Considering Asia-Pacific, the Middle East, and Eastern Europe, nine Members had submitted notifications for all biennial periods covered since 2012. Australia and New Zealand had submitted three notifications each, while Kazakhstan had notified two periods. Six Members had submitted a QR notification for one biennial period each.
- In the Americas, Cuba and the United States had submitted notifications for all four biennial periods, and eight Members had notified at least once.
- In Africa, Mauritius had provided all of its notifications since 2012, but only three other Members had notified.
- In Europe, the EU and Ukraine had submitted 100% of the required notifications, and four other Members had also notified.
- All in all, 38 Members had submitted at least one QR notification. In 2019, up until and including the date of the meeting, seven Members had notified their QRs, and in 2018 20 Members had done so. In addition, since 2018, four Members had made a QR notification for the first time.

5.60. The Secretariat noted that the dataset that had been used for its report referred to "38 Members, which had notified 1118 different QRs in force, which translated into 1367 "measures". The difference between QRs and measures was due to the fact that some QRs involved more than one measure. For example, one quantitative restriction had been described as "*Restriction of trade in certain animals and plant species for the protection of species of wild fauna and flora*", which had contained a conditional prohibition on imports, and another on exports, as well as non-automatic licensing for imports as well as exports. In this case, this quantitative restriction included four different measures. To avoid multiple counting, the Secretariat had only taken into account the latest notification for each of the 38 Members concerned.

5.61. With regard to the types of measures that had been notified by Members under the QR notification, non-automatic licensing was the most prevalent among both import and export-related measures. These were followed by the categories of "prohibitions" and "prohibitions

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<sup>8</sup> RD/MA/46.

under defined conditions". He observed that, in relative terms, prohibitions seemed to be more than three times more common on the import than on the export side. Quotas and state trading operations had been notified to a much lesser extent. With regard to the types of products covered by the notified QRs, HS Chapter 29 relating to Organic Chemicals was the most commonly referred chapter of the Harmonized System and had been mentioned in 172 QRs. On the other hand, 149 QRs had been notified without referring to any HS codes and remained general by stating that they related to "various" HS codes. HS Chapters 28 and 38, both also pertaining to chemicals, were referred to in 219 QRs. Mechanical and electrical machinery (Chapter 84), as well as vehicles (Chapter 87), were also indicated in a large number of QRs. Weapons and ammunitions were also frequently subject to trade restrictions, while animal products were often regulated in relation to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

5.62. The Secretariat recalled that QRs were only allowed as exceptions, which meant that WTO justification was an important component in this category of notification. In this regard, the GATT 1994 had been the most frequently cited justification, whereas the Kimberley Process Waivers, Accession Protocols, TRIPS, and safeguards had to date played only a minor role. The Secretariat noted that 15 Members had not provided a WTO justification for certain QRs, mainly on the import side, amounting to 56 QRs in total. In terms of the specific provisions in the GATT that Members had cited, Article XX of the GATT had been mentioned in 75% of the QRs in the dataset. The most prominent specific justification had been Article XX(b), measures "necessary to protect human, animal or plant life or health", which had been cited in almost 50% of the QRs. The national security exception under Article XXI of the GATT had been referred to in slightly more than 15% of the notified QRs, most often in relation to weapons and ammunitions. The carve-out in Article XI:2 of the GATT had been cited as a justification more in the case of exports than imports; the opposite was true for Article XX of the GATT, which had been cited more often for imports and, in particular, prohibitions. Article XX(f) and XX(g), relating to the protection of "national treasures of artistic, historic or archaeological value" and the "conservation of exhaustible natural resources", respectively, had been referred to more frequently on the export than on the import side. Article XXI of the GATT had been cited often in justification for import restrictions.

5.63. Many of the QRs that have been notified are grounded in an international agreement or convention that exists outside the WTO framework. These so-called "non-WTO justifications" referred in particular to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which was mentioned in 45 QRs. The Montreal Protocol and the Vienna Convention for the Protection of the Ozone Layer were cited as a justification for 56 QRs. The Rotterdam, Stockholm, and Basel Conventions, and to a lesser extent the relatively new "Minamata Convention on Mercury", accounted for another large share of non-WTO justifications relating to the protection of the environment. The three UN Conventions relating to trade in narcotics and psychotropic substances were cited at least 20 times each. The Wassenaar Arrangement, which related to trade in arms and dual used goods, as well as the Chemical Weapons Convention, were the main justifications cited in relation to measures on weapons and ammunitions.

5.64. Finally, two thirds of the notified measures had provided information on how they were administered at the national level. For example, many notifications included information on the institution in charge of administering a measure, as in the case of a licensing procedure. Six notifications provided information on QRs that were directed towards specific partners only, and these were often in relation to UN Security Council resolutions. In terms of references to notifications to other Committees, 19 of the 38 notifications had included cross-references to other WTO notification requirements, of which the majority referred to the Committee on Import Licensing. Of those, only six notifications cited the document symbol of the relevant notification without providing the additional information that was required by the QR Decision.

5.65. The representative of the United States recalled that, as had already been expressed at other Committees, and in the US proposal to the CTG, her delegation's focus was to address deficiencies and gaps in notifications and transparency across the WTO, including in relation to QR notifications. According to the Secretariat's report, only 38 Members had submitted their QR notifications. The US submitted that, although the number represented a slight increase compared to the previous year, there was still a long way to go before achieving full transparency in this area. The US expressed its hope that this upward trend would continue, and that the number and frequency of notifications would increase.

5.66. The representative of Canada observed that several QR notifications had included references to multilateral environmental agreements and admitted that Canada itself might not have included all the relevant references in this regard. He considered that these references reflected the Secretariat process to help Members to make these types of notifications. For example, the CITES convention had 183 parties, so probably Members should have at least provided a notification stating the quantitative restriction that they were supposed to impose insofar as they were parties to CITES. Canada also suggested that the Committee might consider looking back at the QR notification Workshop that had been held a couple years previously, and to consider repeating it for Capital-based officials or for Members' missions in Geneva.

5.67. The representative of Switzerland noted that the Secretariat's report showed that there was still room for improvement in this area. Switzerland also supported the goal of enhancing transparency because restrictions on imports and exports had a considerable impact on traders, and it was important for traders to know which restrictions were actually in place. Switzerland said that the workshop for Capital-based officials had been useful because it was the Capital-based officials who prepared the notifications. As had been mentioned by Canada, Switzerland noted that a significant number of Members belonged also to several international conventions; in this regard, Switzerland encouraged Members to consider including these international conventions in their QR notifications in order to enhance transparency still further. Based on the relevant notifications and workshops, Switzerland considered that the notification's title was perhaps misleading because officials had difficulty in understanding exactly what it was that they were required to notify. In this light, Switzerland suggested modifying the title of the Decision to "Notification of Prohibitions and Other Restrictions Covered by Article XI of the GATT" so that the focus would not be on QRs only.

5.68. The representative of the European Union considered that the Secretariat's report had highlighted the serious gaps in Members' compliance with their obligation to notify their quantitative restrictions. She noted that a mere 38 Members had submitted a notification since the Decision on "Notification Procedures for Quantitative Restrictions" had entered into force, in 2012. And only 15 of those Members had submitted a notification every two years, as required. As a result, Members and traders remained in the dark about what was probably a large number of quantitative restrictions that were currently in force and affecting trade. The EU commended those Members that had improved upon their compliance rate since the last report and encouraged Members whose notifications were still outstanding to prepare these as soon as possible, considering how important they were to the work of the WTO and for traders. She considered that the EU's earlier exchanges, in the form of questions and answers on Members' notifications, clearly illustrated the usefulness of submitting timely and accurate notifications so that Members could better understand each other's trade regimes. In addition, the EU encouraged developing and LDC Members facing capacity constraints to make use of the Secretariat's technical assistance. She also echoed Canada's suggestion to repeat the experience of the workshop on notifications on quantitative restrictions.

5.69. The Chairperson suggested that the Committee's incoming Chair could possibly hold consultations on the Swiss proposal.

5.70. The Committee took note of the Secretariat's report and the statements made.

## **6 SITUATION OF SCHEDULES OF WTO MEMBERS (G/MA/W/23/REV.15)**

6.1. The Chairperson drew Members' attention to document G/MA/W/23/Rev.15, entitled "Situation of Schedules of WTO Members".

6.2. The Secretariat (Mr Roy Santana) reported on the procedures that Members had undertaken to rectify or modify their schedules of concessions under the 1988 Procedures. To date, there had been 587 notifications to change WTO schedules under these procedures, including unilateral liberalization efforts, rectifications of errors, and tariff concessions resulting from plurilateral agreements modifying schedules of concessions, such as the ITA, the ITA Expansion, and the Pharma Agreement. The majority of these notifications related to the transposition of schedules into a newer version of the Harmonized System. Overall, there had been about 385 of these modifications linked to an updating of the HS version, which added up to approximately two-thirds of the overall number of notifications submitted under these Procedures. More recently, as a result of the Nairobi Declaration eliminating export subsidies, the Secretariat had been receiving notifications from Members eliminating these entitlements from Part IV of their Schedules. In addition, the results from

many concluded Article XXVIII renegotiations had been incorporated into the relevant Schedules through the 1980 procedures. Of the 587 procedures, approximately 97% had been certified. The document that had been prepared by the Secretariat was intended to highlight the work that remained pending, including 17 notifications which either had reservations or where the Members concerned had submitted their notifications indicating that they were subject to the completion of domestic procedures, and even after several years no further notice had been received. The Secretariat remained ready to assist Members in concluding these proceedings.

6.3. The Committee took note of the Secretariat's report.

## **7 REPORT BY THE SECRETARIAT ON THE STATUS OF RENEGOTIATIONS UNDER ARTICLE XXVIII OF THE GATT 1994 (G/MA/W/123/REV.5)**

7.1. The Chairperson drew Members' attention to a new revision of the "Factual Report on the Status of Renegotiations under Article XXVIII of the GATT 1994", which had been circulated in document G/MA/W/123/Rev.5.

7.2. The Secretariat (Mr Roy Santana) reported that it had updated this report, which provided an overview of all the renegotiations under Article XXVIII of the GATT. He delivered a presentation that showed that there had been approximately 48 such procedures to date, which were currently at very different stages of renegotiation, as shown in the infographic that the Secretariat had prepared for the meeting, set out in document RD/MA/48. The first step related to the initiation of a renegotiation. He noted that there had been eight instances where a Member had launched a procedure and then subsequently had withdrawn its request; many of these instances had occurred in the context of an EU enlargement, when a Member with an individual schedule had begun a procedure but then at a certain point had subsequently joined the EU. In addition, there were eleven other renegotiations that had been launched, or the authorization to launch a renegotiation had been requested, and that in principle remained ongoing because the procedure had not yet been concluded. In general, Article XXVIII renegotiations were concluded once the Members holding rights to their renegotiation (namely, Members holding Initial Negotiating Rights (INRs), Members with a principal supplying interest, and Members with a substantial interest) had reached a bilateral agreement with the Member that had launched the renegotiation. There had been one instance where the Secretariat had received the bilateral agreements concluded among the Members concerned without any subsequent action having been taken. In this regard, the Secretariat recalled that the submission of a report following the conclusion of an Article XXVIII renegotiation was not the end of the process because Members still had to go through the 1980 Procedures to modify their schedules and to reflect whatever changes had been agreed in the context of their Article XXVIII renegotiations. At present there were five situations where Members had concluded their renegotiations, submitted the bilateral agreements and the final report, and had begun the 1980 procedures. However, these procedures were either on hold because of reservations or remained within the three-month review period required before certification. The final step of the procedures, after the three-month review period had been concluded and no reservation remained, was the certification of the modifications by the Director-General, which represented the conclusion of the process. To date, 23 renegotiations had been successfully concluded. The Secretariat completed its report by noting that its main purpose had been to raise awareness with regard to the procedures pending, and the Secretariat stood ready to assist Members in concluding these procedures.

7.3. The Committee took note of the Secretariat's report.

## **8 AUSTRALIA – DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT – STATEMENT BY CHINA**

8.1. The Chairperson noted that this agenda item had been included at the request of China.

8.2. The representative of China noted that her delegation had expressed its concern over Australia's prohibition of Chinese equipment from the Australian 5G rollout at previous meetings of both this Committee and the CTG. China considered that Australia's practice violated various provisions of the WTO Agreements; furthermore, the measure was discriminatory, because it only targeted specific Chinese vendors and, as a result, had denied exporters of Chinese equipment access opportunities on Australia's market. She added that Australia's measure was not consistent with the MFN principle in Article I of the GATT and nor did it comply with the provisions regarding

the elimination of quantitative restrictions set out in Article XI of the GATT. China had addressed follow-up written questions to Australia prior to the CTG's most recent meeting, in April 2019, and her delegation was looking forward to receiving replies to those questions. The Chinese delegate concluded by urging Australia to comply with its obligations under the WTO Agreements.

8.3. The representative of Australia recalled that Australia had already responded substantively to China's questions when China had previously raised this issue, namely at the Committee's meeting of 9 October 2018. Following that meeting, on 24 October 2018, China had written to Australia seeking further information, and Australia had duly provided China with the relevant information, on 12 November 2018. He recalled that China had also raised the issue of 5G networks at the CTG meetings of 13 November 2018 and 12 April 2019. Australia had substantively responded to China at the CTG's November meeting. Prior to the CTG's April meeting, China had provided Australia with a detailed set of written questions in relation to this matter and Australia was currently in the process of consulting internally with regard to these additional questions, and it would respond to China in due course, as it had done on previous occasions. Indeed, Australia looked forward to continuing its constructive bilateral engagement with China on the issue of 5G networks.

8.4. The Committee took note of the statements made.

## **9 CHINA - CUSTOMS DUTIES ON CERTAIN INTEGRATED CIRCUITS – STATEMENTS BY THE EUROPEAN UNION, JAPAN, AND CHINESE TAIPEI**

9.1. The Chairperson recalled that this agenda item had been included at the request of the European Union, Japan, and Chinese Taipei.

9.2. The representative of the European Union recalled that her delegation had already raised this issue on several occasions. The EU had set out the latest state of play and its remaining concerns at the CTG's meeting of April 2019 and at the ITA Committee meeting that took place in May 2019. The EU noted that the situation had not changed and referred to its statements delivered at those meetings. Although China had insisted that the tariffs at issue were progressively diminishing in line with China's commitments, the EU and global industry continued to express their concern. By way of example, she referred to the statement that had been issued last week by the World Semiconductor Council, which included China's own semiconductor industry association. She recalled that, further to changes that had been introduced to the HS2017 nomenclature, certain MCO semiconductors that had previously benefitted from a zero-duty rate began to be charged a duty by China. The EU once again registered its disagreement with the "averaging methodology" that had been adopted by China in relation to these MCOs in the context of the HS2017 transposition; furthermore, it considered that the value of these concessions had been impaired, in contravention of WTO principles. The EU once again asked China to reconsider its approach.

9.3. The representative of Japan expressed Japan's concerns over China's classification of IGBT-IPM (Intelligent Power Modules). Japan noted that, in accordance with the WCO's Classification Opinions, IGBT-IPMs should be classified under HS subheading 8542.39, which were currently subject to a 2.1% tariff. However, China had treated certain IGBT-IPMs as products that did not have the properties of Multi-Component Semiconductors, and had classified them under HS Subheading 8504.40, making them subject to a 5% tariff. Japan wished to continue its discussions with China on this classification matter at an expert level. In addition, Japan was closely monitoring the situation with regard to China's commitment to abolish customs duties in July 2021, on all relevant items, in line with the staging of the ITA Expansion.

9.4. The representative of Chinese Taipei expressed her delegation's concern over the tariff lines in China's tariff schedule in HS 2017 nomenclature relating to MCO products. Since 1 January 2017, China had imposed tariffs on MCO products that had previously been subject to duty-free tariffs in its schedule. Based on the General Council Decision of 7 December 2016, the scope of concessions and other commitments should remain unchanged when a Member was preparing HS 2017 transposition; hence, China's amendment to its national tariff nomenclature to take account of HS 2017 should not change the scope of its tariff concessions under the WTO. Chinese Taipei urged China immediately to eliminate its tariffs on the MCO products at issue.

9.5. The representative of the United States expressed her delegation's support for the statements that had been made by the EU, Japan, and Chinese Taipei, and reiterated US concern over China's

applied duty rates on semiconductor products. She recalled that the US had previously raised its concerns not only in this Committee, but also in the ITA Committee and at the CTG. The US continued to assert, in line with the General Council Decision on HS transpositions, that the scope of China's concessions appeared to have changed substantially and that the value of the concession had been impaired. Semiconductor products that were duty-free for over a decade were now facing duties.

9.6. The representative of China thanked the European Union, Japan, Chinese Taipei, and the United States for their comments. China recalled that it had responded to similar comments on this item at previous meetings of the Committee, as well as in the ITA Committee and at the CTG. She also noted that China had conducted a number of bilateral consultations with interested Members. China stated that, while it had now addressed all Members' technical questions, the issue remained as to whether or not duty rates were now higher than they had been prior to the transposition. However, China had used the methodology suggested by the WTO documents and its methodology was therefore fully consistent with the WTO rules on HS2017 transposition. China confirmed that it would continue to fulfil its tariff reduction commitments undertaken in the context of the ITA Expansion, and that all duties on MCO products would be eliminated by July 2021, as had been scheduled.

9.7. The Committee took note of the statements made.

## **10 ENLARGEMENT OF THE EUROPEAN UNION TO INCLUDE CROATIA – NEGOTIATIONS UNDER ARTICLE XXIV:6 OF THE GATT 1994 – STATEMENT BY THE RUSSIAN FEDERATION**

10.1. The Chairperson noted that this agenda item had been included at the request of the Russian Federation.

10.2. The representative of the Russian Federation reiterated its concern over the EU negotiations under Article XXIV:6 of the GATT 1994 in the framework of its enlargement to include Croatia. The Russian Federation had reiterated the issue with the EU bilaterally, as well as in the Committee on Market Access and at the CTG. She recalled that the Russian Federation's concerns had been addressed to the EU in writing and had also been circulated to Members in document G/SECRET/35/Add.4, of 28 September 2018. This issue also represented the Russian Federation's main concern in relation to the EU's draft schedule of concessions, which had been circulated in document G/MA/TAR/RS/506/Add.2, of 17 October 2018. She submitted that, despite the fact that the Russian Federation's negotiating rights had been provided for in the EU's notification under Article XXIV, the EU had failed to engage in negotiations with Russia. And by refusing to enter into negotiations with the Russian Federation, the EU had ignored not only its own statistics, but also the indication of negotiation rights set out in its own notification, thereby leading to a violation of WTO rules. The Russian Federation once again noted that the EU could not consider the negotiations with the Russian Federation to have been concluded; consequently, she called upon the EU to engage into compensatory adjustment negotiations with the Russian Federation.

10.3. The representative of the European Union reminded the Russian Federation of the explanations that the EU had already provided at previous meetings. The EU had informed Members about the conclusion and outcome of the negotiations following Croatia's accession to the EU in document G/SECRET/35/Add.2, pursuant to paragraph 5 of the Guidelines on Procedures for Negotiations under Article XXVIII. The outcome of the Article XXIV:6 process would be faithfully reflected in the Schedule CLXXV for the EU28, which was in the process of certification. The EU had extensively and repeatedly explained, orally and in writing, its reasons for not having accepted the compensation claims by the Russian Federation in the context of the EU's last enlargement. In addition, the EU recalled that the indication of a WTO Member as a principal supplier in a GATT Article XXIV:6/XXVIII notification did not constitute an automatic recognition of a right for that WTO Member to obtain compensation. Some principal suppliers submitted a claim, while others did not. The notifying Member then entered into negotiations/consultations with those Members that had submitted a claim in conformity with the procedures and within the deadlines applicable under WTO rules, with a view to identifying if there existed an entitlement for compensation.

10.4. The Committee took note of the statements made.



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**11 EUROPEAN UNION – RENEGOTIATION OF TARIFF RATE QUOTAS UNDER ARTICLE XXVIII OF THE GATT 1994 – STATEMENT BY THE RUSSIAN FEDERATION**

11.1. The Chairperson noted that this agenda item had been included at the request of the Russian Federation.

11.2. The representative of the Russian Federation reiterated her delegation's deep concern over the approach that had been adopted by the European Union with regard to a renegotiation of its TRQs in the context of Brexit. She considered that, within the framework of such negotiations, the reduction of market access opportunities for WTO Members, as well as the WTO norms provided for in Article XXVIII of the GATT, should not be disregarded. Russia considered that the TRQ splitting methodology that had been proposed by the EU was not WTO consistent. As a WTO Member, the EU might modify its concessions in respect of TRQs in accordance with Article XXVIII of the GATT, which not only permitted Members to modify their concessions but also established an obligation to maintain a general level of reciprocal and mutually advantageous concessions not less favourable to trade than that provided prior to such negotiations. Consequently, the Russian Federation urged the EU to provide its compensatory proposal. The Russian Federation had also noted the intention of the European Union to hold negotiations on the basis of draft Schedule CLXXV – European Union, document G/MA/TAR/RS/506, of 17 October 2017. Her delegation considered that, since this draft schedule had not been certified, it could not be used as the basis for negotiations. In conclusion, the Russian Federation emphasized the importance of finalizing the certification of the EU's draft schedule.

11.3. The representative of United States noted that her delegation's intervention applied both to this agenda item and to agenda item 12, which had also been raised by the Russian Federation, regarding the EU and UK Article XXVIII Negotiations of TRQs. As had been noted in the CTG and in other Committees, the US supported the UK in establishing itself as an independent Member of the WTO. However, the United States rejected the approach by the EU and the UK to the apportionment of TRQs as such an approach was prejudicial to its WTO rights and trade interests. Furthermore, it would reduce market access opportunities for US exporters into both markets. For certain products, the proposed split of TRQs would result in no in-quota access to either the UK or the EU-27. For other products, the proposed split would in all likelihood result in reduced access to the EU only, as the UK's draft applied schedule in the event of a no-deal Brexit had indicated that it would not apply TRQs for many of the products in question. The US considered that this was unjustifiable and clearly an unacceptable outcome for other Members. The US highlighted that a number of the TRQs in the EU's schedule did not concern the UK and instead were the result of negotiations from earlier EU enlargements. And these EU trade concessions represented compensation that had been granted for the loss of Members' access in the markets of the acceding EU Members; they had no connection with the UK. The US considered that the UK's decision to leave the EU should not be used as a reason to diminish the EU's market access commitments. In conclusion, the US reiterated that the current approach to these negotiations was unacceptable, and that, like other Members, the US stood ready to engage with the EU and UK in productive negotiations to ensure US trade interests were safeguarded.

11.4. The representative of Japan noted her delegation's significant interest in this issue and emphasized the importance of finalizing the draft EU schedule as soon as possible after Brexit in order to ensure legal stability under the WTO Agreement. Japan also believed that it was important to maintain a high level of transparency in the process relative to this issue.

11.5. The representative of New Zealand shared the concerns that had been expressed by other Members in relation to the EU proposal to reduce its TRQ commitments in light of Brexit. As the world's largest agricultural importer and exporter, the European Union played an essential role in balancing global markets; furthermore, a significant proportion of the EU's agricultural imports took place through tariff rate quotas. This balance had been put at risk by the proposal to reduce most of the EU's 196 tariff rate quota concessions, which covered almost 400 tariff lines. WTO Members would lose significant existing market access opportunities under the EU proposal, including through the loss of the flexibility that was currently available to address fluctuations in production, demand, and currency. New Zealand wanted to highlight the following specific concerns about the EU's proposal: (1) the significant loss of access into the EU market, including the complete elimination of a small number of some of the quotas in question and a large-scale reduction of many more; (2) the risk that much of what remained of this reduced MFN TRQ access would be absorbed by the significant level of bilateral EU-UK trade; and (3) the loss of flexibility that would constrain the ability

of both exporters and markets to respond appropriately to fluctuations in demand in the current uncertain international trading environment. Moreover, New Zealand considered that there was no need for the EU to change its obligations in relation to third countries in response to Brexit, which was the conclusion that the EU had reached in determining that there was no need for it to modify its GATS schedule, nor to alter its bilateral FTA commitments to third parties. Rather, Brexit was about a change in the EU-UK relationship; it should not be about altering the EU's relationship with the rest of the world. Members needed to know what arrangements were anticipated for the EU27-UK trade to sit alongside the access that had originally been negotiated with other Members, and which was valued by them. New Zealand considered that there was nothing in the current EU proposal that addressed this problem. Indeed, his delegation was disappointed that, to date, the EU had not provided any satisfactory indication of how it intended to remedy the problems that this proposal would create. This was a concern for New Zealand not just from a commercial but also from a systemic perspective. At a time of considerable uncertainty in the international trading environment, New Zealand looked to the EU, as a declared supporter of the multilateral rules-based trading system, to work with concerned Members to find mutually acceptable ways to address these issues, rather than to exacerbate further the current difficulties. New Zealand urged the EU to use the Brexit extension to arrive at a solution that would be acceptable to all affected Members and that would not leave any country worse off than under the EU's current bound WTO commitments.

11.6. The representative of Canada stated that his delegation continued to have significant concerns regarding the UK and the EU approach to apportioning the TRQs of the EU-28. Canada had made these concerns clear to the UK and the EU in multilateral and bilateral discussions. A number of Canada's concerns were the same as those that had been raised by the US and New Zealand. Canada looked forward to further discussions and noted that its intervention applied also for the next agenda item.

11.7. The representative of Australia noted that his delegation continued to have a significant interest in this issue as an exporter of agricultural TRQ products to the EU. Australia recognized the legal rights of the EU to modify their concessions on goods, provided that compensatory concessions were granted to the affected Members. However, Australia could not accept the EU's assertion that no compensation was required because there had been no loss in the value of the concessions. To the contrary, Australia believed it to be clear that the proposed modifications to the TRQs would lead to a significant economic loss, not only by removing flexibility in terms of where a product could be sent year-to-year, but also by rendering some TRQ allocations too small to be commercially viable. Australia considered that the EU had to proceed with compensatory adjustments, to do so while taking account of the resulting significant commercial losses, and to do so while maintaining a general level of reciprocal and mutually advantageous concessions. Australia expected the EU to ensure that the value of existing market access would be maintained and not just the total volume of the existing TRQs. Australia looked forward to working with the EU in a pragmatic manner constructively to resolve these concerns while ensuring that the current quality and level of market access was maintained.

11.8. The representative of Uruguay reiterated its concerns over this issue. Uruguay considered that it was an issue that had to be resolved by negotiations between the Members concerned, and not unilaterally. The mutually agreed results of such negotiations should be based on relevant WTO rules, respect of existing market access commitments, and the balance of concessions resulting from the Uruguay Round, in order to contribute to the maintenance and strengthening of the multilateral trading system.

11.9. The representative of China noted at the outset that her intervention would cover both this item and the next, and that China shared the concerns that had been expressed by other Members. While her delegation was willing to work with the EU to modify the TRQs in its Schedule, or with the UK to establish its own TRQs, China would not accept the proposed apportionment approach to TRQs because it would lead to a significant loss in market access opportunities and flexibility in future EU and UK markets. China was concerned that the data that had been provided by the EU and the UK had failed to completely reflect actual trade patterns. China was further concerned by the EU's intention to impose unilaterally apportioned TRQs in the event of a "no deal" Brexit as this would seriously affect the interests of other Members. The EU and the UK should commit to engaging with the Membership in a spirit of cooperation, inclusiveness, and openness. China hoped that the concerns that had been expressed could be adequately addressed, respecting the principle that Members should not be left worse off and that any changes should maintain the general level of

mutually advantageous concessions. China was looking forward to further discussions of this issue with a view to achieving mutually beneficial agreements with the EU and the UK.

11.10. The representative of the European Union noted that her delegation appreciated the well-known concerns of the Russian Federation and a number of other Members about the ongoing uncertainty surrounding the UK leaving the European Union. She asked Members to understand that traders throughout the EU, including in the United Kingdom, were also affected by and concerned about this uncertainty, which of course was not a reason to try not to do justice to the concerns also of other Members. Indeed, this was the reason why the EU and the UK had engaged jointly with other Members as early as in October 2017 to inform them of the approach envisaged to apportionment of the WTO commitments that took the form of TRQs. The EU reiterated that the key principle was to maintain the existing levels of market access to the EU-27 and the UK. The EU was a supporter of the rules-based multilateral trading system and it had followed all the relevant WTO procedures when launching its Article XXVIII negotiations; furthermore, it would continue to follow those multilateral procedures. The EU had engaged with relevant WTO partners on a regular basis and, as part of the procedures, would continue to do so in good faith. However, the EU did not accept any of the occasionally voiced suggestions that its actions, which were intended to maintain overall market access, were a threat to multilateralism. The EU considered that the attempts by certain Members to extract enhanced market access on a non-reciprocal basis, and the attempts to characterize this as a right of other Members in a situation such as Brexit, were inappropriate. The EU noted that the negotiations under the Article XXVIII procedures were currently ongoing with those partners enjoying negotiating rights under that Article. The EU welcomed the fact that the Members concerned were generally engaging in these negotiations in good faith, bearing in mind that the negotiations had only just begun. The EU was willing to continue these negotiations in an open and fair manner under Article XXVIII regardless of the scenario for the UK's withdrawal from the Union. The extension of the "Article 50" EU-UK Brexit process until 31 October 2019 would also allow the EU more time to engage with Members in Geneva.

11.11. The Committee took note of the statements made.

## **12 UNITED KINGDOM – RENEGOTIATION OF TARIFF RATE QUOTAS UNDER ARTICLE XXVIII OF THE GATT 1994 – STATEMENT BY THE RUSSIAN FEDERATION**

12.1. The Chairperson noted that this agenda item had been included at the request of the Russian Federation.

12.2. The representative of the Russian Federation noted that, while the Brexit process was complicated, and complex and broad in scope, it should nevertheless be conducted in accordance with the WTO's rules. Therefore, it was crucial that Members find a mutually acceptable solution in order to ensure effective implementation and enforcement of the UK's rights and obligations under the WTO system. However, as in the case of the European Union as discussed under the previous agenda item, the proposed TRQs split methodology could not be considered to be compliant with the WTO's rules because it did not provide Members with compensation for their losses. It was also important to ensure that the negotiations were conducted based on correct import data that considered the so-called "Rotterdam effect". However, the current data neither considered the Rotterdam effect nor provided information on intra-EU trade flows after a product had entered the EU customs territory. The Russian Federation noted the UK's intention to negotiate on the basis of the draft EU's Schedule of concessions, which had not yet been certified. The Russian Federation had objected to the modifications of the schedule that had been proposed by the EU because of pending compensatory adjustment negotiations on the EU's enlargement to include Croatia. In this regard, the Russian Federation emphasized how important it was that the UK establish and finalize its separate schedule of concessions, which could then serve as a basis for further negotiations.

12.3. The representative of New Zealand shared the concerns that had been expressed by the Russian Federation with regard to the UK's proposed approach to establishing its own WTO commitments post-Brexit. By proposing to cut back its WTO TRQ commitments, the UK would invariably leave third countries worse off by removing effective access to the UK market altogether for a large number of products, in particular those for which it had proposed zero quotas, and by reducing the quantity and flexibility currently available to trade under the remaining quotas, for many of which it was proposing substantially reduced quota access. For example, for 55 (nearly a third) of the current TRQs, the UK was proposing to offer no access at all, including of MFN quotas for beef offal, butter, pizza cheese, other cheese, sweet peppers, mushrooms, wheat, other rice and

grains, and a number of fish quotas. In addition, there were other current TRQs for which the UK was proposing absurdly tiny quotas, which were not commercially viable; for example, one tonne of skimmed milk powder, one tonne of hake fish, two tonnes of cod fish and paddy rice, three tonnes of pork (with one tonne allocated to Canada, and the remainder open to global competition), among others. With regard to the MFN quotas into the UK, these stood to be totally absorbed by the EU if the EU were to be treated as a third country by the UK in its future trading arrangements. New Zealand submitted that these future bilateral UK-EU arrangements and their implications were currently unknown to Members. His delegation had noted that the UK had also proposed to create separate, additional quotas for its bilateral FTA partners, but had refused to do so for its WTO partners. This policy, coupled with the TRQ reductions that had been proposed, would doubly disadvantage WTO Members. New Zealand again urged the UK not to add to the global trading system's current difficulties at a time of such major uncertainty in the global trading environment, especially given that the UK was a self-declared advocate of the multilateral rules-based trading system under the WTO. Rather, New Zealand encouraged the UK to take full advantage of the present Brexit extension to work with concerned WTO Members to establish its own post-Brexit WTO commitments, to do so in such a way as to fully honour its existing commitments, and to do so without leaving any other WTO Member worse off.

12.4. The representative of Australia reiterated its significant interest in this issue given that Australia was an exporter of several products to the UK that were covered by TRQs. Australia believed it to be clear that the proposed modifications to the TRQs would lead to significant economic loss, not only by removing flexibility as to where a product could be sent, but also by rendering some TRQ allocations too small to be commercially viable. For certain commodities, such as dairy, the UK was effectively closing the market, which went against the spirit of the Uruguay Round outcome. Instead, Australia encouraged the UK to consider including new MFN TRQs for these "corner cases" in the UK's WTO goods schedule. Australia submitted that the UK must provide compensatory adjustments that factored-in these significant commercial losses; in addition, it should also maintain a general level of reciprocal and mutually advantageous concessions. Australia expected the UK to ensure that the value of existing market access be maintained, not just the total volume of existing TRQs. In this regard, Australia looked forward to working with the UK in a pragmatic manner to resolve Australia's concerns constructively and to ensure that Australia's current quality and level of UK market access was maintained.

12.5. The representative of Uruguay acknowledged the UK's efforts in launching GATT Article XXVIII negotiations with interested Members, and noted how important it was that this process not be conducted in a unilateral manner. Uruguay hoped that the outcome of these bilateral negotiations would result in market access commitments that reflected actual bilateral trade flows and the interests of concerned Members; in addition, the result should not undermine current market access conditions and must be in full compliance with the relevant WTO rules.

12.6. The representative of India echoed the concerns that had been raised by other Members but also appreciated the UK's efforts in ongoing discussions under Article XXVIII of the GATT. India noted that it had already expressed its concerns both in writing and during its formal consultations with the UK delegation. On those occasions, India had expressed its concern over the UK's proposed methodology for the apportionment of TRQs, in particular with regard to how such a methodology would affect Members' rights. India expected the UK to conduct these negotiations in full compliance with the WTO's rules. In addition, India expected the UK to provide reasonable opportunities to all Members, including India, to exercise their rights under the WTO Agreement.

12.7. The representative of the European Union referred to the statement that it had made under the previous item about the EU's negotiations. The EU could not respond to comments and questions on the UK's proposed goods schedule, which would apply when the EU Schedule of Concessions ceased to apply to the UK, as set out in document G/MA/TAR/RS/570. In this regard, she invited interested Members to engage bilaterally with the UK.

12.8. The Committee took note of the statements made.

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**13 INDIA - CUSTOMS DUTIES ON TELECOMMUNICATION AND OTHER PRODUCTS – STATEMENTS BY CANADA, CHINA, NORWAY, CHINESE TAIPEI, AND THE UNITED STATES (G/MA/W/120, G/MA/W/128)**

13.1. The Chairperson noted that this agenda item had been included at the request of Canada, China, Norway, Chinese Taipei, and the United States. The Chairperson recalled that certain of these Members had submitted questions to India in document G/MA/W/120, to which India had replied in document G/MA/W/128.

13.2. The representative of the United States considered it unfortunate that her delegation had to raise the issue of India's tariff increases on telecommunications and ICT products yet again, and this despite the fact that the US had already been raising this issue for years in the relevant WTO Committees, as well as bilaterally. Since the previous meetings of the Committee and the ITA Committee, India had announced another round of tariff increases on telecommunications equipment; indeed, it appeared that India had raised its rates from 10% to 20%, including on products for which the US had understood that India had duty-free binding commitments. The US and numerous other Members had been discussing for far too long the apparent discrepancies between India's WTO commitments to provide duty-free access to certain products and the non-zero import duties that India was actually charging the imported products in question. In this regard, the US had noted with interest the consultation requests that had been filed by the EU and Japan, as well as the numerous requests from other Members to join those consultations. The US once again called upon India to provide duty-free access for the ICT and telecommunications equipment products for which India had a binding WTO commitment to do so.

13.3. The representative of Canada remained disappointed that, despite the concerns that had been raised by Members in this Committee and at the CTG, India had not only maintained tariffs on ICT products above its bound commitments, but had also continued to announce additional tariff increases on ICT products above bound rates. Canada continued to have both systemic and commercial concerns over India's application of tariffs in excess of its WTO bound commitments. Canada requested India to rescind these tariff increases and to refrain from pursuing further tariff increases above its WTO commitments. Canada also regretted that India had rejected Canada's request to join the separate consultations requests made by the EU and Japan given its substantial trade interest in this matter.

13.4. The representative of China reiterated her delegation's concern over India's tariff increases on telecommunications and other products, especially mobile phones and their components. China was of the view that these products fell within the scope of the ITA-1 and therefore that India's applied rates had exceeded its WTO bound rates, which made them inconsistent with the ITA-1 and Article II of the GATT. China urged India immediately to withdraw its customs duties on the products at issue and to abide instead by its WTO bound rates. Like other Members, China had also taken note of the requests for consultations filed by the EU and Japan regarding India's import duties on ICT products. China considered that it was regrettable that India had refused China's requests to join these consultations but that it would continue to monitor the issue.

13.5. The representative of the Republic of Korea also reiterated his delegation's concerns over this issue. Korea requested India to withdraw its tariffs on the ICT products at issue immediately, and to refrain from introducing further increases above its WTO bound commitments. Korea noted that it would continue to engage with India on this issue in order to find a way forward.

13.6. The representative of Chinese Taipei stated that her delegation shared the concerns that had been raised by other interested Members. Since 2014, India had raised tariffs on at least 32 ICT products through its Union Budget and the publication of other government notifications. These products had been subject to tariffs in HS Chapters 70, 84, 85, and 90. In this regard, Chinese Taipei was concerned that India's tariffs levied on ICT products had surpassed India's zero bound commitment undertaken in the WTO, thereby violating Article II:1(a) and (b) of the GATT 1994 with regard to India's tariff bindings. Chinese Taipei requested that India abide by its commitments by restoring its original tariff rates. Chinese Taipei also noted that it had not ruled out requesting consultations with India under the WTO dispute settlement mechanism.

13.7. The representative of Thailand remained concerned over India's reimposition of customs duties on an increasing number of ICT products above its bound commitments. In addition,

according to Thailand's analysis of India's request for rectification of 15 tariff lines, it appeared that the changes that India had qualified as "technical changes" were in fact substantive changes. Thailand asked India to elaborate on why it considered that its request to rectify a duty from "zero" to "unbound" on these tariff lines was a "technical change" and not a substantive modification. Thailand considered that India's request appeared to fall outside the scope of the 1980 Procedures to correct "technical changes"; rather,, substantive modifications to WTO Schedules should be negotiated with the appropriate Members in accordance with Article XXVIII of the GATT 1994, and not brought into effect via a rectification pursuant to the 1980 Procedures. Thailand joined other delegations in requesting India to abide by its WTO commitments. Thailand also stated that it would continue to monitor this matter closely and regretted that India had rejected its requests to join the consultations that had been requested by the EU and Japan.

13.8. The representative of Singapore shared the concerns that had been expressed by other Members on this issue. Singapore again urged India to align its applied tariff rates on ICT products with its ITA commitments. Singapore noted that it would continue to monitor this issue very closely.

13.9. The representative of Australia continued to express his delegation's interest in this matter.

13.10. The representative of New Zealand once again shared the concerns that had been expressed by other Members, particularly with regard to the systemic importance of applied tariffs not exceeding bound commitments.

13.11. The representative of Japan recalled that her delegation had repeatedly expressed its concerns over this issue at various meetings, including at the bilateral level. Japan understood that India's imposition of duties on certain ITA products was clearly inconsistent with its Schedule of Concessions. Japan also noted that it had already requested consultations with India, on 10 May 2019, and that Japan had held bilateral consultations with India on 23 May 2019 under the dispute settlement mechanism. In light of this development, Japan would not go into further detail.

13.12. The representative of the European Union recalled that her delegation had also expressed its concerns on this matter on many occasions. The EU had requested consultations with India on 2 April 2019. The EU was challenging India's introduction of import duties on a wide range of ICT products for which India had committed in the WTO not to charge any duties on these products. Considering this development, the EU would not comment further.

13.13. The representative of India noted that his delegation had previously delivered a statement on this issue in various committees. India had also offered to hold bilateral meetings with Members on the technicalities of the rectification sought. India had engaged in some fruitful and constructive bilateral discussions with a few Members. And India would continue to discuss any views on the technical aspects of these products, as well as their classification, with all interested Members and, in particular, with those Members that had intervened on issues relating to India's customs tariffs on ICT products.

13.14. The Committee took note of the statements made.

#### **14 INDIA – QUANTITATIVE RESTRICTIONS ON IMPORTS OF CERTAIN PULSES – STATEMENTS BY AUSTRALIA, CANADA, THE EUROPEAN UNION AND THE UNITED STATES**

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

14.2. The representative of Australia noted that his delegation continued to have significant concerns with India's import restrictive measures on pulses. These concerns were held not just by Australia, but also by other Members, including a number of developing Members. Australia had been engaging with India bilaterally and plurilaterally to raise its concerns for two years. Similarly, Australia had been addressing its questions to India at every relevant WTO meeting, including at the CTG's meeting of 11-12 April 2019, with regard to India's QRs on pulses. Australia's significant concerns had recently been reinforced by India's announcement, on 29 March 2019, that it planned to renew the QRs in question, which would restrict pulse imports into India for a further 12 months. Australia recalled that, in August 2017, India had applied QRs on an annual (fiscal year) basis of 150,000 tonnes for both Moong (green gram) and Urad (black gram), and 200,000 tonnes for pigeon

peas. These QRs had been modified and expanded on 4 May 2018. On 25 April 2018, India had applied a three-month 100,000 tonnes quantitative restriction on the importation of peas, back-dated to start on 1 April 2018. This quantitative restriction had been extended three times, for three months each, with no additional volume, with the most recent QR extension ending on 31 March 2019. On 29 March 2019, India notified that the QRs would apply for the fiscal year commencing 1 April 2019 on the following pulse varieties: (i) moong (green gram) limited to 150,000 tonnes for the fiscal year; (ii) urad (black gram) limited to 150,000 tonnes for the fiscal year; and (iii) pigeon peas limited to 200,000 tonnes for the fiscal year. The quantitative restriction on peas would be extended for another full year starting on 1 April 2019, limiting imports of peas, including yellow, green, dun, and kaspas peas, to 150,000 tonnes during this period. On 16 April 2019, India had confirmed the procedures to import pulses under their respective QRs in Trade Notice No. 06/2019-20. Australia noted that traders wanting to access the QRs had no time to prepare their applications, with the application process opening on the same day as the Notification (16 April 2019), and with just two weeks granted in which to apply, with applications closing on 30 April 2019. With regard to India's answers to the questions on these QRs that had been addressed to them by Australia and other Members in various Committees, Australia reminded Members that India had repeatedly said that the questions on India's QRs would be answered in the relevant Committee. Hence, Australia reminded Members that, with regard to QRs, and as detailed in paragraph 1 of the Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1), Members shall *"make complete notifications of all quantitative restrictions in force by 30 September 2012 and at two yearly intervals thereafter. They should also notify changes to those quantitative restrictions as soon as possible, but not later than six months from their entry into force. Members will also retain the right to notify, at any time, corrections to their notifications, as well as to reverse notifications to which they are subject. Notifications shall be circulated in a new document series and will automatically be included in the agenda of the meeting of the Committee on Market Access."* Australia was further pleased to confirm that India had notified to the Committee the QRs in force, by submitting its most recent notification of QRs in force on 21 June 2018 (G/MA/QR/N/IND/2) and an addendum to that notification on 17 April 2019 (G/MA/QR/N/IND/2/Add.1). However, these notifications had not included any specific information on India's QRs on pulses. While the notification included a cross-reference in Section 2 to India's notification under the Agreement on Import Licensing Procedures, it also had not included the required information on India's pulses QRs. By virtue of paragraph 1 of the Decision on Notification Procedures for Quantitative Restrictions and India's acknowledgement of this as the relevant Committee to answer questions in respect of its QRs, Australia therefore requested that India provide fulsome answers to the following questions: (i) what was the WTO basis of the application of India's QRs on pulse imports; (ii) why were these QRs not fully reflected in India's most recent QR notification and addendum; (iii) how were these measures 'temporary', noting that the QRs would restrict imports for at least two years; (iv) were the QRs for Moong, Urad, and Pigeon Peas permanent, that is, would they continue in future fiscal years until explicitly terminated; (v) was the quantitative restriction for peas 'temporary', that is, would the quantitative restriction terminate on 31 March 2020 unless it was renewed; and (vi) why were the procedures to access these QRs only advised with no forewarning on 16 April 2019, 16 days after the entry into force of the QRs (on 1 April 2019) and why were only two weeks allowed to traders wishing to apply. Finally, Australia reiterated that India's QRs, along with its high tariffs and Market Price Support for pulses, were having a detrimental impact on the global pulses trade and on consumers in developing and developed countries alike (as detailed in the Canadian-US counter-notification, G/AG/W/193, of 12 February 2019, co-sponsored by Australia). Australia therefore requested India to provide to Members the WTO basis for its QRs; failing which, Australia considered that India should remove its QRs immediately.

14.3. The representative of Canada noted that, as Canada was the largest supplier of pulses to India, it had also been the Member most negatively affected by India's measures to limit imports of pulses over the previous two years. Pulses were an important source of protein for many Indian consumers and Canada was a high quality and reliable supplier. Canada was extremely disappointed that, on 29 March 2019, India had amended its import policy to re-establish a quantitative restriction on dry peas for an additional full year. For the next year, India had decided to restrict imports of dry peas to a level that represented only 5% of India's imports of dry peas in 2017. In addition to peas, India had also imposed QRs on other pulses. Canada considered that these measures ran contrary to the fundamental principles of both the GATT and the WTO Agreement on Agriculture on the elimination of quantitative restrictions. Despite numerous requests made at this and in other WTO Committees, India had yet to provide a GATT or WTO justification for these quantitative restrictions. Without any such justification, Canada's conclusion was that India was in contravention

of its WTO obligations. Canada was very concerned over India's lack of transparency and by the imposition of these measures with no justification. Canada requested India to comply with its WTO obligations and to repeal these restrictions.

14.4. The representative of the United States expressed US concerns over India's adoption, since 2017, of a number of trade-distorting policies in relation to various pulses. These actions had included domestic support policies, multiple increases in tariff rates, and the introduction of import restrictions. Since August 2017, India had set annual import quotas for several types of pulses, including pigeon peas, mung beans, black gram lentils, and peas. These were products for which India's WTO commitments prescribed a simple bound rate tariff and did not provide for a tariff-rate quota. The United States understood that imports had been effectively banned once the annual import quotas had been met. For example, in the previous year, imports of peas had come to a halt after June 2018, as by that time imports had already exceeded the 100,000 metric tonne annual quota limit for peas. Several Members had asked India, on numerous occasions, and in several WTO Committees, to explain how these policies could be considered by India to comply with India's WTO commitments. The US considered that, to date, India had not provided an adequate explanation. Most recently, on 29 March 2019, India's Ministry of Commerce and Industry had issued notifications that had appeared to restrict imports of mung beans, peas, black gram lentil, and pigeon peas in the Indian fiscal year 2019/2020. In response to previous questions, India had characterized the restrictions as temporary. However, quotas on some of these products had in reality been in effect for over one-and-a-half years. Indian imports of pulses classified under HS subheading 07.13 had fallen from \$4.0 billion in 2016 to \$1.1 billion in 2018, representing a 74% decrease in only two years. The US asked when India intended to rescind these quotas, and if India had further plans to institute quantitative restrictions on imports of agricultural products; if so, for which. The United States further requested an explanation for the use of import restrictions for pulses and an explanation of these policies in light of India's WTO commitments.

14.5. The representative of the European Union expressed her delegation's grave concerns over India's measures relating to its pulse crop market, which had been raised by the EU over the last year in various WTO bodies. As a consequence of India's increased duties on pulses, EU exports, mostly peas, had come nearly to a standstill. This had directly affected EU farmers because the prices for pulses on the European market had decreased as a consequence of India's measures. The EU also expressed concern over the QRs that had been imposed and their implementation, not least regarding their conformity with WTO rules. The EU urged India to answer Members' questions expeditiously and in detail.

14.6. The representative of the Russian Federation shared the views that had been expressed in the statements that had been made by other Members. She noted that, after the application of a ban on the import of yellow peas for almost six months, India had issued a notification establishing a new quota of 150,000 metric tons for the period from 1 April 2019 until 31 March 2020. Due to India's measures, imports of yellow peas had decreased significantly over the previous two years. She considered that the explanation that had been provided by India in other WTO Committee meetings regarding the legal basis of these measures was unconvincing. The Russian Federation requested India to provide a proper justification for its QRs and to submit a notification pursuant to the "Decision on Notification Procedures for Quantitative Restrictions" for the purposes of achieving greater clarity as concerned India's WTO justification of its measures. The Russian Federation was of the view that quantitative restrictions, as well as import prohibitions, were not trade policy instruments to be applied by Members without proper justification. In conclusion, the Russian Federation requested India to bring its measures into conformity with WTO rules.

14.7. The representative of Ukraine echoed the concerns that had been raised by other Members and requested India to comply with its WTO transparency obligations and to provide the relevant information on the measures at issue.

14.8. The representative of India noted that these issues had been raised by some Members in the recent past in other Committee meetings. In those meetings, India had informed Members that it had notified its measures as well as its reasons for imposing QRs on certain pulses to the Committee on Import Licensing and the Committee on Market Access. In brief, India reiterated that it was the largest producer and the largest consumer of pulses. The decision to impose quotas had been based on the domestic demand and supply situation of pulses in India; it had been taken with the intention to alleviate the distress caused to small and marginal farmers by the influx of cheap imported pulses, and the consequent impact on food and livelihood security. India recalled that it had been constantly



reviewing these measures. Regarding the issue of any additional quota on the import of peas and other pulses for the financial year 2019-2020, India informed Members that trade quotas had been announced in the Gazette notification dated 20 March 2019. As mentioned in that notification, the procedure for quota allocation had also been notified by the Director General of Foreign Trade through its Trade Notice No. 6, dated 16 April 2019, which was available in the public domain. Regarding the issue raised by Australia on the application process for quotas, he noted that two weeks had been allowed for the applicant to apply for the quotas through an online application, and that the quotas had been allocated well before the deadline so that traders could utilize them for importing. Regarding the query that had been raised on the specific WTO provisions under which India had imposed these temporary measures, India considered that Members had certain rights under the WTO wherein they could impose certain restrictions based on the requirements of their small and marginal farmers. However, India noted that this matter was still being examined and that India would revert to the Committee on this issue. Finally, India said that it would address any further query on this issue in the appropriate Committee.

14.9. The Committee took note of the statements made.

### **15 INDONESIA – CUSTOMS DUTIES ON TELECOMMUNICATION PRODUCTS – STATEMENT BY THE UNITED STATES**

15.1. The Chairperson noted that this agenda item had been included at the request of the United States.

15.2. The representative of the United States noted that Indonesia may be applying tariffs at the border on a category of ICT products in a way that appeared to be inconsistent with Indonesia's WTO bound tariff commitments. The United States understood that Indonesia had a duty-free tariff commitment for products that were classified under tariff subheading 8517.62. However, traders reported that a 10% duty was being levied for certain products in this tariff category. The US requested Indonesia to explain these possible inconsistencies, and to indicate how it intended as soon as possible to resolve them.

15.3. The representative of the European Union registered her delegation's interest in this matter. She noted that this issue had already been raised at the ITA Committee in May 2019 and indicated that the EU was looking forward to receiving any clarification of this matter that Indonesia could provide.

15.4. The representative of China registered China's interest in this issue and stated that it would monitor the issue closely.

15.5. The representative of Indonesia took note of the concerns that had been raised and stated that consultations with the relevant Ministry in Capital were ongoing regarding further clarifications and information on next steps.

15.6. The Committee took note of the statements made.

### **16 JAMAICA – REGULATIONS NOS. 145 AND 146 BANNING SINGLE-USE PLASTIC PRODUCTS – STATEMENT BY THE DOMINICAN REPUBLIC**

16.1. The Chairperson noted that this agenda item had been included at the request of the Dominican Republic.

16.2. The representative of the Dominican Republic referred to Jamaica's Laws No. 145 and 146 of 24 December 2018, published in Jamaica's Official Gazette, under the authority of the Ministries of Industry, Trade, Agriculture and Fisheries, regarding the production and import of single-use plastic goods. The Dominican Republic had expressed concerns regarding the trade restricting effects of these measures and their compatibility with Jamaica's obligations under the WTO. She submitted that Jamaica had given discretionary authority to the Ministry to grant authorizations to the national industry for producing single-use plastic products. This discretion was not provided for the same products when these were imported. Likewise, the measure had granted a less favourable treatment to imports of polystyrene food containers insofar as it provided a grace period only to the domestic production of such products. According to the Dominican Republic, the measure violated the principle

of national treatment, under Article III of the GATT 1994, and nor could it be justified under Article XX of the GATT. The Dominican Republic also believed that these measures were a technical regulation because they made certain characteristics of plastic products mandatory in order for those products to be traded in Jamaica. The Dominican Republic had expressed its trade concerns in respect of Jamaica's measures at the TBT Committee's meeting in March 2019, and at the CTG's meeting in April 2019. The Dominican Republic questioned the compatibility of these measures with the obligation of non-discrimination under Article 2.1 of the TBT Agreement and believed that the measures were more restrictive than necessary and were distorting trade, in violation of Article 2.2 of the TBT Agreement. She further noted that Jamaica had not provided prior notice to Members so that they could make observations and had not yet notified its new measures either to the Dominican Republic or to the WTO. Consequently, her delegation requested Jamaica to notify to the Committee the prohibition on import and sale of single-use plastic items pursuant to the 2012 Decision for the notification of QRs, which established an obligation for Members to notify all QRs in force. The Dominican Republic further noted that such measures were in violation of the transparency obligations contained in the TBT Agreement and asked Jamaica to notify these measures accordingly. She also invited Jamaica to suspend the implementation of this measure until consultations had been held with interested Members. The Dominican Republic stood ready to continue its discussions with Jamaica in order to find a solution to this problem and waited in the interim to receive Jamaica's replies to the questions that had been addressed to Jamaica by the Dominican Republic in December 2018.

16.3. The representative of the United States reiterated her delegation's concerns over Jamaica's recently announced measures regarding single use plastics. The US recognized the unique set of waste management challenges that island nations faced and asserted that environmental objectives were best served while upholding national treatment obligations. If local capacity to recycle single use plastics was unavailable, and the goal of such prohibitions was to prevent plastic leakage into the environment, meeting that goal would appear to depend on the equal application of the relevant policies both to foreign and to domestic products. Therefore, the US encouraged Jamaica to ensure that its measures applied the same treatment to both foreign and domestic plastic products.

16.4. The representative of Jamaica took note of the observations from Members, which would be duly reported to Capital; his delegation would revert to this issue at a later date.

16.5. The Committee took note of the statements made.

## **17 KINGDOM OF BAHRAIN, KINGDOM OF SAUDI ARABIA, AND THE UNITED ARAB EMIRATES – SELECTIVE TAX ON CERTAIN IMPORTED PRODUCTS – STATEMENTS BY THE EUROPEAN UNION, SWITZERLAND AND THE UNITED STATES**

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

17.2. The representative of Switzerland reiterated her delegation's concern over the selective tax on energy drinks and carbonated soft drinks that had been levied by the Kingdom of Bahrain, the Kingdom of Saudi Arabia, and the United Arab Emirates. Switzerland considered that the tax had had a severe discriminatory effect on energy drinks and that its rates were not based on scientific evidence. Switzerland noted that, since the Committee's meeting of October 2018, it had met with the GCC Members bilaterally and together with other Members to discuss this selective tax on beverages. The Kingdoms of Bahrain and Saudi Arabia had confirmed that the GCC Members were studying a possible reform of the selective tax. As part of said reform, the Saudi General Authority of Zakat had taken the decision, on 15 May 2019, to expand the selective tax to e-cigarettes and their liquids, as well as to fizzy drinks, according to press reports. The "fizzy drinks" will be subject to a 50% selective tax rate. The decision had also been published in the official gazette, but only in Arabic. Therefore, it was very difficult to know exactly how "fizzy drinks" had been defined and precisely which additional beverages were subject to the tax. For these reasons, Switzerland requested the Kingdom of Saudi Arabia to provide an English translation of this recent legislative modification. Switzerland understood that the target date of implementation for this tax base expansion was 1 July 2019 in the Kingdom of Saudi Arabia. In addition, Switzerland sought confirmation that the other GCC Members would also extend the selective tax to additional beverages and that WTO Members would be informed in advance of the extension's implementation date, and other relevant details. She stated that this expansion of the tax base did not alleviate Members' concerns as it still maintained the discrimination between energy drinks and carbonated

soft drinks. In Switzerland, food producers had worked together with the health authorities to improve their products and to meet the relevant health policies. In this context, Switzerland encouraged GCC Members to engage with industry in order to modify the selective tax, applying it in a transparent and non-discriminatory manner while meeting the GCC Members' health policy objectives. Switzerland underscored its request to be informed directly and on a regular basis of any future modifications to the selective tax. With regard to the issue of sports drinks, Switzerland was surprised to see that a discrimination had been drawn between different sports drink brands in which some of them were subject to a 100% selective tax (energy drinks), while others were not; however, sports drinks were not energy drinks. Switzerland noted that it had received assurances that this had been a mistake and that the Kingdom of Bahrain, the Kingdom of Saudi Arabia, and the United Arab Emirates would remove this discrimination. Switzerland requested that this take place without delay. Finally, she recalled that on 27 September 2018 her delegation had submitted follow-up questions to the Kingdom of Bahrain, the Kingdom of Saudi Arabia, and the United Arab Emirates regarding certain details of the selective tax on energy drinks and carbonated soft drinks, and that Switzerland was still awaiting an answer to its questions. Switzerland looked forward to continuing these exchanges with a view to reaching a mutually satisfactory solution.

17.3. The representative of the European Union recalled that her delegation had previously raised this issue in the Committee, at the CTG, and in bilateral contacts with GCC countries in relation with the GCC "Treaty on Excise Tax" of December 2016 and its related measures. The EU thanked the representatives of the Kingdoms of Bahrain and Saudi Arabia for the meeting held in Geneva on this issue in May 2019. Nevertheless, the EU continued to be seriously concerned by these measures. And although the EU understood that these measures were currently subject to further consideration from the GCC regulatory authorities, the EU had thus far not received any detailed information regarding any proposed modifications to the measures and their timelines. The EU looked forward to receiving details of such modifications to see if they addressed its concerns. The high tax rates on energy drinks and carbonated drinks determined by the "Treaty on Excise Tax" were of particular concern as these had affected the prices of imported products far more than the prices of similar goods produced locally. Furthermore, the measures did not appear to have a scientific basis, although the EU had repeatedly asked the GCC to confirm the scientific basis for the product coverage and tax rates at issue. The EU submitted that the GCC measures could potentially become significant barriers to trade; by increasing uncertainty and unpredictability they might also adversely affect trade and investments with the GCC's trading partners. In this regard, the EU called upon the GCC to fully engage and work with interested trading partners, as well as with private sector stakeholders, to modify the regulations to ensure that they took into account the scientific evidence for meeting specific health objectives while at the same time minimizing potential negative economic impacts. The EU recalled that it had outlined its concerns in a diplomatic "note verbal" that had been sent, in June 2018, to each of the GCC countries, as well as in letters at ministerial level in March 2019. The EU expected formal and written responses to these submissions and remained available for further discussion.

17.4. The representative of the United States said that her delegation remained concerned over the excise tax on carbonated soft drinks, malt beverages, and energy and sports drinks that had been implemented by the Kingdom of Bahrain, the Kingdom of Saudi Arabia, and the United Arab Emirates, and which was also under consideration by other GCC Member States; in this context, the US had appreciated a recent opportunity to meet bilaterally with the Kingdoms of Bahrain and Saudi Arabia on this matter. The US strongly encouraged GCC Member States to engage with private industry stakeholders to discuss how best to ensure that the excise tax was applied in a transparent and non-discriminatory manner, and to consult with industry stakeholders on possible suggestions for revising the implementation of the current tax. The US also encouraged GCC Member States to utilize scientific, evidence-based measures, consistent with their countries' WTO obligations, to address non-communicable diseases and advance public health outcomes. In coordination with other Members, the US had also raised these concerns in the Capitals of the GCC Member States. The US continued to await specific information regarding the scientific basis justifying the imposition of different tax rates on energy drinks and carbonated soft drinks, as well as the reasoning behind the different treatment of sport drinks in the Kingdom of Bahrain. The US had raised these concerns numerous times in various WTO fora, but without receiving any detailed response. More recently, the US had heard reports that GCC Member States had decided to revise certain aspects of the excise tax. This had included the recent news announcement that the Kingdom of Saudi Arabia was extending excise taxes to additional products and that the Kingdom of Bahrain was selectively taxing products at different rates. The US looked forward to receiving written details of such a decision and the extent to which such changes addressed the concerns that had been outlined, as well as the

detailed concerns that had been raised by private industry stakeholders. The US requested that the Kingdom of Saudi Arabia provide an English translation of this recent legislation modification in order that Members could fully understand the precise products to which it applied.

17.5. The representative of Japan shared the concerns of other Members on this issue. Furthermore, Japan still considered that the selective tax was not in conformity with the non-discrimination obligation of Article III:2 of the GATT.

17.6. The representative of the Kingdom of Bahrain responded on behalf of the Kingdom of Saudi Arabia, the United Arab Emirates, and the Kingdom of Bahrain. He thanked Switzerland, the European Union, the United States, and Japan, for their interest in the GCC Common Agreement and excise tax. He also thanked those Members for having engaged bilaterally with them with a view to clearing their concerns over these measures. The GCC had taken these concerns into consideration and had been reviewing the measures in an effort to improve their implementation. The Kingdom of Bahrain informed Members that the GCC had agreed, in a first phase, to widen the tax base to include non-carbonated beverages, to be followed by a switch from an *ad valorem* tax to a specific tax based on content. As for energy and sports drinks, the issue was under further review within the GCC, bearing in mind Member's concerns. The Kingdom of Bahrain noted that it had continued to consult with its trading partners and had taken their comments into consideration. Finally, the Kingdom of Bahrain concluded that the GCC was ready to engage bilaterally on this issue with any interested delegations.

17.7. The Committee took note of the statements made.

## **18 MONGOLIA – QUANTITATIVE RESTRICTIONS ON THE IMPORTATION OF CERTAIN AGRICULTURAL PRODUCTS – STATEMENT BY THE RUSSIAN FEDERATION**

18.1. The Chairperson noted that this agenda item had been included at the request of the Russian Federation.

18.2. The representative of the Russian Federation noted that, in 2013, Mongolia had established a quota regime for the importation of certain agricultural products, including wheat flour, wheat, milk, drinking water, and beef. According to Mongolia's Government Resolution No. 77, as from March 2013, the responsible authority had determined the volumes of quotas for each year, and importing outside of these quotas had been prohibited. Resolution No. 77 also established basic criteria to determine quota volumes. The responsible authority calculated such volumes based on the annual necessity of importation and exportation of certain agricultural products. Moreover, in late 2016, the Ministry of Food, Agriculture and Light Industry of Mongolia had established an import prohibition on wheat flour. In May 2018, Mongolia had also declared the establishment of a quota on the importation of wheat flour for the rest of 2018. However, this declaration remained a mere statement because the Ministry of Food, Agriculture and Light Industry of Mongolia had never allocated the quota volume among the importers of wheat flour. As a result, importers could not import within the quota volume and a *de facto* import ban on wheat flour had prevailed throughout 2018. In January 2019, Mongolia had announced that it would open a quota for wheat flour. She stated that, according to the information available, Mongolia had adopted the decision on the allocation of this quota among the importers of wheat flour only in April 2019. So far, this decision had not been made publicly available to allow governments and traders to become acquainted with it. Mongolia's wheat flour imports had significantly dropped as a result of these measures (basically to zero in 2018). The Russian Federation considered the general elimination of quantitative restrictions to be one of the core disciplines of the GATT and the WTO legal systems. The Russian Federation had raised this issue at different bilateral and multilateral fora in recent years. However, Mongolia had failed to provide a proper justification for its quantitative restrictions. The Russian Federation submitted that Mongolia's measures were inconsistent with its obligations under WTO Agreements and, in particular, Article XI of the GATT 1994 and Article 4.2 of the Agreement on Agriculture, as well as Mongolia's accession commitments undertaken in paragraph 20 of the Working Party Report. She stated that Mongolia's refusal to make publicly available the decision on quota allocation had also violated Article X of the GATT 1994. Therefore, the Russian Federation urged Mongolia promptly to take all of the steps necessary to bring its legislation and measures into compliance with the relevant WTO provisions.

18.3. The representative of Australia supported the concerns raised by the Russian Federation in relation to Mongolia's import quota regime for certain agricultural products.

18.4. The representative of Mongolia recalled that this issue had already been discussed in the Committee on Agriculture and at the CTG. Mongolia had duly engaged in these discussions and had responded to Members' questions. Mongolia had informed Members that certain temporary measures had been taken regarding strategically important food products, including wheat flour. As concerned wheat flour in particular, Mongolia had informed other Committees of the necessity of implementing quantitative restrictions in relation to the Law on the Enrichment of Food Products. Mongolia referred to its responses given in the Committee on Agriculture and the CTG. Nevertheless, for the purposes of the Enrichment Law, Mongolia reiterated that both imported and domestically produced wheat flour were being monitored; furthermore, the monitoring of imports through a quota was in this case a temporary measure until the Law's full implementation. In addition, Mongolia informed Members that, in its view, this measure was fully justifiable under Article XX(b) and Article XI:2(b) of the GATT. The measure was not applied in an arbitrary manner and nor did it discriminate between suppliers.

18.5. The Committee took note of the statements made.

## **19 OTHER BUSINESS**

### **19.1 United States – Measures Regarding Export Control and Market Access Prohibition for ICT Products**

19.1. The Chairperson noted that this item had been included at the request of China.

19.2. The representative of China noted that, on 15 May 2019, the United States had issued an Executive Order on Securing the Information and Communications Technology and Services Supply Chain, which barred US companies from buying or using telecommunications equipment and services provided by enterprises deemed to be national security threats. On 16 May 2019, the US Department of Commerce announced the addition of the Chinese company Huawei and its 68 affiliates to its export control "Entity List" on the grounds of involvement in activities contrary to the national security or foreign policy interests of the US. China wanted to register its deep concern over this issue. Regarding the Executive Order, China hoped that the US could notify subsequent administrative rules to the WTO without delay and also to respect the WTO's rules when formulating implementation regulations. Regarding the US export control measures in question, China believed that they violated Article I and Article XI of the GATT; nor did they comply with the provisions set out in Article XXI of the GATT. China urged the United States to lift the unilateral sanctioning measures on Chinese companies immediately. China also stated that it would use all available means to safeguard its national interest, and submitted that the US' repeated over-generalization with regard to the issue of national security, and its abuse of Article XXI, had already caused great concern to the Membership. Regarding the over-generalization of the national security exception, China noted that the US had pointed out many times that strengthening the economy would contribute to its national security, and that preserving innovation and technology were vital to its national defence. However, China was of the view that not all issues relating to the economy or to innovation and technology could be equated with national security. China noted that, according to the 2019 US President's Trade Policy Agenda, and the latest data, the US economy was currently in a healthy state, with a recent boom in jobs, including manufacturing jobs. China submitted that this fact was contradictory to the US logic for invoking Article XXI. The Trade Policy Agenda had also indicated that the US government should "use tariffs or other forms of leverage to persuade other countries to take our concerns seriously". China believed this also to be outside the scope of national security. China stated that, to date, it had never been presented with any convincing evidence for any of the trade restrictions adopted by the US invoking Article XXI, whether in previous measures under Section 232, or in relation to the current Executive Order and export controls. The WTO was based on rules; as such, invoking Article XXI had also to be based on certain rules, including the principle of good faith. Similarly, the determination of security threats should be based on objective proof rather than subjective perception. The abuse of Article XXI without any objective evidence would severely impair other Members' rights under the WTO and also placed the rules-based multilateral trading system in danger. China recalled that, in the discussions of the Security Exceptions provision during the Geneva negotiating session in July 1947, it had been the US delegation that had pointed out that "we recognized that there was a great danger of having too wide an exception [...] that would permit anything under the sun". China submitted that, once that

were to happen, rules would no longer be rules and the exception itself would become the rule. China maintained that this would result in a significant negative impact on international trade and the global trade order.

19.3. The representative of the United States responded that, because China had not inscribed this item on the agenda, but had raised it, rather, under "Other Business", the US would not comment on China's intervention in substance or in detail. She noted that interested Members could find more information on Executive Order 13873 of 15 May 2019 on the White House's website or in the 17 May 2019 issue of the Federal Register. She added that more information regarding additions to the entity list could be found in the 21 May 2019 issue of the Federal Register.

19.4. The Committee took note of the statements made.

## **19.2 Pakistan - Import Policy Order**

19.5. The Chairperson noted that this item had been included at the request of Thailand.

19.6. The representative of Thailand noted that, in February and April 2019, the Ministry of Commerce and Textiles of the Government of Pakistan had issued two Orders, taking effect on 1 July 2019, which applied to the importation of "all edible goods" into Pakistan. Thailand sought clarification from Pakistan with regard to the following: (i) if the term "all edible goods" covered only meat and poultry products, or if it also included such products as vegetables, fruits, and fisheries; (ii) if a copy of the halal certificate could be used for each shipment of imported goods of the same nature; and (iii) if edible goods that were produced and sold domestically were also subject to similar requirements. Since the Orders would shortly be implemented, Thailand asked Pakistan to provide a response before mid-June so that the message could be quickly conveyed to the relevant stakeholders. Thailand stated that it highly valued the friendly relationship that it enjoyed with Pakistan and hoped that such Orders would continue to encourage the flow of edible goods exported from Thailand to Pakistan. Thailand looked forward to working closely with Pakistan to continue building a strong relationship between the two countries.

19.7. The representative of Pakistan took note of Thailand's intervention and stated that Thailand's questions would be conveyed to Capital. Pakistan stood ready to engage with Thailand bilaterally on this issue.

19.8. The Committee took note of the statements made.

## **19.3 Date of the next meeting**

19.9. The Committee took note of the date of its next formal meeting, which had been scheduled for 21 October 2019. The next HS Multilateral Review session would take place in September or October, to give the Secretariat time to issue a first batch of HS2017 files.

## **20 ELECTION OF THE CHAIRPERSON**

20.1. The Chairperson recalled that the former Chairperson of the Goods Council was still holding consultations with Members on a slate of names to chair the CTG's subsidiary bodies. Consequently, the appointment of a chairperson for the Committee on Market Access had been delayed. She proposed to proceed as followed: as soon as a consensus was reached on a slate of names, the Secretariat would circulate to the Committee an e-mail with the name of the proposed Chairperson. If no objection to the nomination were received within the time-frame indicated in that e-mail, the candidate would then have been deemed to have been elected by the Committee by acclamation.<sup>9</sup>

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<sup>9</sup> On 4 June 2019, the Council for Trade in Goods adopted a slate of names concerning the appointment of officers to the CTG's subsidiary bodies, which had nominated Mr Fernando Bruno ESCOBAR PACHECO (Plurinational State of Bolivia) as the Chairperson of the Committee on Market Access. On 5 June 2019, the Secretariat sent an e-mail informing Members of this nomination and giving Members until close of business on 6 June 2019 for comments. On 7 June 2019, the Secretariat sent an e-mail to Members informing them that no comment had been received and that Mr Fernando Bruno ESCOBAR PACHECO (Plurinational State of Bolivia) had been elected by the Committee by acclamation as its Chairperson for the year 2019.

20.2. The Committee agreed to the proposal by the Chairperson.

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