

**MINUTES OF THE COMMITTEE ON MARKET ACCESS
12 AND 16 NOVEMBER 2020**

CHAIRPERSON: MR ANATOLY CHAPLIN (RUSSIAN FEDERATION)

The Committee adopted the agenda as reproduced in document WTO/AIR/MA/13/Rev.1, with the inclusion of the following items under Other Business: "Panama – Import Restrictive Practices – Statement by Costa Rica" and "Canada – E-Registration System". An annotated agenda had been circulated in document JOB/MA/146.

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

1.1. The Chairperson recalled that a full version of the Secretariat's reports regarding the different transposition of Schedules and the presentation had been made available as a room document and would be incorporated into the minutes of the meeting.¹

1.2. The Secretariat (Mrs Alya Belkhodja) informed Members that a revised version of the report with the overall "Status of HS Transpositions", document G/MA/W/158/Rev.1, had been prepared by the Secretariat. The report sought to provide a broad overview of the state of play of the different HS transposition exercises as of 22 October 2020, and had taken into account the results of the last HS multilateral review which had been held on 16 October.

– HS2002 (WT/L/605 and WT/L/807)

1.3. The Secretariat (Mrs Alya Belkhodja) recalled that the last written report on this issue had been issued as document JOB/MA/42/Rev.26, dated 11 September 2019. The status of the HS2002 transposition files after the multilateral review of 16 October 2020 was as follows: 116 files had been certified or were in the process of certification; one draft file had been completed and sent to the Member for its first review. Finally, 18 Members had not been affected by the transposition, as eight Members had acceded to the WTO with a Schedule of concessions in HS2002, another eight Members in HS2007, and two Members in HS2012.

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

– HS2007 (WT/L/673 and WT/L/830)

1.5. The Secretariat (Mrs Alya Belkhodja) recalled that a revised written report had been issued as document JOB/MA/104/Rev.24, dated 21 September 2020. The status of the HS2007 transposition files after the multilateral review of 16 October 2020 was as follows: 110 files had been certified or were in the process of certification; one file had been released for multilateral review and had received comments from the Member concerned; six draft files had been completed and sent to Members for their first review; 8 draft files remained to be prepared. Further to the letters that had been sent by the Chairperson of the Committee on Market Access on 4 May 2020 to remind Members that the Secretariat could provide assistance to finalize their files, the Secretariat received a submission from Morocco and comments from Malaysia, which were being analysed. Finally, 10 Members had not been affected by the transposition as eight Members had acceded to the WTO with a Schedule of concessions in HS2007 and two Members in HS2012.

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

– HS2012 (WT/L/831)

1.7. The Secretariat (Mrs Alya Belkhodja) recalled that a revised written report had been issued as document JOB/MA/129/Rev.10, dated 21 September 2020. The status of the HS2012 transposition files after the multilateral review of 16 October 2020 was as follows: 100 files had been certified or were in the process of certification; three files had been released for multilateral review and had received comments from other Members; seven draft files had been completed and sent to Members for their first review; and 23 draft files remained to be prepared. Finally, two Members had not been affected by the transposition as they had acceded to the WTO with a Schedule of concessions in HS2012.

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

– HS2017 (WT/L/995)

1.9. The Secretariat (Mrs Alya Belkhodja) reported that a third group of files had been released for multilateral review and announced in document G/SECRET/HS17/3. A revised written report on the HS2017 transposition had been issued as document JOB/MA/143/Rev.1, dated 21 September 2020.

¹ Documents RD/MA/71 and RD/MA/72.

The status of the HS2017 transposition files after the multilateral review of 16 October 2020 was as follows: 39 files had been certified or were in the process of certification; 15 files had been approved on an *ad referendum* basis with a deadline to provide comments until 30 November 2020; one draft file had been completed and sent to the Member for its first review, and 80 draft files remained to be prepared. Finally, she mentioned that the overall status of the different transposition exercises had been reflected in slide 2 of the presentation.

1.10. The Chairperson recalled that, at the informal meeting of 16 October 2020, he had reminded Members that the next amendment of the Harmonized System would enter into force on 1 January 2022, which meant that the Committee would soon need to start working on the procedures to transpose the Schedules of concessions into this new version of the HS. In this regard, he proposed to proceed in the same way as the Committee had handled all previous transposition Decisions, namely to request the Secretariat to prepare a first draft Decision based on the HS2017 procedures, document WT/L/995. The Secretariat would then circulate the draft as a JOB document before the end of 2020, and the Committee could begin discussing it early in 2021.

1.11. The Committee took note of the Secretariat's report and agreed to the proposal by the Chairperson.

2 EXTENSION OF THE HS-RELATED WAIVERS

2.1. The Chairperson recalled that the General Council had agreed to extend the relevant waivers for the introduction of the Harmonized System (HS) changes into WTO Schedules of concessions for a number of Members on the basis of a "collective decision". The most recent waivers were: HS2002 (WT/L/1082); HS2007 (WT/L/1083); HS2012 (WT/L/1084); and HS2017 (WT/L/1085). He noted that these waivers would expire on 31 December 2020 and that the Members concerned had yet to complete their relevant transposition procedures. Therefore, the Chairperson proposed that the Committee extend all of these collective waivers until 31 December 2021. He proposed to the Committee to forward the draft collective waiver decisions granting such an extension, as contained in documents G/C/W/782, G/C/W/783, G/C/W/784, and G/C/W/785, to the General Council, through the Council for Trade in Goods (CTG), for appropriate action.

2.2. The Committee so agreed.

3 THE HARMONIZED SYSTEM AND THE WORK OF THE WORLD TRADE ORGANIZATION

3.1. The Chairperson welcomed Ms Gael Grooby, Deputy Director of the Tariff and Trade Affairs Directorate of the World Customs Organization (WCO), who would provide an update of the work for the implementation of HS2022, including the recent approval of the correlation tables. Her presentation would be made available to delegates.²

3.2. The representative of the WCO (Ms Gael Grooby) recalled that HS2022 would come into force on 1 January 2022. Although there was an obligation under the HS Convention for countries to implement it by this date, it was not always possible for all countries to do so. HS2022 would be one of the larger changes in the history of HS reviews. It had 351 sets of amendments, including the deletion of two headings, the addition of eight headings, the deletion of 147 subheadings, and the addition of 369 subheadings at six-digit level. There would also be a net increase in the six-digit subheadings of 222 new provisions, for a total of 5609 subheadings within HS2022. The growth in the size of the HS had been relatively steady. In the 2007 edition, there had been some desire to trim down the HS, thinking that this would simplify it. However, the experience had been the opposite, as reducing the number of categories or reducing granularity had in some cases made it more difficult to classify the products. Thus, there had been a tendency again to increase the number of categories.

3.3. In terms of the motivations to amend the HS, the biggest had been the requirement for more precision in the trade data for particular goods. The HS had very broad categories, which classified products by material class, or which classified products that had not been expressly covered elsewhere, including such examples as "other articles of plastics", "electro-mechanical domestic appliances", and "machines and mechanical appliances not specified elsewhere". These broad

² Document RD/MA/74.

headings captured trade data on a broad group of goods collectively, but individual types of goods were not statistically visible. For example, the HS would not show internationally comparable statistics for paracetamol tablets, as they would fall under one of "the other" categories. This was also the case for an endless conveyor belt of plastic, electric toothbrushes, windscreen wipers for aircraft, and so on, and these were just a few examples of thousands of goods on which one could not get statistics at the HS six-digit level. Trade in these products would of course be recorded, but together with many other products. Many of the amendments in HS2022 sought to introduce a more specific category for goods of increased trade importance. For example, this was the case for recreational nicotine or non-combusted tobacco products, such as e-cigarette cartridges; cell cultures, including cell therapy products; artificial turf, and so on. There had also been some changes that had resulted from reduced trade in some products. For example, HS2022 would eliminate the specific categories for globes, unbleached and other products under terry towelling and similar woven terry fabrics of cotton, as well as film rolls for cameras. In such cases, the goods covered by the deleted subheadings would be absorbed by other subheadings.

3.4. A large number of changes had also been introduced for monitoring or control purposes. For example, new subheadings 2903.41 to 2903.69, a new note 4 to section VI, and a new heading 38.27 had been created in order to separately classify gases covered by the Kigali amendments to the Montreal Protocol. Also, a new subheading 5501.11 would be created to classify "filament tow of aramid", which was a dual use item. There had also been some changes to clarify areas that had been subject to significant levels of dispute, or which Members had found to be ambiguous. This included, for example, new provisions for oils of microbial origin (that is, because microbes were neither plants nor animals), and a new subheading 8217.13 to specifically provide for smartphones as their multifunctional nature had resulted in many disputes over classification.

3.5. One of the main parts of the work of the Harmonized System Committee (HSC) had been the correlation tables, which had been drawn up by the Secretariat in accordance with the instructions received from the HSC. The HS2022 correlation tables would be released on 13 November 2020 on the WCO website, www.wcoomd.org. She recalled that working out the movement of goods between different versions of the classification could be a very difficult task, and the correlation tables were published in order to show these movements. They were examined by the HSC before release and could not be released until the examination had been completed. While the correlation tables were not legal instruments and did not constitute decisions of the HSC, they were the principal tool normally used by Customs administrations to assist in developing their national correlations.

3.6. Given the interest of this Committee on the issue, she wanted to mention some correlations that had been particularly difficult for HS2022. For example, some goods had been grouped together for the first time in HS2022, some of which had been previously scattered across multiple headings. For some of these products, it had not been possible to determine exact correlations. One of these was "placebos and clinical trial kits", which were currently classified by composition, components, or even in some cases by form. The complete range of materials and components that were used in these goods was unknown and, in fact, they were usually a closely guarded commercial secret. As a result, there existed a wide range of possible classifications. In the correlation tables, the HSC had only included those classifications that were known, but since it did not *know* all the main ingredients or components that could potentially be used, the correlation tables could not cover all possibilities.

3.7. Another product category with a similar issue was "flat panel display modules, whether or not incorporating touch-sensitive screens". These included all the intermediate products used to manufacture anything with a flat panel display, ranging from a flat panel display in a microwave to those in a laptop. These were the modules that were the essential intermediate parts to manufacture such touchscreens. The problem in the current version of the nomenclature was that they were to manufacture other goods and were currently classified as "parts" of those goods. The classification of these parts was in the heading of the machine for which they were intended, or under the relevant parts of the classification of that device. This included an exceptionally wide range of possible classifications and the HSC did not know all the possible finished goods that could use these components and their classification. The range of goods was potentially very large. For these correlations, the HSC had included specific language, namely "Applicable subheadings, in particular, those in Chapters 84, 85, 90, 93 and 95". This was an unavoidable problem because the classification of parts is quite complex in the current version of the HS. It also affected subheading 8529.90, "Other", because this subheading would take on the *parts* of the "flat panel display modules" of heading 85.24. For this reason, the same wide range of potential classifications could also potentially

feed into this subheading. Here, too, the correlation tables had included specific language, namely "Applicable subheadings, in particular, in Chapters 84, 85, 90 and 95."

3.8. Another very large area of changes concerned semiconductor-based transducers of HS2022 subheadings 8541.51 and 8541.59. This area related to semiconductor technology and extremely small parts that were used in a broad range of electronic goods and goods containing electronic components. Again, since these were manufactured to be parts of other goods, they likewise covered an exceptionally wide range of classification possibilities. And, like previous examples, the correlation tables noted "Applicable subheadings, in particular, in Chapters 84, 85, 90, 93 and 95." And these complex transpositions would probably require decisions by individual countries because these particular goods, flat panel display devices and semiconductor-based transducers, had very significant trade flows in terms of volume and value.

3.9. Another complex correlation related to the creation of heading 85.49 in HS2022, concerning electrical and electronical waste and scrap. This posed a particular problem because it was not simple to define when goods become waste and scrap, and there were currently variations in how some of these goods were classified. The creation of a new heading 85.49 entailed the possible transfer of certain products that were currently classified within other headings of the Nomenclature, in particular, but not limited to, headings 38.25, 70.01, 71.12, and headings of Chapters 84, 85, 90, 91, and 95. In addition, there was also the question of how to classify "obsolete" or "non-working but still readily identifiable goods", such as obsolete computers and non-working computers. The classification of these products would vary between Customs administrations depending on whether they were considered to be "computers" or "scrap metal". This probably caused certain issues for administrations.

3.10. An unusual change for HS2022 had to do with edible insects, which had been included at the request of FAO for the purposes of monitoring food security. However, when the HSC worked through the amendment in the committees and through the correlation, it became apparent that there was currently a divergence in the classification of these products between countries. This had not been resolved within the HSC for purposes of HS2017 or for the correlations. For "fresh, chilled or frozen edible insects", countries were currently using two headings: "02.08 - Other meat and edible meat offal, fresh, chilled or frozen" or "04.10 - Edible products of animal origin, not elsewhere specified or included." And this divergence came down to a basic question of whether or not one should identify insects as a meat product. There were very strongly held views on both sides. Since the issue could not be resolved, both correlations had been included in the correlation tables. However, clearly only one of them could apply in a specific country. The correlations that she had given as examples of possible problems were only a very small percentage of the overall list of changes in the HS2022 amendment. For the vast majority of the 351 sets of amendments, clear correlations had been provided, which she hoped would assist the work of WTO Members. This had been a very brief introduction to the changes in HS2022 and she invited Members to obtain more in-depth information through the WCO website, which would make available, from 13 November 2020, the Recommendation, the Corrigendum Recommendation, and the correlation tables. There was a possibility that the correlation tables would be adjusted as customs administrations identified issues and reported them back to the HSC. Therefore, she encouraged Members to visit the WCO website to find the most up-to-date version of the tables.

3.11. The representative of the United States thanked the WCO for the update on the upcoming HS amendment. Her delegation considered that the various amendments of the HS and correlation tables were critical for this Committee's work in updating the WTO Members' Schedules of concessions. The United States very much appreciated and thanked the WCO and WTO Secretariats for their continued collaboration on these issues.

3.12. The Committee took note of the WCO report and statements made.

4 OPERATION OF THE INTEGRATED DATABASE (IDB) AND THE CONSOLIDATED TARIFF SCHEDULES (CTS) DATABASE

4.1. The Chairperson recalled that there were five issues to discuss under this agenda item, namely: (i) the status of implementation of the IDB Decision; (ii) the status of IDB notifications; (iii) the document with the list of Members' official websites; (iv) the status of the CTS database; and (v) a communication from the Asian Development Bank.

– **STATUS OF IMPLEMENTATION OF THE 2019 IDB DECISION (G/MA/367)**

4.2. The Chairperson recalled that a full version of the Secretariat's report and the presentation had been made available as a room document and would be incorporated into the minutes of the meeting.³

4.3. The Secretariat (Ms Adelina Mendoza) reported that additional projects had been undertaken by the Secretariat relating to the implementation of provisions indicated in document G/MA/367, including development of data applications. These were the following:

- (i) The Secretariat had been working on a redesigned dissemination portal of the Tariff Analysis Online (TAO) which sought to develop an application that would improve user-experience with a more dynamic interface and include improved functionalities and more relevant analytical reports;
- (ii) Since additional elements had been being included by Members in their IDB notifications, aside from MFN applied tariffs and imports, the document with the status of submissions had been revised to show all other notified information, which sometimes came as separate datasets or had been submitted by the Member at a different time. Revisions to the previously submitted data would be included in the new format of the table. The Secretariat planned to issue this reformatted table in the next version of the report;
- (iii) Preferential tariffs, and in particular the those relating to reciprocal arrangements, had been notified more often by Members since the approval of the new IDB Decision. However, some of them had not been in the same national nomenclature as the MFN tariffs for the same year, which meant that integrating such datasets would be time-consuming. The Secretariat had planned to use these preferential tariffs for analytical purposes at the HS six-digit level, based on the WCO correlation tables if applicable and, where possible, to align them with the nomenclature of the MFN duties;
- (iv) The Secretariat had sent a separate "call to notify" email to the concerned delegations ahead of the deadline for either tariffs or imports. This separate call to notify IDB data had resulted in a much higher number of notifications compared to previous years, where the IDB notifications had been part of a much larger list of all outstanding notifications across different WTO subjects;
- (v) On the automatic submission of data provided for in paragraph 8 of the new IDB Decision, the Secretariat reported that it had successfully tested the process of retrieving the applied tariffs of Canada from its online server and both parties were currently finalizing the bilateral agreement. There were also ongoing tests and discussions with four African countries on how to facilitate the notification and integration of their applied tariffs data from their customs databases. The Secretariat stood ready to engage with any other Member wishing to explore this new possibility for data submission;
- (vi) As mentioned during the previous meeting of the Committee, the Secretariat stood ready to share with interested Members a sample Memorandum of Understanding (MOU) to allow for automated transmission of data. In addition, the Secretariat had also prepared templates for an "exchange of letters" in case Members preferred that option. For greater flexibility, the provisions could be adapted to a Member's specific situation, in consultation with the Secretariat. Such arrangement would greatly facilitate data transmission and certainly ease Members' notification burden. These templates were available in the three official languages and could be shared with any interested Member;
- (vii) Regarding the new provisions on the dissemination policy of the IDB and CTS data, the two previous Chairpersons had sent official letters to the Intergovernmental Organizations listed in paragraph 3(d) of Annex 4 of the new IDB Decision, requesting them to accept the new terms and conditions, as well as reminders for those that had

³ Documents RD/MA/71 and RD/MA/72.

failed to reply. In addition, the Secretariat had sent a follow-up email to these 23 intergovernmental organizations, which had been authorized by the Committee under the previous policy, and informed them of the new provisions, and also to confirm their adherence to the latter. Thus far, the Secretariat had received positive replies from 11 of these organizations⁴, and was still awaiting responses from the others;

- (viii) A new set of IDB⁵ and CTS⁶ sections had been created on the WTO website to better explain the functions of the two databases. The new IDB page also contained a more frequently updated status of IDB notifications and visualization of the data's coverage (i.e. its completeness);
- (ix) The Secretariat had developed a new application to facilitate tracking the amendments to the Harmonized System across its different versions. The HS Tracker was being tested in collaboration with the WCO and would be made available to Members early next year.

4.4. The representative of Switzerland requested the WTO Secretariat to provide further information on the HS tracker application, which seemed to Switzerland like a new development.

4.5. The Secretariat (Ms Adelina Mendoza) confirmed that it was a new application, which would allow users to track each HS subheading as it evolved across the different versions of the HS. It would consolidate all the available information in the documents that had been developed by the WCO, including their correlation tables. For example, the application would allow users to select a code in the HS2017 nomenclature and determine from where it had originated. That is, whether it was a new code in that version, or from in which previous version it had first appeared, and whether it had changed in terms of composition across HS versions. Since the correlation tables had been developed by the WCO, the Secretariat had solicited the participation of the WCO in this regard.

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

– **STATUS OF IDB NOTIFICATIONS (G/MA/IDB/2/REV.52)**

4.7. The Chairperson recalled that a full version of the Secretariat's report and presentation had been made available as a room document and would be incorporated into the minutes of the meeting.⁷

4.8. The Secretariat (Ms Adelina Mendoza) recalled that the report by the Secretariat on the status of submissions to the IDB had been circulated in document G/MA/IDB/2/Rev.52, which reflected the status as of 15 October 2020. An electronic copy for all years from 1996 was also available for download from the site <https://IDBFileExchange.wto.org>. As had been previously mentioned, the new IDB section of the WTO website contained more recent updates on the status of IDB submissions.⁸ The current notification requirements were for Members to submit the 2020 applied tariffs (deadline of 30 March 2020) and the 2019 imports (deadline of 31 October 2020). For the report in document G/MA/IDB/2/Rev.52, the cut-off date for the document had fallen ahead of the deadline for 2019 imports in order to allow time for delegations to send it to their Capitals for comments. A call to notify had been sent to Members informing them of the earlier cut-off date of 15 October 2020 for inclusion in the report. The Secretariat had initially expected a much lower number of notifications because of the current sanitary situation and the COVID-19 pandemic, which had affected the working environment worldwide, including in Capitals. However, it had been pleasantly surprised to see that the number of 2020 applied tariff notifications that had been submitted by the 30 March deadline had been much higher than in previous years. For the period 2017-2019, the yearly average of datasets notified by the deadline of 30 March had been 17 reporters, while for 2020 28 Members had already submitted their applied tariff data on or before the deadline. Concerning the 2019 import data, for which the deadline of 31 October for all

⁴ These are the intergovernmental organizations that have positively replied to the communication on the new terms and conditions of the dissemination policy: African Union, UN-ESCAP, EBRD, ECLAC, EFTA, FAO, OECD, South Centre, UNCTAD, and the World Bank Group. In addition, the International Grains Council also accepted the terms and conditions following the Committee's authorization adopted at its meeting of 28 May 2020.

⁵ https://www.wto.org/english/tratop_e/tariffs_e/idb_e.htm.

⁶ https://www.wto.org/english/tratop_e/tariffs_e/cts_e.htm.

⁷ Documents RD/MA/71 and RD/MA/72.

⁸ https://www.wto.org/english/tratop_e/tariffs_e/idb_e.htm.

Members had fallen last year, the Secretariat was pleased to note that there were already 42 Members that had notified their data. The comparative figure in the year 2019, concerning 2018 imports, had only been 27 Members. In 2016 and 2017, when the deadlines for Members that had not been covered by the Preferential Trade Arrangements Transparency Mechanism (PTA-TM) was still 30 September, there had only been 28 and 37 Members, respectively which had notified within the deadline. As previously mentioned, the Secretariat considered that the more active notifications could be attributed to a separate "call to notify" specifically for IDB data only.

4.9. On the 2020 MFN applied tariffs, the IDB had currently received data for 76 Members by the cut-off date of 31 October, which accounted for 56% of the 135 expected Members' notifications. Of those 76 files, 52 had been official submissions, while the remaining 24 had been collected by the Secretariat from approved "framework sources" (paragraph 20 of the new IDB Decision). As to the inclusion of other types of applied tariffs in the IDB, there had also been 57 submissions (or 75% of the relevant notifications) which had included non-MFN duty schemes. Furthermore, there had been five notifications which contained the optional additional import taxes. Overall, 46 Members, representing 34% of all notifying Members, had a complete notification on MFN applied tariffs. However, there were still 41 Members (30% of the Members) with six or more years of outstanding applied tariff data. These statistics represented an improvement with respect to those that had been reported during the June meeting of the Committee, where only 36 Members had complete notifications and 49 Members had six or more years of outstanding data.

4.10. On the 2019 imports, 42 notifications had been received as of 31 October 2020, which represented 31% of the 135 expected notifications. In comparison, import data for 2018 was 48% complete. For all import data due from 1996 to 2019, only 45 Members, or 33% of notifying Members, had complete data. The number of Members with six or more years of data yet to be submitted was 46 Members, which represented 34% of the Membership. As had been the case with tariffs, these statistics showed a slight improvement with respect to those reported at the June meeting of the Committee, where only 39 Members (29%) had complete notifications and 48 Members (36%) had six or more years of outstanding data.

4.11. On the "recomposition" of single year missing MFN tariffs for which the imports had been notified and tariffs of the adjacent years were available, as provided for in paragraph 22 of the new IDB Decision, the IDB currently included 23 country periods with such data. There were an additional 14 country-year datasets that had been sent to the concerned Members asking for their comments on the recomposed datasets. The 30-day period had not yet elapsed but, in the absence of any comment from the Members concerned within such time, the recomposed tariff and matched import data would become part of the IDB.

4.12. Overall, as of 15 October 2020, the IDB disseminated data consisted of 2,714 country periods of either applied tariffs with matched imports at the national tariff line level or applied tariffs only. The Secretariat estimated that IDB notifications on MFN applied tariffs were approximately 83% complete for data expected until 2020, and 75% complete for import data until 2019. Except for Afghanistan, all other Members and six acceding Members (Algeria, Bahamas, Belarus, Comoros, Iran, and Serbia) had notified data to the IDB, which had been disseminated through the WTO's systems (that is, TAO, TDF, and WTO-DATA). Overall, in terms of the data sources, the notified tariff data accounted for 57% of the expected data for the years 1996 to 2020 on tariffs, and "framework"-sourced data accounted for an additional 25%. Approximately 17% of the expected tariff notifications remained outstanding. For imports, the percentage of data coming from national submissions was higher, at 59%, with only 16% of the additional datasets having been sourced from framework sources. Finally, 25% of the imports datasets remained outstanding.

4.13. She recalled that the submission of mandatory data for Members covered by the Preferential Trade Arrangements Transparency Mechanism (PTA-TM) should be notified as part of their IDB notifications. There were 23 Members (counting the EU-27 and the UK, and Switzerland and Liechtenstein, as one) that had notified data to the PTA-TM, six Members had no applied tariff notification yet for the year 2020, and another seventeen Members had included the mandatory non-reciprocal GSP/LDC schemes in their applied tariff notifications. The PTA-TM required that import data be notified with the necessary breakdown, and in 11 out of 23 expected notifications received for the year 2019, two Members had submitted just the regular import data without the required breakdown by duty scheme, and 10 Members had not yet submitted any import data. As stipulated in paragraph 5 of the new IDB decision, and in order to avoid processing the data multiple

times, the Secretariat would await the complete PTA-TM datasets (tariffs or imports) before integrating these notifications into the IDB.

4.14. The following additional notifications had been received after the cut-off date of 15 October 2020 and until 8 November 2020:

- (i) Belize tariffs 1998, 1999, 2000, 2002, 2003, 2004 and 2005;
- (ii) Japan 2019 imports (with PTA-TM breakdown);
- (iii) Nicaragua 2019 imports (with RTA breakdown);
- (iv) Norway 2018 imports (with PTA-TM breakdown);
- (v) Paraguay 2019 imports;
- (vi) Singapore 2019 imports;
- (vii) Thailand 2019 imports.

4.15. Since the last meeting of the Committee, in June 2020, the Secretariat had participated in the following online technical assistance activities concerning the IDB/CTS databases and related tools:

- (i) Training on the consolidation of bilateral agreements in a Goods Schedule for Uzbekistan, related to its Accession;
- (ii) Negotiations on market access for goods, initial offer, Timor-Leste;
- (iii) National Workshop on IDB and CTS for Ecuador, with the Market Access Division;
- (iv) Tariff Renegotiations for the Economic Community of West African States (ECOWAS), with the Market Access Division.

4.16. Finally, the World Tariff Profiles 2020 had been issued on its regular release date (June 2020).⁹ Hardcopies in the three official languages were available to Members upon request.

4.17. The representative of Canada thanked the Secretariat for its detailed report, which had demonstrated the importance of the electronic data interchange and paragraph 8 of the updated IDB Decision. He encouraged all Members to contact the Secretariat in order to discuss this opportunity to reduce the burden on Geneva delegates and Capitals, and to work with the Secretariat to develop options to provide this information on a timely basis with the tariff and, to the extent possible, the trade data as well. Keeping the IDB information up to date was very important for the work of the Committee and to delegates, but it was also important to outside users. These external stakeholders included a number of international organizations that used the data to produce analysis that in turn helped our stakeholders, including small and medium-sized companies. He confirmed that Canada was in the process of finalizing an agreement to allow the Secretariat to extract Canada's tariff data each year. A test had already been undertaken, which had worked very well, so he encouraged the other Members to contact the Secretariat and explore if this paragraph was an appropriate vehicle to provide this information to the IDB.

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

– **LIST OF MEMBERS' OFFICIAL WEBSITES WITH TARIFF INFORMATION AND IMPORT STATISTICS (G/MA/IDB/W/13/Rev.3)**

4.19. The Chairperson recalled that the new IDB Decision required the Secretariat to prepare a list of Members' official websites containing tariff information and import statistics. A third revision of this document had been circulated shortly after the past formal meeting and it had not been updated

⁹ https://www.wto.org/english/res_e/publications_e/world_tariff_profiles20_e.htm.

since then. Given the importance that this document had for Members and trade operators, he invited delegations to check the links and to inform the Secretariat of any change.

4.20. The Committee took note of the Chairperson's report.

– STATUS OF THE CTS DATABASE

4.21. The Chairperson drew the Committee's attention to the Secretariat report on the status of the CTS database.

4.22. The Secretariat (Mrs Alya Belkhodja) reported that the Secretariat had made CTS files available to all Members on the Tariff Analysis Online (<https://tao.wto.org/>). Out of the 135 CTS files, 99 had been made available in HS2012; 20 in HS2007; 14 in HS2002; and two remained in HS96. The complete CTS database had been made available to Members on a USB key, which had been sent to Members in September 2019. The USB key also included a more complete compilation of the original legal instruments, listed by Member. The full content of Release 16 of the CTS USB key could be downloaded from the IDB file exchange facility (<https://idbfileexchange.wto.org/>) in directory WTO Documents/CTS. She also noted that all the legal instruments were available through the new specialized website (<https://goods-schedules.wto.org/>).

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

– COMMUNICATION FROM THE ASIAN DEVELOPMENT BANK (G/MA/W/161)

4.24. The Chairperson drew the Committee's attention to a communication by the Asian Development Bank requesting access to the IDB and CTS databases, pursuant to the terms and conditions in the dissemination policy in document G/MA/238. However, these terms and conditions had been superseded by Annex 4 of the 2019 Decision of the Modalities and Operation of the Integrated Database, which was contained in document G/MA/367. The Chairperson asked whether, in case the request were to be considered favourably by the Committee, and as had been done with the previous year's request by the International Grains Council, the Asian Development Bank could be granted access on condition that it accepted the new terms and conditions set out in document G/MA/367.

4.25. The Committee so agreed.

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

5.1. The Chairperson recalled that the two issues under this agenda item were: (a) examination of notifications received; and (b) the Secretariat's introduction of its report concerning the factual information contained in these notifications. He noted that many of these new notifications had made reference to the COVID-19 pandemic and, on behalf of the Committee, he thanked the Members concerned. These timely actions supported transparency and afforded traders the opportunity to review changes in the trading environment. In particular, he thanked those Members that had also notified modifications, as well as measures that had ceased to be in force.

5.2. The representative of Switzerland noted that the Committee had 29 QR notifications to examine and her delegation was pleased to see that so many Members had complied with these notification obligations. According to the QR decision of 3 July 2012, Members had to include several elements in their notifications. In particular, paragraph (2)(v) stated that Members had to indicate the precise WTO provision which the Member cited as justification for the measure. In addition, footnote 3 of the QR Decision provided that "[t]he justification is provided for transparency purposes only and is therefore indicative. It shall not prejudice any legal position a Member may take on the particular measure that the justification is intended to cover." Going through these notifications, my delegation had noticed that some notifications did not fulfil this requirement, namely that the provision of a precise WTO justification had not been provided. In our view, the mere indication of "to protect human health" lacked the required level of specificity. It also posed several challenges. First, when Members prepared their QR notifications, they usually looked at what others had done. If the precise WTO justification was not mentioned, the Member preparing its notification was likewise not encouraged to specify the relevant WTO provision. They would question why they should

do it if the other Members had not done so. This was the natural reaction. The second concern related to the QR database. Switzerland understood that the purpose of the database was to provide standardized information that Members could access easily. This presupposed that standardized data could be included. As some Members had indicated "protection of human health", the Secretariat could not guess which WTO provision had been intended and had no choice but to put "uncategorized" in the QR database. The result was that the information could not be aggregated across all Members. Therefore, Switzerland strongly encouraged all WTO Members to clearly specify which WTO provision they were invoking as justification for their measures, as the QR Decision provided that this was without prejudice to their legal position in regard of a particular measure.

A. NOTIFICATIONS

– *Australia (G/MA/QR/N/AUS/3/Add.1, G/MA/QR/N/AUS/3/Add.2, G/MA/QR/N/AUS/5)*

5.3. The Chairperson drew Members' attention to three new notifications from Australia, two relating to measures introduced pursuant to COVID-19, and a third, completely new notification for the period 2020-2022.

5.4. The Committee took note of these notifications.

– *Brazil (G/MA/QR/N/BRA/2/Add.1)*

5.5. The Chairperson drew Members' attention to a new notification from Brazil which related to temporary measures necessary to combat the COVID-19 pandemic. This notification had been submitted just prior to the previous formal meeting, and for this reason could not be considered at that time.

5.6. The Committee took note of this notification.

– *Canada (G/MA/QR/N/CAN/4)*

5.7. The Chairperson drew Members' attention to a new notification by Canada, which was a complete notification for the period 2020-2022.

5.8. The representative of Canada wished to highlight that this notification had been greatly improved with respect to the previous version, as it had been updated and expanded based on past notifications. This had been the result of close collaboration and assistance received from the WTO Secretariat, as well as from a broader consultation process that his colleagues in Capital had undertaken to ensure that information provided in this notification was enriched, as well as ensuring that Canada had provided all the necessary information as per the QR Decision. One message he wanted to leave was that the Secretariat had helped immensely in pulling it together. He was happy to share his experience with any delegations that were interested to learn more about Canada's experience. His delegation had taken inspiration from other notifications and he believed that sharing these experiences could help to increase the number of Members that submit a QR notification.

5.9. The Committee took note of this notification.

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

5.10. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by China that had been circulated in documents G/MA/QR/N/CHN/4/Rev.1 and G/MA/QR/N/CHN/5/Rev.1. Questions had been raised by Switzerland and the United States.

5.11. The representative of the United States reiterated her delegation's concerns over the negative trade and environmental impacts resulting from China's progressively restrictive import ban, and accompanying measures, on certain solid waste imports, including recyclable materials, such as certain plastic and paper scrap, while allowing certain "recycled raw materials", such as copper, aluminium, and brass to be imported as long as those materials met strict purity standards. These concerns had been expressed previously in this and many other WTO bodies. The United States was

also concerned with what appeared to be different requirements for foreign and domestic commodities. The United States asked China whether it had any plan to apply the same bans and restrictive contaminant standards to both foreign and domestically-sourced materials, and if not, why that was not the case. The United States also had concerns that certain scrap materials, like bundled recycled newspaper, would be banned, whereas other more processed scrap materials, such as pulped paper and "smelter ready" metals would be allowed. She asked China to please explain the scientific basis that it had used to determine which categories of scrap materials were safe and which were not. Additionally, she indicated that these policy measures appeared to be contrary to China's own pro-circular economy narrative, which it had been promoting in the WTO as well as internationally. The United States considered that these measures had hindered China's aspirations to transition to a more resource efficient, global circular economy, by directly impacting global recycling networks. Her delegation reiterated its request that China immediately halt the implementation of its ban and revise the import restricting measures in a manner that would be consistent with existing international standards for trade in scrap materials, which provided a global framework for transparent and environmentally sound trade in recycled commodities.

5.12. The representative of Switzerland noted that her delegation did not have any pending question on China's notification.

5.13. The representative of China thanked Switzerland and the United States for their statements regarding China's solid waste prohibition. He recalled that China had responded on several occasions to these questions, and in order to save time, he referred Members to China's past statements in this Committee, the Committee on Import Licensing, and the Council for Trade in Goods. He also wished to highlight some key points concerning China's position. Solid waste was different from other normal goods due to its inherently polluting attributes. Every Member had the obligation to properly handle and dispose of its domestically produced solid waste. As a country that had suffered the pollution of imported solid wastes for decades, it was imperative for China to implement measures to limit the negative effect from the solid waste.

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

– *Colombia (G/MA/QR/N/COL/1/Add.1)*

5.15. The Chairperson drew Members' attention to a new notification by Colombia, which related to temporary measures necessary to combat the COVID-19 pandemic.

5.16. The Committee took note of the notification.

– *Costa Rica (G/MA/QR/N/CRI/3/Add.2, G/MA/QR/N/CRI/4)*

5.17. The Chairperson drew Members' attention to two new notifications by Costa Rica. The first notification related to temporary measures necessary to combat the COVID-19 pandemic, and the second was a complete notification for the period 2020-2022.

5.18. The Committee took note of the notifications.

– *Cuba (G/MA/QR/N/CUB/5)*

5.19. The Chairperson drew Members' attention to a new notification by Cuba, which was a complete notification for the period 2020-2022.

5.20. The Committee took note of the notification.

– *Egypt (G/MA/QR/N/EGY/1, G/MA/QR/N/EGY/1/Rev.1/Add.1)*

5.21. The Chairperson drew Members' attention to a new notification by Egypt, which related to temporary measures necessary to combat the COVID-19 pandemic.

5.22. The representative of Switzerland asked Egypt to confirm whether measures 2 and 3 in the notification were still in force.

5.23. The representative of Egypt took note of Switzerland's questions, which would be forwarded to Capital and answered in due course.

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

– *European Union (G/MA/QR/N/EU/4/Add.3, G/MA/QR/N/EU/5)*

5.25. The Chairperson drew Members' attention to two new notification by the European Union. The first notification related to temporary measures necessary to combat the COVID-19 pandemic, and the second was a complete notification for the period 2020-2022.

5.26. The Committee took note of the notifications.

– *Georgia (G/MA/QR/N/GEO/2/Add.2)*

5.27. The Chairperson drew Members' attention to two new notifications by Georgia, which related to temporary measures necessary to combat the COVID-19 pandemic and, in particular, the elimination of some of these measures.

5.28. The Committee took note of the notification.

– *Hong Kong, China (G/MA/QR/N/HKG/5)*

5.29. The Chairperson drew Members' attention to a new notification by Hong Kong, China, which was a complete notification for the period 2020-2022.

5.30. The Committee took note of the notification.

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

5.31. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by India circulated in documents G/MA/QR/N/IND/2 and G/MA/QR/N/IND/2/Add.1. A question had been raised by the United States.

5.32. The representative of the United States wished to once again express her delegation's concern over the import restrictions that India had implemented on certain pulses. Although she would address the issue under a separate agenda item, the United States remained concerned that India had not updated its QR notification to reflect these restrictions. Previously, India had informed this Committee that its restrictions on pulses were temporary. However, some of the restrictions had been in place since August 2017 and India had extended them through March 2021. The United States questioned how these measures could be considered to be "temporary". The 2012 Decision on Notification Procedures for Quantitative Restrictions did not differentiate between temporary and permanent restrictions. Rather, Members were required to report "complete notifications of all quantitative restrictions in force". She noted that the meeting's agenda included numerous temporary measures that Members had notified to combat COVID-19. The United States urged India to update its QR notification accordingly.

5.33. The representative of India thanked the delegation of the United States for its comments on India's QR notification. His delegation would reply to this issue under the separate agenda item.

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

– *Israel (G/MA/QR/N/ISR/1/Add.1, G/MA/QR/N/ISR/1/Add.2)*

5.35. The Chairperson drew Members' attention to two new notifications by Israel, which related to temporary measures necessary to combat the COVID-19 pandemic.

5.36. The Committee took note of the notifications.

– *Japan (G/MA/QR/N/JPN/5)*

5.37. The Chairperson drew Members' attention to a new notification by Japan, which was a complete notification for the period 2020-2022.

5.38. The Committee took note of the notification.

– *Kazakhstan (G/MA/QR/N/KAZ/3)*

5.39. The Chairperson drew Members' attention to a new notification by Kazakhstan, which was a complete notification for the period 2020-2022.

5.40. The representative of Switzerland indicated that her delegation had several questions which would be submitted directly to Kazakhstan in writing. Switzerland had noted that there were some missing pieces of information in the notification. For instance, it seems that QR No. 20 was missing and QR No. 19 was mentioned twice, which seemed to be a numbering problem. In addition, for the second QR No. 19, on page 38 of the notification, which related to import restrictions on rough diamonds, she observed that the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) had been cited as the justification, which did not seem to be relevant in this particular context. Further down on that page, there was an additional problem in the numbering, because QR No. 19 went directly to QR No. 22. There had been a similar problem with QR No. 28, which jumped to 30, and both were mentioned after QR 31.

5.41. The representative of Kazakhstan thanked Switzerland for their statement and asked for a written copy of it so that it could be forwarded to the competent authorities of Kazakhstan.

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

– *Republic of Korea (G/MA/QR/N/KOR/2/Add.2, G/MA/QR/N/KOR/2/Add.3, G/MA/QR/N/KOR/2/Add.4, G/MA/QR/N/KOR/2/Add.5, G/MA/QR/N/KOR/3)*

5.43. The Chairperson drew Members' attention to five new notifications that had been submitted by the Republic of Korea. Four of these new notifications related to temporary measures to combat the COVID-19 pandemic, and the other was a complete new notification for the period 2020-2022. He also noted that Korea had submitted a sixth notification, where it had informed Members of the elimination of the COVID-19 measures, which unfortunately had arrived after the agenda had closed; for this reason, it would be reviewed at the Committee's next formal meeting.

5.44. The Committee took note of the notifications.

– *Macao, China (G/MA/QR/N/MAC/5)*

5.45. The Chairperson drew Members' attention to a new notification by Macao, China, which was a complete notification for the period 2020-2022. He thanked Macao, China for having submitted the first notification for this biennial period.

5.46. The Committee took note of the notification.

– *Malaysia (G/MA/QR/N/MYS/1)*

5.47. The Chairperson drew Members' attention to a new complete notification by Malaysia for the biennial period 2018-2020, which was its first notification.

5.48. The Committee took note of the notification.

– *Mauritius (G/MA/QR/N/MUS/5)*

5.49. The Chairperson drew Members' attention to a new notification by Mauritius, which was a complete notification for the period 2020-2022.

5.50. The Committee took note of the notification.

– *Moldova, Republic of (G/MA/QR/N/MDA/1/Add.2, G/MA/QR/N/MDA/2)*

5.51. The Chairperson drew Members' attention to two new notifications by the Republic of Moldova. The first new notification related to temporary measures necessary to combat the COVID-19 pandemic, and the second was a complete notification for the period 2020-2022.

5.52. The Committee took note of the notifications.

– *Norway (G/MA/QR/N/NOR/1/Add.1)*

5.53. The Chairperson drew Members' attention to a new notification by Norway, which related to temporary measures necessary to combat the COVID-19 pandemic.

5.54. The Committee took note of the notification.

– *Peru (G/MA/QR/N/PER/2)*

5.55. The Chairperson drew Members' attention to a new notification by Peru, which related to temporary measures necessary to combat the COVID-19 pandemic.

5.56. The Committee took note of the notification.

– *Saudi Arabia, Kingdom of (G/MA/QR/N/SAU/1)*

5.57. The Chairperson drew Members' attention to a new notification by the Kingdom of Saudi Arabia, which related to temporary measures necessary to combat the COVID-19 pandemic. This was the first QR notification by Saudi Arabia.

5.58. The Committee took note of the notification.

– *Switzerland (G/MA/QR/N/CHE/3)*

5.59. The Chairperson drew Members' attention to a new notification by Switzerland, which was a complete notification for the periods 2018-2020 and 2020-2022.

5.60. The Committee took note of the notification.

– *Chinese Taipei (G/MA/QR/N/TPKM/4)*

5.61. The Chairperson drew Members' attention to a new notification by Chinese Taipei, which was a complete notification for the period 2020-2022.

5.62. The Committee took note of the notification.

- *Thailand (G/MA/QR/N/THA/2, G/MA/QR/N/THA/2/Add.1, G/MA/QR/N/THA/2/Add.2, G/MA/QR/N/THA/2/Add.3)*

5.63. The Chairperson recalled that the Committee had agreed to revert to the notifications by Thailand, where questions had been raised by the European Union. The last two notifications were new and related to temporary measures necessary to combat the COVID-19 pandemic.

5.64. The representative of the European Union recalled that the EU had submitted a number of questions, which remained outstanding. Since January 2017, Thailand had put in place an import licensing regime for wheat (animal feed) which required the importers concerned to purchase three portions of locally harvested corn for importing one portion of feed wheat. At the last meetings of this Committee, the European Union had noted that Thailand's notification did not include the import licensing requirements for feed wheat. Given that, in the EU's view, these were non-automatic licensing requirements, they should have been included in Thailand's notification. The EU had expressed numerous times its concerns on the import procedures for feed wheat in the Committee on Import Licensing and the Committee on Agriculture. The EU wished to remind Thailand that its written replies to the EU's questions, which had been submitted to the Committee on Import Licensing in April 2017 and March 2018, remained pending (documents G/LIC/Q/THA/3 and G/LIC/Q/THA/4). The EU wished to reiterate its interest in understanding the basis of the measure, which had been announced as temporary, given that it had been maintained for so long, over three years, and when it would cease to apply. The EU was also concerned about the WTO compatibility of Thailand's import licensing regime for feed wheat. Further, given market and policy developments related to corn since last year, the EU understood that there were no economic reasons to keep the measure in place. The EU also wanted to understand whether, pending the removal of the licensing regime, Thailand intended to notify it in accordance with Articles 1.4 and 5 of the Import Licensing Agreement and to add them to its notification on quantitative restrictions. The EU acknowledged that a new price support programme for corn had been launched since 20 December 2019 and extended until October 2021, in parallel to additional measures to support corn farmers. The EU sought an update on the implementation of the price support programme and requested Thailand to notify it to the WTO Committee on Agriculture.

5.65. The representative of Thailand thanked the EU for its questions and informed the Committee that, from January to August 2020, Thailand had imported approximately 1.14 million tonnes of feed wheat. This represented an increase from the same period in 2019, in which the import volume had been approximately one million tonnes. Furthermore, between 2017 and 2019, Thailand's average import volume of feed wheat had been 1.72 million tonnes per year. Thailand expected that the total imports of feed wheat in 2020 would be similar to previous years. Her delegation had consulted with the relevant stakeholders in Thailand, including farmers and industries, with a view to improving the supply chain of animal feedstuffs. Thailand would review this measure, which needed in-depth examination of various factors, as well as a comprehensive analysis of economic and social impact. Finally, she indicated that her delegation would share further information at a later stage.

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

- *Ukraine (G/MA/QR/N/UKR/4/Add.5, G/MA/QR/N/UKR/4/Add.6, G/MA/QR/N/UKR/5)*

5.67. The Chairperson noted that the Committee had already reviewed and taken note of these notifications, which had been included in the Airgram by mistake. No action was required by the Committee.

- *United States (G/MA/QR/N/USA/2, G/MA/QR/N/USA/3, G/MA/QR/N/USA/4, G/MA/QR/N/USA/4/Add.1, G/MA/QR/N/USA/4/Add.2, G/MA/QR/N/USA/5, G/MA/W/116, G/MA/W/127)*

5.68. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to different notifications by the United States, as there were still questions from the European Union which had been circulated in documents G/MA/W/116 and G/MA/W/127. Since then, the United

States had submitted a new notification, which related to temporary measures necessary to combat the COVID-19 pandemic.

5.69. The representative of the European Union recalled that her delegation had been expressing concern over US trade prohibitions on sturgeon products in this Committee since 2015. The EU had also submitted written questions to the US on two occasions. Given the limited explanations that had been received, it still remained unclear to the EU why the US considered, first, that wild and farmed sturgeon and their products were not separate categories and, second, that captive-bred sturgeon and its products were considered detrimental to the survival of wild stocks, which was against CITES and EU criteria. At past meetings of this Committee, the US had informed Members about an ongoing review that was being carried out by the US Fish and Wildlife Service on the listing of sturgeon species as endangered. Her delegation would appreciate an update of this review.

5.70. The representative of China reiterated his delegation's concerns over US import quotas on steel and aluminium products under Section 232, which had been reflected in the US notification circulated as document G/MA/QR/N/USA/4. China asked the United States to provide detailed information on these measures, including the specific quantities and requirements for these import quotas. Additionally, China hoped that the US could clarify how these import quotas could address its so-called national security concerns. China believed that these import restrictive measures were inconsistent with Article XI, "General Elimination of Quantitative Restrictions", and Article XXI, "Security Exceptions" of the GATT.

5.71. The representative of the United States thanked the European Union for its continued interest in this matter. As had previously been indicated, there were five foreign species of sturgeon listed as endangered under the US Endangered Species Act (ESA). The ESA applied not only to wild animals, but also to those in captivity. When a species was listed under the ESA, the listed entity included both captive and wild animals. The US had not made a finding under the ESA that farmed sturgeon products were considered detrimental to the survival of wild stocks, because this was not a criterion under the ESA. There were ten additional species of sturgeon under review by the US Fish and Wildlife Service (USFWS). In December 2017, the USFWS had published a preliminary determination that one of those species, the Yangtze River sturgeon, was presently in danger of extinction and should be considered endangered under the ESA. She asked Members to refer to 82 Federal Register 61230 of 27 December 2017. The final determination was currently under review by USFWS leadership. With respect to the current status of the nine other species under review, the USFWS was conducting a 12-month status review on the petition to list those species of sturgeon under the ESA. The Service was collecting and evaluating information and had not made a determination regarding the listing of these species. She noted that a listing determination would be made on the best scientific and commercial information available. More specifically, the Service was currently reviewing the Amur, Caspian, and Siberian sturgeon. The Caspian sturgeon review included Russian, Persian, ship, and stellate sturgeon. She recalled that the EU could provide additional information to help us make this determination at any time during the Service's review. Once the status review was completed, if the Service found that listing was warranted, the Service would prepare a proposed rule. At that point, the public would be given 60 days to comment on the proposed listing. This would give the European Union another opportunity to provide the Service with information. Her delegation would be happy to facilitate a discussion among the relevant authorities, as appropriate. The United States had taken note of the comments and questions that had been raised by China regarding the WTO consistency of the Section 232 quotas. The United States had invoked Article XXI(b) of the GATT 1994 and the actions were, therefore, wholly WTO-consistent. Regarding questions relating to the operation of the Section 232 quotas, she referred Members to the proclamations that had been issued by the President under Section 232, and to quota implementation information that had been published on the website of US Customs and Border Protection.

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

– *Uruguay (G/MA/QR/N/URY/4)*

5.73. The Chairperson drew Members' attention to a new notification by Uruguay, which was a complete notification for the period 2020-2022.

5.74. The Committee took note of the notification.

– *Viet Nam (G/MA/QR/N/VNM/1)*

5.75. The Chairperson drew Members' attention to a new notification by Viet Nam, which related to temporary measures necessary to combat the COVID-19 pandemic, which had been removed during the first part of the year.

5.76. The Committee took note of the notification.

B. Report from the Secretariat (G/MA/QR/9)

5.77. The Chairperson drew the Committee's attention to document G/MA/QR/9, entitled "Status of Notifications under the Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1)", where the Secretariat had summarized the status of notifications as of 30 September 2020. This document showed that compliance had improved with respect to previous years, and in particular for the biennial period 2018-2020, where the number of Members which had notified had increased by almost one third. However, the overall compliance with this notification requirement remained relatively low. The Secretariat had informed him that one Member had noticed that the information in the "date" column had mixed information between the date of submission and the date of circulation of the notification. The Secretariat was currently examining how best to resolve this problem and would issue a revision before the end of the year. The Decision on Notification Procedures for Quantitative Restrictions in document G/L/59/Rev.1 provided that: "Members shall make complete notifications of all quantitative restrictions in force by 30 September 2012 and at two yearly intervals thereafter." Therefore, he urged Members that had never notified, or that had failed to notify for the current biennial period (2020-2022), to comply with this important transparency provision and to contact the Secretariat in case they needed technical assistance. In addition, it was hoped that the new version of the QR database, which now included additional information to help Members to prepare their notifications, would also assist Members in this task.

5.78. The representative of the European Union noted that her delegation appreciated the increased notification activity in 2020, even though this had been to a large extent due to the COVID-19 pandemic, during which numerous Members had taken temporary trade restrictions on, for example, medical supplies. The European Union wished to express its thanks to those Members that had recently made their first QR notification. She also noted that several Members with fewer capacity constraints than LDCs had still never submitted a QR notification, so she encouraged them to provide the relevant notifications in the interests of transparency.

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

6.1. The Chairperson drew the Committee's 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.7. He recalled that a full version of the Secretariat's report and presentation had been made available as a room document and would be incorporated into the minutes of the meeting.¹⁰

6.2. The Secretariat (Mr Roy Santana) recalled that the "Factual Report on the Status of Renegotiations under Article XXVIII of the GATT 1994" (G/MA/W/123/Rev.7) provided an overview of all the renegotiations which had been undertaken by WTO Members pursuant to Article XXVIII of the GATT 1994. There had been 49 renegotiations, at different stages of the procedures. The overall status, as of 20 October 2020, was as follows: 24 renegotiation procedures had been concluded and the modifications certified; five renegotiations had been concluded (step 1), and the draft changes had been submitted under the 1980 Procedures (step 2), but they had not yet been certified; one renegotiation had been concluded (step 1), but the Member had not yet followed the 1980 Procedures (step 2); 11 renegotiations remained ongoing; one request to initiate a renegotiation under Article XXVIII:4 had not been approved; and eight renegotiation procedures had been withdrawn. He also provided additional information with respect to each of those categories.

¹⁰ Documents RD/MA/71 and RD/MA/73.

With respect to the eight procedures which had been withdrawn, some were linked to enlargements of the European Union. In these cases, a Member with an individual Schedule had begun a renegotiation process on its own, but then the overall Schedule had been withdrawn when that Member joined the European Union. In one case, the request for authorization to initiate a renegotiation under paragraph 4 of Article XXVIII of the GATT 1994 had not been approved by the Council for Trade in Goods.

6.3. In general, it could be said that renegotiations under Article XXVIII followed a "two-step" process from their initiation to their full completion. Under the first step, Article XXVIII procedures had been undertaken and concluded once the renegotiating Member had circulated the bilateral agreements with the Members holding rights in the negotiations (namely, Members holding Initial Negotiating Rights, principal suppliers, and Members with a substantial interest), as well as the final report describing the outcome of its renegotiation. The second step of the procedures required the renegotiating Member to submit the draft modifications to its Schedule under the "1980 Procedures for the Modification and Rectification of Schedules" (1980 Procedures). In the absence of objections within a three-month period from the date of circulation of the draft changes, this second step would result in a certification of the modifications to the Schedule by the Director-General.

6.4. As of the date of this report, there had been one case where the Member had concluded the bilateral negotiations, but the Member had failed to submit the draft modifications through the 1980 Procedures. In five renegotiations, Members had concluded the negotiations and consultations with the other Members, submitted the bilateral agreements and the final report, and had begun the 1980 Procedures. However, four of these procedures were on hold due to reservations and the conclusion of one of them was subject to the completion of domestic procedures. Of the 49 renegotiations, 24 had been successfully concluded and the modifications certified. This meant that approximately half of the renegotiations had been successfully concluded, and all the relevant procedures completed. Finally, there had been 11 renegotiations that had been launched or authorized. This included a new procedure under Article XXVIII that had been launched in the year 2020. These procedures remained ongoing either because the negotiations and consultations had not yet been concluded, or the renegotiating Member had not taken any further action under the 1980 Procedures. He concluded by noting that the Secretariat stood ready to provide technical assistance to Members as required.

6.5. The Committee took note of the statement and the document.

7 TRADE-RELATED MEASURES RELATING TO THE COVID-19 PANDEMIC

7.1 The Chairperson recalled that there were two issues under this agenda item. The first item was the revised document by the Secretariat with the list of all notifications and communications relating to the COVID-19 pandemic, which had been submitted by Members to this Committee as of 20 October 2020 (document G/MA/W/157/Rev.1). The second item concerned three new communications that had been submitted by Members with unilateral measures aimed at facilitating trade during the pandemic. He took the opportunity to thank those Members that had informed the Committee of these measures, despite the fact that no obligation to do so existed in the WTO Agreements. In addition, he been informed by the representative of the World Customs Organization that she wished to provide a short report on the WCO work in this area. The Chairperson proposed to begin with this statement and then to open the floor on both sub-items.

7.2 The representative of the WCO (Ms Gael Grooby) noted that the WCO's response to the disruptions that had been caused by the pandemic continued to be centred around the following three pillars: (i) communication and sharing of information; (ii) partnerships; and (iii) capacity-building. In terms of communication and sharing of information, since 1 June, the WCO had issued two updates to the HS Classification reference for COVID-19-related medical supplies. The current version was version 3.01, which had been made available in six languages.¹¹ On 26 October 2020, the World Health Organization (WHO) had published a new List 124 – COVID-19 (special edition) under the International Non-Proprietary Names for Pharmaceutical Substances (INN). The new list contained 25 substances which had been considered to be pertinent to the treatment of COVID-19. Given the importance of these substances, the WCO and the WHO had agreed to continue to work together by coordinating the drafting of a document on the HS classification of these 25 substances. This document would be discussed at the 36th Session of

¹¹ [hs-classification-reference_edition-3_en.pdf \(wcoomd.org\)](#).

the WCO Scientific Sub-Committee from 16 to 27 November 2020, with the attendance of WHO experts. It was believed that guidance on the classification of these 25 substances in the HS would contribute to facilitating trade in products containing them if there was progress in the treatment of COVID-19 by using them, as their movement across borders would be expected to increase. In early June 2020, the WCO had issued the 4th edition of the WCO Secretariat Note on "What Customs could do to mitigate the effects of the COVID-19 pandemic", which highlighted and categorized measures that Customs could implement to mitigate the effects of the COVID-19 pandemic.¹² Enforcement Operation STOP had been conducted from 11 May to 12 July 2020 with the involvement of 99 Members, the RILO network, and a number of stakeholders, such as INTERPOL, the UNODC, OLAF, Europol, and the private sector, represented by Novartis, Servier, Pfizer, Sanofi, and UL. The scope of the operation had covered the targeting and inspection of consignments that may contain counterfeit, substandard, and illicit pharmaceutical products and other goods posing a threat to health and safety. The report of Operation STOP had been launched at a webinar held on 6 October 2020.

7.3 With the financial support of the Government of Japan, in July 2020 the WCO had launched the WCO COVID-19 Project, which aimed at improving the capacity of Customs administrations in developing and least developed countries to address the challenges related to COVID-19 and other infectious diseases and disruptive events. The project had been entrusted with the development of WCO Guidelines on disaster management and supply chain continuity, and with the delivery of capacity building activities at the regional and national levels. The topic of Customs in mitigating the effects of the COVID-19 pandemic had been on the agenda of the Spring and Autumn 2020 Permanent Technical Committee (PTC) sessions. During its 227th/228th Sessions, held from 15 May to 3 July 2020, the PTC had taken note of the information on WCO instruments, tools, initiatives, and databases that could be utilized in the efforts to address the various COVID-19-related challenges faced by Customs and their stakeholders. The PTC had also taken note of the proposals, to be discussed further, for future WCO work with regard to the role of Customs in the different phases of the disaster management cycle, namely conducting a review and gap analysis of existing instruments and tools, developing a new tool dealing with business continuity and the role of Customs in the different phases of the disaster management cycle, as well as developing a database or compendium of best practices, and agreed to keep the topic on the agenda of future PTC meetings. At its 229th/230th Sessions, which had been held from 28 September until 29 October 2020, the PTC had taken note of the update on the progress that had been made under the WCO COVID-19 Project and the development of draft WCO Guidelines on disaster management and supply chain continuity. It also noted the importance of these guidelines in view of the role of Customs administrations in facilitating the expected movements of vaccines around the world, and took note of the guidance, comments, and suggestions made by delegates. The WCO had continued promoting the role of Customs in mitigating the effects of the COVID-19 pandemic at various fora. The WCO had delivered a presentation at the informal meeting of the Trade Facilitation Committee that had been held on 30 September 2020. In addition to the WCO report on TFA implementation assistance and activities during the COVID-19 pandemic, the WCO had provided a written report on the Mercator Programme assistance to the meeting of the Committee on Trade Facilitation held from 20 to 22 October 2020.

7.4 The representative of Colombia thanked the WTO Secretariat for updating the list of documents and notifications to this Committee with the measures that had been introduced to address the COVID-19 pandemic. Although it was useful to have a centralized list of all the notifications, her delegation considered it important for the document to be expanded with additional information that could be used by her authorities, and by all Members, to carry out an analysis and follow-up to the measures, thereby contributing to transparency. Colombia considered it useful that the document presented aggregate information on the subjects covered by the communications, as well as the number of subheading and tariff subheadings affected by the measures. And to the extent possible, to also include a factual analysis on the trade that had been affected by the notified measures. At a later stage, the Committee could consider the possibility of including an analysis of the trade flows and other elements that could be considered of interest. It would also be useful to have information on the duration of these measures, as well as the deadlines provided for their termination. This information could be extracted directly from the notifications and from the various communications that had been assessed by this Committee. She recalled that Colombia had previously requested to

¹² http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/activities-and-programmes/natural-disaster/covid_19/covid_19-categorization-of-member-input_may-29-2020_edition-4_en.pdf?la=en.

have a standing agenda item on this issue, to have a clear and comprehensive picture of all these notifications, thereby facilitating the possibility to follow-up and analyse these measures. After Members had submitted new notifications and communications on measures directly related to the pandemic, it was important for the Committee to review and analyse them according to its mandate. She recalled that the pandemic would not be over soon, so the consequences of this health emergency would be felt for many more months to come. As a result, she made a call for transparency and to use the WTO bodies to share information, undertake analysis, and to identify tools that would enable the Membership to face future crises. Finally, she thanked the WCO Secretariat for its report and hoped that Members could benefit from similar reports in future meetings.

7.5 The representative of Indonesia noted that the COVID-19 pandemic had created global uncertainty, especially in terms of trade and the economy. Indonesia was aware that almost all WTO Members had implemented certain policies and actions to deal with the impact of this pandemic, and Indonesia was no exception. Her delegation realized the importance of transparency in trade policies and trade-related policies in the handling of the COVID-19 pandemic. Supporting this, Indonesia had notified seven policies through the SPS and TBT Committees. Indonesia had also actively provided information relating to measures that facilitated trade in goods, services, and intellectual property, on a periodic basis, through the Trade Monitoring Report. The information provided in a timely and accurate manner could provide certainty in doing business during the COVID-19 pandemic.

7.6 The representative of South Africa thanked the Secretariat for the updated list of measures in Annex 1, and the trade-facilitating measures related to the COVID-19 pandemic in Annex 2. South Africa considered that transparency was an important aspect of the work of this Committee. In this respect, looking at the format and the content of the report by the Secretariat, South Africa believed that the information could be made more user-friendly by incorporating a summary of the measures that had been notified for both Annex 1 and Annex 2. This would make the information more understandable and targeted, and it would ensure that anyone looking at the information could know what the notification was about without having to locate the individual notification. Furthermore, while it was useful to know when a measure had been notified, the table did not always clearly indicate when the measure had taken effect. There was invariably a lag in time between when a measure had first been notified and the date from when it had first applied. In this regard, it would be more useful for the table to indicate when the measure had taken effect. It would also be useful to know whether a particular notification related to a new measure or had renewed an existing measure. In the overall context, the notification probably indicated this already. In the context of the COVID-19 pandemic, the types of measure that had been notified seemed to be more trade-facilitating and included a wide array of facilitation measures. It could be an interesting exercise to have an assessment of those trade-facilitating measures to enable peer-learning from them. South Africa would welcome any work that the Secretariat could do in this regard as it saw value in continuing the discussion given the implications of the crisis. Broadly, in relation to the COVID-19 pandemic, South Africa was of the view that the policy responses had to be tailored to the needs of each country and that a "one-size fits all" approach was not appropriate.

7.7 The representative of the Republic of Korea appreciated the continued efforts by the Secretariat to update Members on trade-related measures taken in response to the COVID-19 pandemic. Korea had tried to notify the relevant measures and had updated the corresponding developments on six occasions since the outbreak of the pandemic. With a view to protecting human health and preventing the critical shortage of essential goods, Korea had temporarily imposed a quantitative restriction on exports of filtering respirators and melt brown filters, which had been the only export prohibition that Korea had introduced. As the supply and demand had improved, Korea had withdrawn its restrictive measures on 23 October 2020, as had been notified in document G/MA/QR/N/KOR/3/Add.1. Bearing in mind the importance of transparency in the multilateral trading system, Korea believed that prompt and sincere notifications would contribute to the response to the COVID-19 situation.

7.8 The representative of Japan noted that his delegation also appreciated the ongoing efforts being made by the Secretariat to monitor Members' trade-related measures. Japan called upon Members to make timely notifications based on the WTO rules and promptly to provide information in response to requests from the Secretariat. Japan believed that any emergency measure designed to tackle the COVID-19 pandemic had to be targeted, proportionate, transparent, and temporary, and should also be consistent with the WTO rules. Furthermore, it considered that these export-restricting

measures should be lifted as soon as possible once they had been deemed no longer necessary. This Committee could be utilized to ensure transparency and to review whether the emergency measures had been lifted. Japan expected the Secretariat to continue to play a central role in monitoring and analysing trade-related measures. In addition, Japan acknowledged that some Members had increased their tariff rates due to the COVID-19 pandemic and called for prompt improvement of such measures, as they had been negatively affecting trade and trade-related business activities.

7.9 The representative of the European Union noted that there was widespread recognition of the need for transparency, and especially in times of crisis. Therefore, the EU echoed the call on all Members to notify all the quantitative restrictions that had been taken in the context of the COVID-19 pandemic. The European Union thanked the Secretariat for its updated report, which it considered to have been useful, if a bit "dry" in its current form. Her delegation would also echo some of the suggestions that had been made by the delegation of Colombia. In addition, the delegation of South Africa had also offered some interesting suggestions. In case there would be additional COVID-19-related notifications from Members, and if the Secretariat would then produce further updates to the report, the European Union suggested that the Secretariat make that report more informative and user-friendly. The Secretariat could do so by including factual information contained in the notifications and communications, namely: (i) the start-date and envisaged end-date of the measures; (ii) the products concerned; and (iii) the type of measure. Such information would be as described by the Member in its notification or communication. Regarding the unilateral trade-facilitating measures (item 7(b) of the agenda), she wished to draw Members' attention to the most recent EU notification under the TFA (document G/TFA/N/EU/1/Rev.5, of 5 November 2020). Through that notification, the European Union had informed the TFA that the previously notified Commission decision to exempt certain EU entities procuring essential protective medical equipment from duty and VAT had been extended until 31 April 2020.

7.10 The representative of Singapore thanked the Secretariat for its updated report and all Members that had submitted notifications. Her delegation welcomed Members' efforts to improve transparency even during these challenging times. Lastly, Singapore wished to support the suggestions from Colombia, South Africa, and the European Union, to make the Secretariat's report more user-friendly, for example, by including factual information on product coverage, whether the measure was new, and the start and expected end-dates of the measure.

7.11 The representative of China thanked the Secretariat for its ongoing efforts to monitor the trade-related measures that had been implemented by Members in responding to the COVID-19 pandemic, and supported the continuing work to track and discuss these measures. China believed that transparency and global cooperation were important during a global crisis such as the COVID-19 pandemic. China called upon Members to avoid unnecessary trade restrictions and to ensure the transparency of the measures relating to the COVID-19 pandemic.

7.12 The representative of Switzerland thanked the Secretariat for the timely and useful information, which had given a picture of some of the notified measures related to the COVID-19 pandemic. However, Switzerland thought that the compilation would add more value if it included such additional information as the start and end-dates of the measure, if available, plus product coverage and the type of restriction (for example, export prohibition, or non-automatic export licence). This additional information would be presented in a factual summary with no legal implications for the Members that had notified them. With this additional information, it would be much easier for the Membership to follow the changes that governments had implemented.

7.13 The representative of the United States thanked the European Union for its comments and supported the EU's suggestion to add basic factual information to any future updates of the Secretariat report. Her delegation believed that the inclusion of that factual information to a future update of the report would add further transparency to COVID-19-related measures that Members had notified.

7.14 The representative of the United Kingdom thanked the Chairperson and the Secretariat for convening this discussion. As had been previously outlined, the United Kingdom was a vocal supporter of the positive role that trade, and open supply chains, could play in tackling this pandemic. His delegation remained committed to facilitating trade in personal protective equipment (PPE), as well as key medical and healthcare products. As such, he wished to reiterate the UK's support for the G20 principles. As the Communiqué by G20 leaders had set out, any COVID-19-related measures ought to be targeted, proportionate, transparent, and temporary. They

should reflect an interest in protecting the most vulnerable, not create unnecessary barriers to trade or disruption to global supply chains, and should be consistent with WTO rules. Therefore, the United Kingdom strongly welcomed the steps that had been taken across the Membership to facilitate trade – some of which had just been outlined by Members– as these would also support the use of trade policy as a critical tool in the global fight against COVID-19. However, his delegation considered that more should be done. For example, Governments still targeted their trade barriers on exactly the products that were most needed to combat the virus, with tariffs on disinfectant often exceeding 10%, and for soap exceeding 30%. That was why, as the UK's new applied tariff regime would enter into force on 1 January 2021, the UK would unilaterally remove tariffs on COVID-19-critical goods. His delegation would welcome similar unilateral steps which had already been taken by several Members, and encouraged others to likewise take similar action in order to make it cheaper to export and import these critical products across the globe. Going forward, the UK wished to continue to work closely with all Members to improve the flow of essential goods in tackling the pandemic. The UK believed that there was a real scope for collaboration on different aspects, including on tariffs, export restrictions, and trade facilitation.

7.15 The representative of Australia considered that the WTO's transparency function had proven to be valuable throughout the COVID-19 pandemic. Australia encouraged Members to ensure that emergency measures that had been introduced in response to the COVID-19 pandemic remained targeted, proportionate, transparent, temporary, consistent with WTO rules, and avoided creating unnecessary disruptions to supply chains. His delegation considered it important to honour commitments to roll back COVID-19-related measures and to ensure that the temporary measures did not become permanent fixtures.

7.16 The Chairperson noted that there appeared to be support to the idea and proposed to request the Secretariat to modify the report in order to include factual information based on the notifications and communications by Members.

7.17 The Committee took note of the report and of the statements made and agreed to request the Secretariat to improve the report.

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

8.1. The Chairperson drew the Committee's attention to a communication by the Russian Federation entitled "Enhancing Transparency in Applied Tariffs", which had been circulated in document JOB/MA/138.

8.2. The representative of the Russian Federation indicated that her statement would cover agenda items 8 and 9. She wished to provide an update on the work carried out since the Committee's June meeting. The Russian Federation had examined Members' schedules of tariff commitments and had established that only in 68 schedules out of 138 had all tariff lines been bound. In 19 schedules, the scope of the bound tariff lines did not exceed 30%; in 23 schedules the scope of tariff lines varied between 30% and 60%; and in 28 cases it surpassed 90%. This dispersion in the scope of bound tariffs showed that almost a half of import tariffs around the world were not bound, which for businesses meant a higher risk of unpredictable trade caused by changes in market access conditions. This area of work had become even more relevant in light of the new challenges caused by the pandemic. Timely and accurate information with regard to tariff rates could contribute significantly to the predictability of trade and, therefore, to the restoration of trade flow. The Russian Federation wished to find a possible solution for improving transparency in applied tariffs at a minimum cost in terms of existing domestic practices, but with a high value-added for businesses. As reflected in the submissions of Australia, Brazil, and Canada, which had been discussed at the previous month's meeting of the Committee on Agriculture Special Session (CoASS), this broad topic had reinvigorated interest among business communities and Members. The Russian Federation had held consultations with the proponents and stood ready to seek, together with interested Members, ways of improving transparency in applied tariffs in order to prepare concrete proposals for MC12.

8.3. The representative of Australia supported giving consideration to improving the transparency of Members' applied tariff schedules. Unexpected increases in applied tariffs created uncertainty for exporters, as well as additional costs for importers, and could be a significant disincentive to trade.

Australia looked forward to working with all Members to find practical solutions to that important issue.

8.4. The representative of South Africa thanked the Russian Federation for putting this item on the agenda and for the update. As had been indicated in her previous interventions, Australia still did not understand what gap that the proposals were trying to close. While South Africa understood and appreciated the importance of transparency in applied tariffs, and the predictability it provided to international trade, including for small and medium-sized companies (SMEs), changes in applied tariffs in South Africa followed a transparent process and were published in the publicly accessible SARS website. South Africa did not see what additional value there would be in undertaking further notification obligations, especially for countries which were already experiencing capacity constraints.

8.5. The representative of Japan understood the effectiveness of enhancing transparency in the area of applied tariffs in order to strengthen predictability for stakeholders. However, it was difficult for Japan to publish early notice of tariff changes for reasons related to the domestic legislative process. In Japan, changes to the tariff rates were published in a timely manner on the Customs website. Bearing in mind that Members had complied with the provisions of the Trade Facilitation Agreement, Article X of the GATT 1994, and the Decision on the Modalities and Operation of the Integrated Database (IDB), Japan believed it was important to clarify the specific difficulties the stakeholders were facing.

8.6. The representative of India thanked the Russian Federation for including the issue on the agenda and noted that his statement would cover agenda items 8 and 9. His delegation wished to inform Members that all notifications affecting tariff changes in India were in the public domain immediately, on the same day, and could be obtained from the Central Board of Indirect Taxes and Customs (CBIC)'s website immediately after the imposition of the changes. In addition, India also regularly notified to the WTO, including under the TFA, the websites from which such information could be obtained. They could also be seen in the Gazette notifications through the e-gazette system. Moreover, India also notified changes in MFN tariffs to the WTO IDB database. Such changes were also reflected in the WTO Trade Monitoring Report on a regular basis. Despite all the information that was already available, proponents still considered that additional notification obligations relating to changes in applied tariffs were required. India believed that Members were entitled to raise their applied tariffs, as long as those tariffs were not higher than their bound tariff commitments. Therefore, India did not support additions to the notification obligations that sought to circumscribe Members' negotiated rates under the WTO Agreements.

8.7. The representative of the European Union indicated that her statement would cover agenda items 8 and 9. She reiterated her delegation's interest in all constructive initiatives to enhance transparency on trade measures. As the issues in the submission from the Russian Federation were in practice related to those in the Australia, Brazil, and Canada submission on changes in applied tariffs and goods *en route*, it could be useful to discuss them together. The EU reiterated its openness to engage further on these submissions in the Committee on Agriculture in Special Session.

8.8. The representative of Switzerland thanked the delegations of Australia, Brazil, and Canada for their proposal. As those delegations had conducted numerous discussions with Members in the CoASS, she posed the following questions: (i) how frequent was the change of applied duties during the year; (ii) whether it affected all products or only some specific product categories; (iii) whether it was correct to consider that the proposal addressed the same issue as that in the Russian Federation's proposal, namely, the modifications of applied duties during the year; and (iv) if not, what were the differences between the two proposals. In case they had the same scope, Switzerland would appreciate to have a single proposal.

8.9. The representative of South Africa indicated that she was also making a statement under agenda items 8 and 9. She wished to emphasize a few points under agenda item 9 and thanked Australia, Brazil, and Canada for the revised document, which captured Members' practices and perspectives. She observed that Members had a right to change their tariff as long as they stayed within their tariff binding, and that Members had the right to adjust tariffs, so that they achieved their developmental and strategic objectives. South Africa did not agree that Members had to look at lower rates and liberalize their tariffs on all products, including agricultural products, and believed that it was a Member's right to increase their applied tariffs, as long as they observed their WTO commitments. South Africa reiterated that it followed a very transparent and inclusive system

when it changed its applied tariffs, in which interested parties were heard and well-informed. In addition, economic operators could pre-clear goods once they were loaded for shipment to a South African port. In the view of her delegation, there were no other difficulties that had to be addressed in relation to the practices that were described in the documents. South Africa also agreed with the co-sponsors' view that a one-size-fits-all approach would not work, as Members had different legal frameworks. South Africa's domestic processes already accommodated various flexibilities that enabled Members and operators to participate and be heard when tariffs were changed. Neither of the options provided for in the paper seemed appropriate but South Africa remained open to learn from the best practices of other Members.

8.10. The representative of Singapore indicated that she was delivering her intervention under agenda items 8 and 9. Singapore thanked Russia, Australia, Brazil, and Canada for their submissions, and expressed its support for the overall aim of both submissions, which was to improve the transparency of applied tariffs. Singapore remained ready to engage in further discussions on this topic.

8.11. The representative of the Russian Federation took the floor to respond to the question by Switzerland and observed that both papers addressed the same issue of transparency in applied tariffs. However, while the paper of Australia, Brazil, and Canada addressed a specific issue of treatment of products *en route*, Russia's proposal was much broader and addressed all tariffs and changes, and not only changes as concerned products *en route*.

8.12. The Committee took note of the statements made.

9 TRANSPARENCY IN TARIFF RATE CHANGES, AND THE TREATMENT OF SHIPMENTS *EN ROUTE*: MEMBERS' PRACTICES AND PERSPECTIVES – STATEMENT BY AUSTRALIA, BRAZIL AND CANADA (G/MA/W/160)

9.1. The Chairperson drew the Committee's attention to a communication from Australia, Brazil, and Canada entitled "Transparency in Tariff Rate Changes, and the Treatment of Shipments *En Route*: Members' Practices and Perspectives", which had been circulated in document G/MA/W/160.

9.2. The representative of Canada expressed his appreciation for the comments that had been made under the previous agenda item. Canada also appreciated the opportunity to bring to the attention of the Committee a discussion of relevance in the CoASS. The CoASS paper was a follow-up to an earlier paper, document JOB/AG/168, which had been circulated in November 2019, and which had asked Members a number of questions regarding their practices relating to applied tariff increases. Canada and Australia had met with a broad range of Members to discuss the questions that had been posed in the November paper, and had received responses from a wide cross-section of the Membership. The CoASS communication circulated the previous month and duplicated in document G/MA/W/160 had summarized the current practices and perspectives of those Members that they had heard from, and outlined options that could serve as a basis to enhance transparency and predictability when applied tariffs changed. There was no common approach considering the differences between Members in their domestic processes, which was a comment that had been made by South Africa. The CoASS paper had presented a number of options to provide some predictability to both importers and exporters, which is what their approach had been about. Within these options, there was nothing that prevented Members from exercising their right to adjust applied tariffs within their WTO bindings, which was an issue that had been raised by South Africa and India. In response to questions that had been asked, and following on the last comment by the Russian Federation, Canada observed that the two papers sought to address the same issue, namely changes in tariff rates that affected imports of products that were already contracted and on their way but had not yet crossed the border and not yet been imported into that country. The paper by Australia, Brazil, and Canada had offered a number of options and co-sponsors were open to other options, and they had added a third option based on Brazil's experience. They were trying to address the problem of importers and exporters faced with an unexpected rise in tariff rates after they had concluded a contract, but before the product had been imported into the country. Co-sponsors hoped that, once the discussion in the CoASS had been concluded, they would be able to collect best practices that Members could utilize to increase the predictability and transparency of their operations.

9.3. The representative of Australia observed that the need to provide greater certainty for traders in cases where tariffs changed once a shipment had departed the point of export had been a concern of several Members for some time. Improving predictability reduced costs and facilitated trade. In November 2019, Australia and Canada had circulated a paper (document JOB/AG/168) in the CoASS, asking Members a series of questions on their practices and perspectives regarding the treatment of shipments *en route* when a tariff changed. Australia wished to draw attention to document G/MA/W/160, which detailed the initial findings of the survey and outlined a number of potential options for Members to consider for enhancing the transparency of applied tariff changes. The goal was to secure an outcome by MC12, but it was understood that a one-size-fits-all approach would not work. Transparency in tariff rate changes was a cross-cutting issue involving both agricultural and non-agricultural trade. As such, Australia encouraged Members to respond to the survey they had circulated in the CoASS (document JOB/AG/168) and to consider the practical options set out by Canada, Brazil, and Australia in document G/MA/W/160 to address this important issue.

9.4. The representative of Brazil added that the paper acknowledged that there was no common definition of shipment *en route* and that a one-size-fits-all approach would not be the best approach. However, various options had been included on how to move forward. For example, in the case of Brazil, in the context of shipment *en route* there was a possibility of an anticipated declaration of imports that provided predictability for both importers and exporters throughout the shipment. The paper raised an important discussion with plenty of options with the aim of increasing transparency in this particular matter.

9.5. The representative of Paraguay indicated that her statement covered agenda items 8 and 9. She thanked the delegations of Russia, Australia, Brazil, and Canada for including these items on the agenda and noted their interconnection. Paraguay appreciated the efforts of these delegations in trying to facilitate a pragmatic solution to real problems that had been faced by exporters because of the uncertainty created by changes to applied tariffs. Paraguay would continue to support these efforts and flexible solutions to enable Members to deal with this issue within their legal systems. For Paraguay, early notification would be difficult, but the current system applied in Paraguay allowed the importer to benefit from the previous tariffs in certain conditions, which she considered could provide a more beneficial solution to affected exporters. Paraguay encouraged delegations to continue with the discussion and reiterated its commitment to collaborating in finding a flexible and adaptable system.

9.6. The representative of Ukraine expressed support for document G/MA/W/160, as his delegation believed on the importance of improving predictability for businesses. The proposal provided for the possibility to examine, and potentially agree upon, on a common set of practices applied by Members to reduce the uncertainty and negative impact of unexpected increases in applied tariffs on businesses, including the treatment of consignments *en route*. Ukraine confirmed its interest in exploring further the potential issues that arose in the context of tariff changes.

9.7. The representative of the United States thanked Australia, Brazil, and Canada for their initiative in the CMA and the CoASS to gather information on current Member practices regarding applied tariff changes and the treatment of shipments *en route*, and for their determination to find approaches to move forward in the area. The US shared the concern that unexpected increases in applied tariffs created uncertainty and additional costs for traders and could be a major disincentive to trade. As Australia and Canada had noted, based on the responses received and their discussions with Members, there did not appear to be a uniform manner in which applied tariff changes were publicly notified. The US urged Members to continue working together to resolve transparency issues on this and other subjects.

9.8. The representative of Japan believed that the crux of the matter was the lack of predictability for stakeholders caused by changes in MFN tariff rates in an unpredictable manner. Japan maintained transparency in the approval of tariff changes so that the business sector could predict such changes. In any case, it would be important to clarify the specific reasons behind what the stakeholders were facing prior to considering possible options that could impose an additional burden on Members. Since this proposal was also discussed in the CoASS Japan wished to know if the co-sponsors could share the background to their proposal in the Committee on Market Access, and if the proposal was intended to extend the range of goods covered in the discussions.

9.9. The representative of Switzerland thanked the delegations of Australia, Brazil, and Canada for presenting their proposal to enhance transparency on applied tariffs and shipments *en route*. As they had conducted numerous discussions with Members in the CoASS, Switzerland wished to pose the following questions: first, how frequent the changes of applied duties during the year were; second, whether this affected all products with no difference or only some specific product categories; and third, whether it was correct to consider that the proposal addressed the same issue as that in the Russian Federation's proposal, namely, the modifications of applied duties during the year. If not, what were the differences between the two proposals.

9.10. The representative of Canada thanked Members for the comments that had been made. He recalled that the purpose of bringing this document to the CMA was to inform Members that the discussion was ongoing at the CoASS, and co-sponsors did not intend to bring this discussion to the Committee on Market Access. For the moment, they did not see any added value in having dual discussions on the same topic. Co-sponsors would continue to update Members as those discussions went forward. Canada encouraged delegates to speak with their agriculture colleagues about the discussion ongoing in the CoASS. This was an information exercise to ensure that the CMA was kept up-to-date on these discussions. He had taken note of the question raised by Switzerland and would reply bilaterally.

9.11. The Committee took note of the statements made.

10 ANGOLA – IMPORT RESTRICTING PRACTICES – STATEMENT BY THE RUSSIAN FEDERATION AND THE UNITED STATES

10.1. The Chairperson recalled that this agenda item had been included at the request of the Russian Federation and the United States.

10.2. The representative of the Russian Federation stated that, according to Presidential Decree No. 23/19, Angola had introduced import restrictions on certain agricultural and industrial products. Under Article 1 of the Decree, the measure had established priority to domestically manufactured products and promoted consumption of goods produced in Angola. According to the Decree, locally produced goods had to be given priority over like products; only wholesalers and domestic producers were authorized to import; importers had to confirm the non-availability of locally produced products on the internal market that they intended to import; and import authorization included submission of contracts on the purchase of national products. Russia was of the view that the measure at issue could not be justified under Articles III and XI of the GATT 1994. The Russian Federation urged Angola to bring these measures into conformity with the WTO Agreements and to lift the import bans on agricultural products. For the time being, Angola had failed to provide an explanation as to how these measures were consistent with WTO rules, and Russia urged it to engage bilaterally.

10.3. The representative of the United States affirmed that the US viewed Angola as a critical trade and investment partner, and reiterated the US concern with Angola's Presidential Decree No. 23/19, issued in January 2019, as it had the potential to compromise this important relationship. The US remained concerned that this decree appeared to be aimed at restricting Angola's imports and targeted 54 products, mainly agricultural products, with the potential to target more in the future. It also covered any imports that competed with goods produced in the Luanda-Bengo special economic zone. Since the implementation of the decree, US agricultural exporters had reported confusion over how it was being enforced and of delays facing goods at the border; they were particularly concerned over delays that perishable goods faced amidst all this uncertainty. The US requested Angola to explain if it planned to revise the decree, or how it planned to implement it, in light of WTO rules, and the potential impact on trade, investment, and businesses operating in Angola. Her delegation understood that Angola could have submitted this information to the WTO Secretariat in September 2019, but it was not considered a proper notification. Thus, the United States urged the Angolan government to request technical assistance from the WTO Secretariat to properly notify any trade measures taken under Decree No. 23/19 to the appropriate WTO Committee. Finally, her delegation urged the Angolan government to continue its work with the US Embassy in Luanda in developing good regulatory practices and technical standards cooperation. Such work would help the Angolan government to develop policies and regulations that considered stakeholder concerns and addressed strategic policy goals, while avoiding disruptive trade policies.

10.4. The representative of the European Union expressed her delegation's support for Angola's intention to diversify its economy and to develop its domestic industry. However, the European Union maintained its concern over Decree No. 23/19. The Decree seemed to protect domestic industries in a manner that was not compatible with WTO rules and that could be very detrimental to foreign investments in Angola. Her delegation urged Angola to review the relevant measures in order to ensure compliance with WTO rules. At the July CTG meeting, Angola had referred to a notification that it had submitted to the Secretariat in September 2019. In this regard, the European Union wished to echo the US intervention on that aspect and urged Angola to provide an appropriate notification.

10.5. The representative of Angola took note of the statements made by the United States, Russia, and the European Union, and was grateful for the concerns raised regarding national imports. Angola was a country in need of development with the support of trade partners, while complying with international trade rules based on mutual benefits. The declaration that had been made at the CTG meeting of 10 June remained valid. However, to the extent that commercial partners and proponents had been precise in their findings, Angola was already taking care of the matter. Angola reiterated that bilateral dialogue remained the best way to resolve all concerns. Therefore, in Capital, technical teams were ready to work with all interested embassies.

10.6. The Committee took note of the statements made.

11 CHINA - CUSTOMS DUTIES ON CERTAIN INTEGRATED CIRCUITS – STATEMENT BY THE EUROPEAN UNION, JAPAN AND CHINESE TAIPEI

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

11.2. The representative of Japan indicated that, thanks to the modification of the insulated gate bipolar transistor insulated power modules (IGBT-IPM), the tariff lines on which Japan had previously expressed concern had now been classified under HS8542.39. Therefore, Japan considered this point to have been resolved. However, as had been reiterated on successive occasions, including at the most recent ITA Committee meeting, the applied tariffs on some tariff lines that were bound duty-free had been increased. Hence, Japan continued to share the concerns expressed by other Members and was closely monitoring the situation with regard to China's commitment to abolishing customs duties in July 2021 on all relevant items in line with the staging of the ITA Expansion.

11.3. The representative of the European Union expressed her delegation's continued concern over Chinese duties on MCO semiconductors, which had been raised on numerous occasions in the past, including at the ITA Committee's meeting on 30 October. The EU welcomed the positive step that had been taken by China to adequately classify certain products (Intelligent Power Modules) in their schedule, free of duty. However, the EU still expected China to step up the implementation of its commitments and urged it to reconsider the classification of other MCO products where duties should not apply, even if such duties were being gradually lowered as the implementation of the staged cuts progressed.

11.4. The representative of Chinese Taipei noted that her delegation had raised this issue in different WTO meetings, including in this Committee, and in meetings of the ITA Committee and the Council for Trade in Goods. Since 2017, ten tariff lines that had been bound duty-free in China's WTO schedule, six of them also covered by China's ITA-1 commitments, were subject to duty rates under heading 85.42 in China's HS2017 schedule. This could not be justified by the HS2017 transposition amendment that had been claimed by China, since one core principle was that the scope of Members' tariff concessions under the WTO was not to be changed during their tariff transpositions. Since January 2020, her delegation had noted that the applied tariff rate of the eight-digit product classified by China in HS8542.32.10 had been temporarily modified and reduced from 1.4% to zero, which was a positive step. Chinese Taipei urged China to do the same on the other MCO products at issue without delay.

11.5. The representative of the United States expressed support for the statements and questions that had been raised by the EU, Japan, and Chinese Taipei, and reiterated the US concern with regard to a change in China's applied duty rates for certain semiconductor products. This was an issue the US had raised numerous times in this Committee, as well as in the ITA Committee and the

Council for Trade in Goods. The semiconductor products had been duty-free for over a decade yet were currently being charged import duties at the border. The US continued to assert, in line with the GC decision on HS transpositions, that the scope of China's concessions had changed substantially, and the value of the concessions had been impaired.

11.6. The representative of China thanked Members for raising their concerns. As he had not heard any new question, and in the interests of time, he would not repeat China's responses and explanations, which had been provided many times previously in this Committee and other WTO bodies, as well as through bilateral channels. China had always seriously undertaken its tariff reduction commitments. He confirmed that all tariffs on MCO products would be eliminated by July 2021 as had been scheduled.

11.7. The Committee took note of the statements made.

12 EUROPEAN UNION - CARBON BORDER ADJUSTMENT MECHANISM (THE EUROPEAN GREEN DEAL OF DECEMBER 2019) - STATEMENT BY CHINA AND THE RUSSIAN FEDERATION

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

12.2. The representative of the Russian Federation referred to the statements that had been made during previous meetings of the Committee on Market Access and the Council for Trade in Goods on the plans of the European Union to introduce a Carbon Border Adjustment Mechanism (CBAM) in accordance with the European Green Deal Strategy published in December 2019. The Russian Federation understood that the European Commission had not yet determined the final design of this measure, but had examined the currently available information on various options for the CBAM and had substantial concerns over the measure's negative influence on trade and jobs. Russia appreciated the bilateral contacts with the delegation of the European Union in Russia and agreed on the importance of mitigating the consequences of climate change. Such comprehensive work was done under the auspices of the United Nations Framework Convention on Climate Change (UNFCCC). Article 2.2 of the Paris Agreement provided that the parties to the Agreement should act in a manner that reflected "equity and principle of common but differentiated responsibility and respective capabilities, in light of different national circumstances". However, the Russian Federation believed that the climate agenda should not be used unilaterally as a pretext for introducing new import restrictions. The attempts to extend national regulations and norms by one WTO Member on the production processes of other Members could seriously contradict WTO rules. The European Union's intention to use the CBAM as a new source of budget for powering its economic recovery after the COVID-19 pandemic was one of the indicators that this measure was rather aimed at economic objectives, including fiscal and protectionist objectives. Russia reiterated its request for the European Union to provide information on the measure and its consistency with WTO law, and asked the following questions: (i) how did the EU intend to ensure compliance of the CBAM with Articles I, II, and III of the GATT 1994; (ii) which design of the measure was most likely to be considered; (iii) when did the EU plan to provide Members with the list of goods, including HS codes, envisaged to be subjected to the CBAM; (iv) whether the EU intended to charge a tax on goods produced in the EU; (v) whether the EU would provide a reasonable period for exporters to adapt to the CBAM; and (vi) what date of entry into force of the regulation was being envisaged or planned. Russia would submit its questions to the European Union's delegation in written form through the Secretariat and was open to consultations on this issue.

12.3. The representative of China wished to register his delegation's concern over the European Union's plan to propose a CBAM. The policy options indicated in this mechanism, such as import carbon tax or additional import duties, risked being inconsistent with WTO rules, creating additional trade obstacles, and disrupting international trade flows. China encouraged the EU to provide additional information in order to address the following concerns: (i) what the updated progress of the relevant legislation on this mechanism was; (ii) how to ensure the consistency of the mechanism with WTO rules; (iii) what the design of the measures under this mechanism was; and (iv) which sectors and products would be covered by this mechanism and why. China shared the climate ambition of the EU and other WTO Members. However, all actions sought to achieve that ambition had to be in conformity with WTO rules and not create unnecessary barriers to trade. China encouraged the EU to fully consider the compatibility of the mechanism with its WTO commitments and to ensure the transparency of the legislative progress.

12.4. The representative of Paraguay thanked the Russian Federation and China for including this item on the agenda. She thanked the EU for the responses that had been provided to Paraguay to the oral questions that had been raised at the last meeting, and appreciated the fact that they had been provided in writing, which facilitated their further analysis at Capital-level. She also thanked the EU for the estimated timelines on measures that would be implemented and the assurances that these measures would be in line with WTO rules. Her delegation was interested to know whether carbon credits would be provided. Paraguay understood that the measures would be applied on energy-intensive products and also wished to know which sectors would be affected by the mechanism and, in particular, how it would affect the agricultural sector. Paraguay understood that the EU was not able to provide responses at the meeting because the mechanism was being designed, but hoped that it would have the available information in due course.

12.5. The representative of Turkey thanked China and the Russian Federation for including this item on the agenda. According to Article 3.1 of the UNFCCC, issues related to countries' implementation of their climate policies within the framework of their own national conditions were based on the principle of "common but differentiated responsibilities and respective capabilities". Therefore, every country had the right to determine its own climate policy in line with this principle and thus its own capabilities. While countries carried out their own policies according to their national conditions, they were not to take measures that would negatively affect other countries. Just as stated in Article 3.5 of the UNFCCC, "[m]easures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade". In addition, in accordance with Articles 3.1, 3.5, 4.8, and 4.10 of the UNFCCC, while planning a policy such as carbon border adjustments, it was also necessary to meet the needs and concerns of developing country parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures. On the other hand, any such policy had to respect all the relevant WTO rules, including but not limited to Articles I, II, III, XI, and XX of GATT 1994 and the provisions of other WTO Agreements. Turkey's comments had also been conveyed bilaterally to the EU within the framework of the inception impact assessment and Turkey hoped that they would be duly taken into account in the ensuing process.

12.6. The representative of Qatar thanked the Russian Federation and China for bringing this issue to the Committee. Qatar had taken note of the European Union's Green Deal and its ambition to become the first climate-neutral continent by 2050. Qatar complimented the EU for its political courage in setting these objectives. Qatar had also signed and ratified the Paris Agreement and was equally ambitious in its climate change objectives. However, Qatar felt obliged to express some trade-related concerns over aspects of the Green Deal as reflected in the EU's "Inception Impact Assessment" that related to the new European Climate Law. In particular, Qatar sought further clarification with respect to the plan to introduce a CBAM to address so-called "carbon leakage" and how the CBAM would be applied compatibly with fundamental principles, including MFN and National Treatment. Treating "like products" differently based on the carbon content of the production process seemed to go against decades of well-considered jurisprudence. Lastly, Qatar noted that respect for the common but differentiated responsibilities and respective capabilities, in the light of different national circumstances, was at the heart of the global fight against climate change. Stated differently, what the EU called "carbon leakage" was simply a reflection of this differentiated approach and in no way frustrated the efforts of the EU to meet the global climate objectives of the Paris Agreement. A Member's regulatory choices and priorities were its own to make, but it would not be correct to impose on others the cost of such choices. Qatar thanked the EU and looked forward to having a closer and fruitful discussion on this matter.

12.7. The representative of the Kingdom of Saudi Arabia thanked the Russian Federation and China for raising the subject matter of the introduction of the CBAM under the European Green Deal published in December 2019. While the EU had stated that the proposed mechanism would be in conformity with WTO rules and other international obligations of the EU, the EU was yet to provide explanations on how it aimed to achieve this. While the EU was intending to address the risk of investment leakage from the EU to other countries, in fact the main objective was to maintain the competitiveness of EU industries. Saudi Arabia's very preliminary review indicated that the proposed mechanism raised very serious concerns due to its potential long-term negative implications on global trade that would distort the full value chain of trade, including goods, services, and jobs. The Kingdom of Saudi Arabia urged the EU to further engage in consultations with Members, in order to ensure the full compliance of the CBAM with WTO rules and that the proposed mechanism would not create unnecessary barriers to trade, or be applied in a manner that constituted protection to

EU domestic industries. Saudi Arabia looked forward to further details and reflections from the EU on this proposed mechanism and stood ready to engage with the EU and interested Members.

12.8. The representative of Uruguay welcomed the inclusion of this item on the agenda. The announcement of the future adoption of a CBAM by the European Commission, within the framework of the so-called "European Green Pact", continued to generate interest by several Members of this house. In this regard, Uruguay appreciated the EU comments at the last CMA meeting and recognized the indicated policy objectives, while reaffirming Uruguay's high commitment to climate issues. Uruguay also took note of the announcements on the carrying out of impact studies and prior to the adoption of the measure, including its legal feasibility in light of WTO rules and the Commission's intention to present a proposal for a CBAM for selected sectors in 2021. In this regard, Uruguay reiterated its interest in continuing to receive updated and detailed information on the initiative, including on its state of development and the expected time-frame for the adoption of the measure, the design that it would take, and its coverage at the level of sectors and products. Finally, Uruguay stressed once again the importance of ensuring the compatibility of the measure with the commitments undertaken by the European Union at the WTO.

12.9. The representative of the Kingdom of Bahrain thanked Russia and China for placing this issue on the agenda. Bahrain shared similar concerns to those raised by delegations regarding the proposed EU CBAM and looked forward to further clarifications from the EU on its application and WTO-consistency.

12.10. The representative of Armenia shared the concerns that had been expressed by previous speakers concerning the EU CBAM initiative, and particularly by the delegations of China and the Russian Federation. This was an important and sensitive issue for a number of Members, and Armenia would be carefully monitoring further developments in this regard.

12.11. The representative of Pakistan thanked Russia and China for their statements on this issue and took note of the statements made. Pakistan was also concerned about these developments and remained keenly interested in this issue. Pakistan would continue to follow further developments under this agenda item.

12.12. The representative of Kazakhstan urged the European Union to fully consider the compatibility of the CBAM with WTO rules, so that any such measure would not create obstacles to trade. Kazakhstan also encouraged the EU to act transparently and notify the WTO in advance of draft measures and to allow a reasonable period of time for WTO Members to comment on the draft.

12.13. The representative of the Kyrgyz Republic expressed interest in this agenda item and in the developments and status of this issue.

12.14. The representative of the United States noted that her delegation was monitoring the proposed EU CBAM and continued to follow updates and information shared by the EU with interest. The United States encouraged the European Union to share details on the proposed mechanism as it was developed, as well as to fully consider the compatibility of any measure it developed with applicable WTO rules, in order to ensure an open system of trade and that any such measure would not constitute a barrier to trade.

12.15. The representative of Oman thanked the Russian Federation and China for introducing this agenda item. Oman supported those Members that had expressed concerns over the EU CBAM. Further clarity was required with regard to the proposed mechanism and criteria, as well as the sectors and products covered by the measure. If the main objective of the EU proposed measure was sustainability, imposing additional duties would negatively affect exporters and consumers and would introduce new trade-restrictive measures. Therefore, Oman urged the EU to provide further clarifications and information on the measure. Oman looked forward to further discussions on this issue with the EU and other Members.

12.16. The representative of Japan indicated that his delegation was monitoring with interest the measures in relation to the environment taken by Members, including policies aimed at mitigating global climate change. Japan expected the EU to provide sufficient information and further details on this mechanism in a transparent manner.

12.17. The representative of Argentina thanked the Russian Federation and China for including this item on the agenda. Argentina had serious doubts about the design of such a complex mechanism and its compatibility with WTO rules, in particular with the GATT 1994. Argentina requested the European Union to provide information on how the measure would be designed, as well as the various sectors and products that would be affected by the measure. Since the public consultations launched by the European Commission had been concluded, Argentina would also welcome information on this and any potential changes to the time-frame that had been announced according to which the measures would be announced during the second half of 2021. Finally, Argentina recalled that the measure had to be notified in due time to the WTO.

12.18. The representative of Canada recalled that Canada and the European Union had a long-standing history of fruitful cooperation on the environment and climate change. Like the EU, Canada was committed to ambitious action and global leadership on climate change. Canada was watching recent developments, such as the EU's work on a new CBAM, with great interest and intended to be an active participant in international discussions on these issues. Canada believed that a CBAM should be designed and implemented in a fair manner, focused on achieving environmental outcomes. It should recognize the robust carbon pricing systems in place in other countries (including at the sub-national level), align with international obligations and standards, and avoid creating unnecessary restrictions on trade. In this context, Canada encouraged the European Union to develop its CBAM as transparently as possible and to use appropriate WTO committee meetings as opportunities to keep the broader WTO Membership apprised of developments. The Government of Canada was closely monitoring the development of the CBAM and looked forward to engaging with the European Commission as it developed this proposal.

12.19. The representative of Indonesia noted that, while they were still studying the EU CBAM, Indonesia asked the EU to engage with all Members in a transparent manner and provide more detailed information on this issue, as it would help Members' understanding. Indonesia would continue monitoring the development of the issue closely and looked forward to discussing it with the EU.

12.20. The representative of South Africa thanked China and the Russian Federation for including this item on the agenda and shared the concerns that had been raised by other Members on the EU CBAM. The European Union was South Africa's biggest trading partner. South Africa was interested in receiving more information on how the mechanism would be implemented and its effect on trade, as well as on the compatibility of the mechanism with WTO rules and commitments.

12.21. The representative of the European Union recalled its commitment to climate neutrality by mid-century and the European Commission had pledged to increase the EU's climate ambition for 2030. As long as the EU's trading partners did not take comparable climate action, there would be a risk of carbon leakage that the Commission had to address. In the European Green Deal, the European Commission had announced that, should differences in levels of ambition worldwide persist as the EU increased its climate ambition, the Commission would propose by mid-2021 a CBAM, for selected sectors, to reduce the risk of carbon leakage. The European Council of 12 December 2019 had endorsed the objective of achieving climate neutrality by 2050, including "developing effective measures to tackle carbon leakage in a WTO compatible way". In the European Green Deal, the Commission had announced that it would make a proposal for a CBAM for selected sectors in 2021. Before that, the Commission would carry out a detailed impact assessment to support the preparation of this initiative and to inform the Commission's proposal, which would notably look at environmental, social, and financial impacts, economic efficiency, and legal feasibility, in particular with respect to WTO rules and EU trade agreements, as well as in terms of complementarity with the EU Emissions Trading Scheme (ETS). As part of the impact assessment, the Commission had actively consulted citizens and domestic and international stakeholders and had encouraged them to give their views on the best option to enforce ambitious policies against climate change in an open economy while addressing the risk of carbon leakage. The Commission was committed to transparency and the inputs for the consultation had been published on the Commission's central consultation page. Looking forward, the Commission would engage – in multilateral and bilateral forums – with other trading partners to explain the options being assessed. In addition, a conference on CBAM was planned for end-February or early March 2021. More specifically, in reply to Paraguay's intervention, the EU had provided replies in writing bilaterally on 4 November 2020.

12.22. The Committee took note of the statements made.

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

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

13.2. The representative of the Russian Federation reiterated her delegation's deep concerns over the European Union's negotiations under Article XXIV:6 of the GATT within the framework of its enlargement to include Croatia. The Russian Federation had repeatedly raised this issue bilaterally, as well as at the Committee on Market Access and during the meetings of the Council for Trade in Goods. Their concerns had been transmitted to the European Union in writing, as well as circulated among WTO Members. Russia recalled that the Russian Federation had objected to the conclusion of those negotiations in document G/SECRET/35/Add.4. To date, the European Union had failed to enter into a constructive discussion with Russia on this issue. For this reason, Russia once again wished to note that these negotiations could not be considered as complete and called upon the EU to engage in compensatory adjustment negotiations with Russia.

13.3. The representative of the European Union reminded the Russian Federation of the explanations that had been provided at previous meetings. Her delegation had informed WTO Members of the conclusion and outcome of the negotiations following Croatia's accession to the EU on 26 July 2018, through 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 EU-28 Schedule CLXXV, which was currently undergoing certification. As of that day, they were pleased to note that they had been able to clarify and accommodate the comments and questions of all Members except one. The EU had extensively and repeatedly explained to the Russian Federation, orally and in writing, the reasons for not having accepted its compensation claims in the context of the EU's most recent enlargement. Therefore, she referred Members to past statements.

13.4. The Committee took note of the statements made.

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

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

14.2. The representative of the Russian Federation reiterated her delegation's concern over the EU's approach to the TRQ negotiations in the context of Brexit. The approach of the EU-28 to the apportionment of TRQs could not be considered to be WTO-consistent, nor could it provide the EU with the possibility to maintain a general level of reciprocal and mutually advantageous concessions. Her delegation was of the opinion that these negotiations could not be concluded without a respective agreement on compensation with the principal suppliers of the products concerned. Thus, the Russian Federation urged the European Union to provide compensation in order to maintain a general level of reciprocal and mutually advantageous concessions.

14.3. The representative of the United States stated that her intervention applied to the several issues that had been raised by Russia on the EU and UK's Article XXVIII TRQ negotiations and the UK's independent WTO schedule. The United States remained concerned that the approach that had been proposed by the EU and UK would lead to a loss of access for US goods into both markets. Furthermore, the proposals failed to clarify how bilateral EU-UK trade would be treated in the absence of an EU-UK bilateral agreement once the transition period had ended. Currently that bilateral trade was not subject to the TRQs. Other WTO Members had the opportunity to export the full TRQ quantity into either the UK or EU-27, but if the UK and the EU-27 were subject to the same TRQs others faced, they would be quickly crowded out and lose access to both markets. The United States had identified their priorities in both markets and was ready to continue to engage with the EU and UK in productive negotiations that would ensure that their trade interests were maintained.

14.4. The representative of Uruguay wished to reiterate once again his country's position and the concerns which had been previously expressed in this and other fora. This included document RD/CTG/5, which had highlighted the importance for the multilateral trading system of

resolving this matter by substantive bilateral negotiations between the parties concerned, and not unilaterally. It should be done in accordance with WTO rules, respecting timely market access commitments and the balance of previously negotiated concessions. Notwithstanding the Political Declaration on the future relationship between the European Union and the United Kingdom, according to which the aim was to form a free trade area without mutual tariffs or tariff quotas, seven weeks prior to the expiry of the transition period provided for in the withdrawal agreement, a significant level of uncertainty remained as to the form that this relationship would take from 1 January 2021. In this regard, there was a real risk that the United Kingdom and the European Union, which maintained significant levels of trade in a number of the products concerned in the tariff quotas under negotiation under Article XXVIII, would move to access, and make use of, their respective *erga omnes* quotas. In view of their geographical proximity and the well-oiled trade relations between the trade operators in both Members, the latter could exhaust a large part of these quotas, thereby leaving out the rest of the Members which currently made use of them, or which could do so in the future. This could cause clear economic damage to other Members in addition to the damage that would be caused by other factors, which had already been raised on several occasions. Insofar as the Article XXVIII processes were taking place in parallel with the bilateral negotiations between the European Union and the United Kingdom, Uruguay wished to once again emphasize the need to take due account of these concerns in the WTO processes.

14.5. The representative of Canada stated that his intervention was for this agenda item as well as items 15 and 16. Canada continued to have concerns regarding the UK and the EU's approach to apportioning the EU-28's TRQs. Canada had made these concerns clear to the UK and the EU in multilateral and bilateral discussions. While these concerns remained, Canada noted the EU and UK's willingness to discuss these issues. Canada looked forward to continuing these discussions with the UK and the EU during bilateral Article XXVIII negotiations.

14.6. The representative of Indonesia urged the European Union to accelerate the negotiation process by respecting WTO rules, and maintaining the level of concessions of affected Members on a reciprocal basis.

14.7. The representative of Paraguay indicated that her statement covered items 14 and 15. She thanked the Russian Federation for including this item on the agenda, and reiterated Paraguay's concern with regard to the market access conditions which could be negatively affected by these processes. The uncertainty surrounding Brexit was a matter of concern to the EU and UK trading partners, which continued to suffer from the lack of clarity on certain issues relating to TRQs, which could lead to a significant loss of market in those markets. Paraguay called on both parties to ensure that they had fulfilled the commitments they had undertaken and that market access opportunities would remain unaltered after this process.

14.8. The representative of India noted that its intervention covered items 14, 15, and 16. India thanked the Russian Federation for including these issues on the agenda. India shared the concerns that had been expressed by other Members, and had previously expressed its own concerns both in writing and in bilateral meetings with both the EU and the UK delegations. India had also made it clear to them how the apportionment methodology affected Members' rights and obligations undertaken by the EU-28 in relation to specific tariff lines. Moreover, the future trade relationships among them remained unknown, which also led to uncertainty in these areas. India expected the EU and the UK to provide reasonable opportunities to all WTO Members to exercise their rights under the WTO Agreements and to take into account the concerns that had been raised. India looked forward to fruitful negotiations with both the EU and the UK.

14.9. The representative of Australia thanked the Russian Federation for continuing to include this item and item 15 on the agenda. His statement covered both of these items. As Australia had continued to state throughout this process, and without repeating the details of their previous interventions, Australia remained concerned over the EU and UK's approach to splitting the EU's existing TRQs as a result of Brexit. It was clear that the proposed modifications to TRQs would diminish the commercial value of Australia's existing market access, not only by removing the flexibility of where a product could be sent year-to-year, but also by rendering some TRQ allocations too small to be commercially viable. Australia stood ready to resolve these issues constructively and pragmatically before the end of the transition period, including to ensure the implementation of any agreed arrangements in a timely manner.

14.10. The representative of New Zealand recalled that these two agenda items, items 14 and 15, had become a semi-permanent fixture on the agenda for this Committee over the last two years, as had her delegation's intervention under these items. There was a very good reason for this. The clock kept ticking down even more loudly and insistently on the UK's final departure from the European Union's Customs Union, with less than 50 days to go until the end of the UK transition period. Yet, to date, New Zealand had only seen limited engagement from the UK and the EU to find solutions to address the fundamental concerns which had been raised by a large number of WTO Members regarding UK and EU proposals to cut back the market access opportunities currently provided under their existing bound commitments. The time was now for the EU and UK to demonstrate that they had heard these concerns and that they were ready to bring to the table meaningful answers to address them. This included how the EU and the UK were going to deliver – in their own Schedules – outcomes that would uphold the vital principle underpinning Article XXVIII that other WTO Members should not be left worse off; how the EU and the UK were going to ensure – in their own Schedules – that other WTO Members were not "crowded out" of the access they had negotiated in good faith under the MFN quotas. As had been made clear from the outset, New Zealand stood ready to work with the UK, the EU, and other interested WTO Members, to find practical solutions to address these concerns. However, achieving this would take real commitment from all sides, including an open attitude towards the full range of possible ways to address these concerns in a commercially meaningful way, and a willingness to work intensively over the remaining 50 days to secure outcomes that preserved the full value of the existing commitments the UK and the EU owed to other WTO Members.

14.11. The representative of China stated that his intervention would apply to agenda items 14 and 15. China's concerns and requests on this issue remained unchanged. China could not accept the approach adopted by the EU and UK to apportion the EU-28 TRQs, which they believed would impair Members' interests. China encouraged the EU and UK to continue to engage and take full consideration of all the comments and requests raised by Members both in WTO meetings and bilateral consultations.

14.12. The representative of Mexico stated that her intervention covered agenda items 14 and 15. As had been indicated by others, Mexico shared the concerns that had been expressed by previous speakers. Mexico reiterated its systemic concern over the intention by the European Union and the United Kingdom to modify the tariff quotas that would form part of their Schedule of concessions as a result of the United Kingdom's departure from the European Union. Mexico remained concerned over the inherent problems in the proposed methodology, which would result in the reduction and even elimination of market access opportunities. In their view, any methodology should maintain the balance between rights and obligations that had been negotiated and assumed by Members. Her delegation remained unclear about the EU's future obligations towards the UK in the WTO context, and vice versa, which clearly added to their systemic concerns. She urged both the EU and the UK to continue their discussions with WTO Members and to take account of the trade and systemic concerns that had been expressed in order to find a mutually satisfactory solution, through procedures in accordance with WTO rules.

14.13. The representative of the European Union recalled that negotiations under Article XXVIII remained ongoing with the partners who had recognized rights. The last round, which had taken place in October 2020, had shown some good progress in these discussions. The EU welcomed the increased engagement of many WTO Members. Her delegation aimed to make progress to pave the way towards a constructive finalization of discussions with as many Members as possible by the end of the year.

14.14. The Committee took note of the statements made.

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

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

15.2. The representative of the Russian Federation stated that her delegation continued to have significant concerns regarding the UK's approach to the TRQ renegotiations. She stressed that it would be impossible to conclude the negotiations without having an agreement on the compensation

to be provided by the UK. She also stressed the importance of establishing the UK's Schedule of concessions in full compliance with WTO rules and urged the UK to provide its compensatory proposal.

15.3. The representative of Uruguay thanked the UK for launching a process under Article XXVIII of the GATT. Uruguay wished to highlight the importance of resolving this matter by substantive bilateral negotiations between the parties concerned, and not unilaterally. Given the persistent uncertainty on the future trade relations between the EU and UK, his delegation wished to reiterate the need to take into account the significant levels of existing trade between both parties for several products which had *erga omnes* TRQs. There was a real risk that such bilateral trade would crowd out the trade from the other Members, which risked being left outside of this process. Uruguay hoped that, as a result of bilateral and confidential negotiations, the parties would be able to agree on market access commitments that would be in line with the reality of bilateral trade, in line with the specific interests of the parties involved, that did not undermine existing opportunities for access, and that fully complied with what was set out under relevant multilateral rules.

15.4. The representative of the United Kingdom thanked Members for their statements concerning the UK's Article XXVIII negotiations on their bound tariff rate quota commitments. In June 2020, the UK had circulated document WT/GC/206, which had set out the main implications arising from the United Kingdom's departure from the European Union in the WTO. The United Kingdom had undertaken its transition in the WTO with the aim of maintaining the existing balance of rights and obligations between the UK and its trading partners. The United Kingdom had set out its Goods Schedule, circulated in document G/MA/TAR/RS/570, on that basis. His delegation had engaged extensively with Members on that Schedule since it was circulated, and remained open to further discussions. As part of the process of certifying their Schedule, the United Kingdom was currently undergoing Article XXVIII negotiations and consultations to seek agreement with relevant WTO Members on how to extract the United Kingdom's TRQ commitments from those of the EU-28. The United Kingdom had undertaken a number of negotiation rounds and thanked the relevant Members for their continued and increasingly constructive engagement in resolving these specific concerns. This engagement had continued through the COVID-19 pandemic by conducting negotiation rounds virtually, with the most recent round having taken place in October 2020. His delegation was grateful to all Members involved in this process for their flexibility and understanding while they adapted to the challenges presented by the COVID-19 pandemic. The United Kingdom was committed to engaging in good faith with Members in its Article XXVIII negotiations and looked forward to building on the progress and constructive conversations of recent negotiations. On the issue of the EU *erga omnes* TRQs, the EU and the UK had signed a political declaration on 24 January 2020 setting out the ambitions in the negotiations between the EU and the UK in their bilateral negotiations, which remained ongoing. That deal would allow duty-free and quota-free trade between two equal partners. Trade between the EU and the UK would take place within the terms of the Free Trade Agreement and would, therefore, not require access within the respective TRQs. They looked forward to continuing to engage with WTO Members on its transition.

15.5. The Committee took note of the statements made.

16 UNITED KINGDOM – RECTIFICATIONS AND MODIFICATIONS OF SCHEDULE XIX – STATEMENT BY THE RUSSIAN FEDERATION

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

16.2. The representative of the Russian Federation recalled that, at the Committee's previous meeting, the Russian Federation had raised certain questions in respect of the UK's draft Schedule. These questions related, *inter alia*, to the methodology of apportionment of Aggregate Measurement of Support and the proposed currency conversion. These questions were transmitted to the UK in writing. However, they had not yet received any response. Her delegation urged the UK to provide clarification on proposed modifications to its Schedule.

16.3. The representative of New Zealand stated that her delegation's concerns on this item were similar to those that had been referred to under agenda items 14 and 15. New Zealand considered that time was running out and answers remained pending to important systemic questions that her delegation had raised from the outset. These included, first, when and how the UK proposed to

engage with other WTO Members on the claim that it wished to establish a new, very large, entitlement to trade-distorting domestic support. As they had noted previously, the Agreement on Agriculture did not contain provisions that enabled a Member to amend its Aggregate Measure of Support (AMS) commitments. With no established process covering this, any proposals that the UK, or for that matter the EU, wished to make to alter their current Aggregate Measure of Support commitments would need to be fully consulted and agreed upon by other interested WTO Members. It went without saying that it would not be acceptable for any such claims to be artificially boosted through currency conversion either. Second, how the UK proposed to justify its claims to apply the special agricultural safeguard to 685 agricultural products, including products for which it had indicated it intended to lower its applied MFN tariffs in the UK's applied tariff schedule published in May. And third, how the UK proposed to justify its claims to apply a "minimum entry price" and the "Meursing Tables" market management systems for certain agricultural and food products once it was outside the EU single market and had started implementing an applied tariff schedule that did away with these trade-distorting market measures. As stated above, New Zealand stood ready to discuss and work with the UK and other WTO Members to find ways to resolve these concerns, but it was important to recognize that time was now very short for the UK to reach satisfactory conclusions with other WTO Members.

16.4. The representative of Australia noted that his delegation continued to be concerned that the issues that they, and other Members, had raised with the UK's initial rectification, which had been circulated on 24 July 2018, remained unaddressed. In addition to the concerns relating to the splitting of TRQs, which had been discussed under the previous agenda items, Australia considered that the UK's draft goods schedule, which had been circulated on 24 July 2018, contained substantive changes to the UK's current WTO concessions, including the UK's Aggregate Measurement of Support (AMS) commitments, and Special Safeguard (SSG) entitlements. Australia did not believe that the UK's proposed changes met the requirement in paragraph 2 of the "1980 Decision" that any changes "do not alter the scope of a concession" and must be "of a purely formal character". While the UK had demonstrated a willingness to engage on the details of, and to consider changes to, the proposed TRQ splits, Australia had not seen the same constructive attitude or approach on these issues. As Australia had previously raised at this Committee, his delegation did not believe that the UK should have automatic rights to an AMS entitlement without scrutiny from the Membership and potential changes. Australia was concerned about the UK's inclusion of an AMS entitlement of 4.95 billion pounds Sterling, and it was worth noting that the EU had still not formally proposed any corresponding reductions to its AMS entitlements. The UK needed to find a multilateral solution to this issue and to demonstrate to other Members that its expected future domestic support programmes would not unduly distort global agricultural trade. Australia called upon the UK to reassure Members that the UK was a strong advocate for domestic support reform and that it would be part of the solution, even if it had a large initial AMS entitlement. Finally, Australia did not think that the UK should be able to simply "copy and paste" SSG rights from the EU's WTO goods schedule – which had a distinct history and basis from the Uruguay Round and could result in the perverse outcome of providing the UK SSG rights for products that the UK did not produce. Australia stood ready to hold constructive discussions with the UK to help resolve these matters and move towards certification of the UK's goods schedule.

16.5. The representative of Paraguay noted that her delegation shared the concerns that had been mentioned by other delegations regarding the exchange rate, the AMS, and special safeguards. Paraguay had discussed the issues at length bilaterally with the UK. Her delegation hoped for a satisfactory outcome in answering these concerns, and noted that they had not seen a proposal by the European Union to reduce its AMS entitlement in the same proportion as that the United Kingdom had proposed to establish in its new Schedule.

16.6. The representative of Uruguay recalled that, when the United Kingdom submitted a draft Schedule XIX under the 1980 Procedures, in July 2018, its certification had been objected to by several Members. These objections had led to the start of a process under Article XXVIII of the GATT, which was currently under way, on the tariff rate quota concessions contained in that draft Schedule. Uruguay noted that the additional amendments which had been proposed by the United Kingdom in document G/MA/TAR/RS/570/Rev.1 had added an extra layer of complexity to the procedure for establishing that Member's Schedule. Beyond the issue of the tariff rate quotas, Uruguay maintained its concerns over the UK's alleged automatic entitlement to a bound total AMS without the matter having been analysed by Members and without verification of compliance with the conditions proposed in the joint letter of the UK and EU Permanent Representatives of 11 October 2017. In addition, it was questionable whether it was appropriate for the United Kingdom to seek to replicate

the rights to invoke the special agricultural safeguard, under the terms of Article 5 of the Agreement on Agriculture, for all products and under the same criteria and conditions set out in the European Union's Schedule. Thirdly, the proposal to introduce a currency conversion in the draft Schedule of concessions on the basis of the average daily exchange rate for the period 2015-2019 was also a source of concern given its potential to generate bound tariffs and authorized levels of AMS which were higher than those that could result from consideration of other representative periods. Uruguay would continue to engage constructively with the United Kingdom with a view to reaching a timely solution that would allow the United Kingdom to have a separate Schedule of concessions formally established at the WTO, while safeguarding the rights of other interested Members.

16.7. The representative of China thanked the Russian Federation for having included this item on the agenda. China had already expressed its reservation to the method the UK had proposed to redenominate all currency components from Euros to pounds Sterling. China also wanted to emphasize that its concerns regarding the UK's initial rectification, which had been circulated on 24 July 2018, remained unaddressed. China would continue to follow this issue closely.

16.8. The representative of the United Kingdom thanked Members for their statements on the United Kingdom's rectification of its goods schedule. As had been mentioned in the United Kingdom's previous statement at the Committee's meeting on 19 May 2020, the United Kingdom had announced the "UK Global Tariff". This was the long-term tariff applied to the Most-Favoured-Nation tariff regime that would take effect from 1 January 2021, following the end of the Transition Period that had been in place since the United Kingdom's departure from the European Union earlier this year. As they had previously stated, throughout the transition period the United Kingdom would continue to apply the European Union's Common External Tariff. As the UK Global Tariff was a bespoke tariff, tailored to the United Kingdom's economy, it was expressed in their national currency. As a consequence of this change, and to ensure stability and transparency between the UK's bound and applied Schedules, the United Kingdom had circulated document G/MA/TAR/RS/570/Add.1, which had rectified its bound Goods Schedule to redenominate all currency components in Part I and Part IV – Section I of the Schedule from Euros to pounds Sterling. This had brought the United Kingdom in line with most other WTO Members, who denominated their schedules in their own currency. As had been explained in the United Kingdom's previous statement on this issue, the exchange rate at which the Schedule had been redenominated was €1 = 0.83687 GBP, which represented the average of the daily exchange rates between 2015 and 2019. In choosing the exchange rate, the United Kingdom had looked at relevant precedent and used a methodology that avoided speculation on the "natural" exchange rate, avoided the inherent volatility of day-to-day exchange rate fluctuations, and reflected the most recent and relevant economic conditions at the time. This ensured that the scope of the concessions and commitments offered for application to the United Kingdom were not altered. The United Kingdom remained open to engaging with Members to explain its rigorous approach to the redenomination of its goods schedule, as well as answering questions relating to any specific concerns that Members may have had. They had already done so with several Members and they looked forward to continuing to engage with WTO Members on the certification of the UK Schedule. On the AMS, he noted that some Members had asked whether the European Union's AMS would be reduced proportionally to the UK's AMS entitlement in Schedule XIX. In this regard, he recalled that the UK could not comment on the EU's ongoing negotiations. However, it had been clear from the joint letter of 11 October 2017 that the final bound commitment levels and the AMS would be apportioned between the EU and the UK. This had also been mentioned in the explanatory note of the UK's Schedule in document G/MA/TAR/RS/570, and it was a clear commitment. He also reminded Members that the explanatory notes contained details of how the AMS apportionment had been calculated. On the SSGs that had been mentioned by some Members, the UK wished to remind Members that its draft schedule replicated the concessions and commitments applicable to the UK as expressed in the Schedule of the EU-28.

16.9. The Committee took note of the statements made.

17 INDIA - CUSTOMS DUTIES ON TELECOMMUNICATION AND OTHER PRODUCTS – STATEMENTS BY CHINA AND CHINESE TAIPEI (G/MA/W/120, G/MA/W/128)

17.1. The Chairperson noted that this agenda item had been included at the request of China and Chinese Taipei.

17.2. The representative of China expressed his regret for having to raise this issue again. China remained concerned over India's customs duties on telecommunication products, in particular mobile

phones and their components. India had increased the customs duties on these products several times, with applied rates in excess of its bound rates, which did not comply with WTO rules. China urged India to withdraw its customs duties on the relevant products and to abide by its WTO commitments. China also noted that India had been increasing customs duties on many other products, including edible vegetable oils, fruit juices, car engines, toys, and organic chemicals. India had also adjusted technical trade measures on toys and other products. China had both systemic and commercial concerns regarding these measures. He urged India to enhance the transparency and predictability of its measures, including by introducing a sufficient transition period, to avoid any unnecessary trade restrictions.

17.3. The representative of Japan echoed the concerns that had been raised by China over India's imposition of tariffs on Information and Communication Technology (ICT) products. Japan had supported the establishment of the panel in the DSB meeting on 29 July this year, and believed that this measure should be withdrawn as soon as possible.

17.4. The representative of Singapore indicated that her delegation shared the concerns that had been expressed by previous speakers, and reiterated their systemic and commercial interest on this issue.

17.5. The representative of Thailand stated that her delegation remained concerned over India's reimposition of customs duties on an increasing number of ICT products above its bound commitments and joined other delegations in requesting India to abide by its WTO commitments. Thailand would continue to monitor this matter closely.

17.6. The representative of the United States regretted that her delegation had yet again to raise the apparent inconsistencies between India's WTO commitments to provide duty-free access on a range of information and communication technology products and the non-zero import duties, of up to 20%, that India continued to charge on imported products. This included commercially significant products from the United States. The United States had given India ample opportunity, both bilaterally and in the relevant WTO committees, to address these measures and abide by its commitments, yet tariff increases continued to be applied. Her delegation had noted with interest the establishment of panels in disputes brought by the European Union, Japan, and Chinese Taipei, seeking to address such measures by India. The United States looked forward to participating as a third party in these disputes as they progressed. Once again, her delegation called upon India to provide duty-free access for the ICT and telecommunications equipment products for which India had a WTO commitment to do so.

17.7. The representative of Canada recalled that his delegation had raised the issue in this Committee, the Council for Trade in Goods, and the ITA Committee, over the past several years. Canada viewed the application of tariffs above India's bound rates on a broad range of ICT products to be inconsistent with India's WTO commitments. Canada had noted the ongoing dispute settlement proceedings on this issue, which had been brought by Japan, Chinese Taipei, and the EU, and would actively participate as a third party in this dispute.

17.8. The representative of India thanked the delegations of China, Japan, Singapore, Thailand, the United States, and Canada for their continued interest in India's customs duties regime on certain telecommunications products. On the issue of customs duties imposed on certain products, alleged to be ITA-1 products by some Members, India had already made statements in various WTO bodies, namely, the Council for Trade in Goods, the ITA Committee, and this Committee. For the sake of saving time, he would not repeat those statements. However, India wished to reiterate that it had been fully abiding by its obligations and commitments under the ITA-1, as contained in document WT/Let/181. India had also stated earlier in its initial statement that Members had a right to revisit any error or mistakes committed in assigning bound tariffs while transposing their Schedules of concessions and to make the necessary rectification requests before the relevant WTO body. Accordingly, India had filed a rectification request for correcting certain errors in its HS2007 transposition Schedule. This rectification request had been in accordance with the Procedures for Modification and Rectification of Schedules of Tariff Concessions contained in the Decision of 26 March 1980 under the category "other rectifications". India urged Members to go through its certification request and, in case any Member had any view on the technical aspects of these products, as well as their classifications, India would be happy to discuss the same with the Member concerned.

17.9. The Committee took note of the statements made.

18 INDIA – IMPORT POLICIES ON TYRES, TELEVISION SETS, AND AIR CONDITIONERS – STATEMENTS BY THE EUROPEAN UNION AND THAILAND

18.1. The Chairperson noted that this agenda item had been included at the request of the European Union and Thailand.

18.2. The representative of Thailand wished to raise her delegation's serious concern over India's import policies on tyres, television sets, and air conditioners. According to India's Ministry of Commerce and Industry's Notifications No. 12/2015-2020, dated 12 June 2020, and No. 22/2015-2020, dated 30 July 2020, the import conditions for tyres and television sets had been changed from "Free" to "Restricted". These measures appeared to apply an import licensing regime to the tyres and television sets at issue. However, detailed information and guidelines concerning the implementation of these measures was not publicly available. In addition, according to the Indian Ministry of Commerce and Industry's Notification No. 41/2015-2020, dated 15 October 2020, the import conditions for air conditioners had been changed from "Free" to "Prohibited". The three notifications at issue did not explain the policy justifications for these amendments in India's import policies, nor did they elaborate on what the terms "Free", "Prohibited", and "Restricted" meant under India's domestic law. In 2019, Thailand's market share in India was the largest for tyres, the second largest for air conditioners, and the seventh largest for television sets. After India's measure on tyres became effective, in June 2020, exports of tyres from Thailand to India decreased by 31% in July and 43% in August. Moreover, due to the import prohibition on air conditioners with refrigerants, some of Thailand's air conditioners exported to India were forced to return to Thailand. Also, several Thai exporters had been unable to export television sets to India as the Directorate General of Foreign Trade of India did not grant import licences to importers. In this connection, Thailand sought clarification from India on the following points: first, to clarify the import licensing procedures that applied to the importation of tyres and television sets; second, to clarify the specific public policy justifications for the measures concerned; third, to clarify the specific legal acts under India's legislation that contained these measures; and finally, Thailand noted that India had not submitted any notification of the import policies at issue. Thailand strongly encouraged India to comply with its notification requirements as soon as possible. Her delegation hoped that India would provide detailed responses to Thailand's questions and review the import policies concerned at the earliest opportunity to resolve the negative impact on Thailand's exporters. Thailand stood ready to meet bilaterally with India with a view to achieving a mutually satisfactory solution.

18.3. The representative of the European Union wished to address an issue that had also been raised at the last meeting of the Import Licensing Committee, on 9 October. On 12 June 2020, India had adopted Notification No. 12/2015-2020 on "Amendment in Import Policy of Tyres", whereby imports of pneumatic tyres for motor cars, buses, lorries, motor scooters, and motorcycles had been moved from the "free" category to the "restricted" category. The change in category implied that tyres could be imported only pending the granting of a non-automatic licence. To the EU's knowledge, the measure had not been duly notified to the WTO. Given that these were non-automatic licensing requirements, they should be notified as a new Quantitative Restriction to the Market Access Committee, as well as under the Import Licensing Agreement. The European Union urged India to comply with the applicable notification requirements under the WTO. Additionally, importers had received no guidelines on how to proceed to obtain the said non-automatic licence. There was a need for full clarity on both the procedures and the scope of the guidelines. Her delegation was concerned about the effects of this measure on the importation of tyres, which for replacement tyre manufacturers had come to a halt since June 2020. In this context, India ought to provide importers with clarity on the rules and all information concerning procedures and requirements for the submission of applications. India also had to inform the WTO of the recent changes to the administrative procedure applicable to the importation of tyres. In addition, India had to reconsider any implicit or explicit quantitative restrictions – or other restrictions (for example, the end-user principle) – on the importation of replacement tyres that could be contrary to WTO requirements.

18.4. The representative of the Republic of Korea thanked the European Union and Thailand for raising this issue - in particular, the import policies on tyres. Korea had already expressed its concerns regarding this issue at the most recent meeting of the Committee on Import Licensing. Since India had introduced a new import policy on tyres in June 2020, in Notification No. 12/2015-2020, Korean companies had faced difficulties concerning the lack of information on

the new policy and delays regarding import licensing on tyres. The chapeau of the Agreement on Import Licensing Procedures made it clear that import licensing, particularly non-automatic import licensing, should be implemented in a transparent and predictable manner. Therefore, it was clear that India needed to operate its import licensing policy on tyres in a transparent way, by providing the relevant information on the process, such as the detailed procedure and standards. Furthermore, those companies that had requested import licensing had to be informed of the status of their requests. Korea urged India to promptly approve the requests for import licensing that had already been submitted so as to prevent any further delays in the importation of tyres.

18.5. The representative of the United States thanked the European Union and Thailand for requesting the inclusion of this issue on the agenda and shared the concerns that had been raised. Her delegation was monitoring this issue and was interested to hear India's responses to the issues raised.

18.6. The representative of India thanked the delegations of the European Union, Thailand, Korea, and the United States for their interest in this matter. In this regard, his delegation wished to state that they were in the process of notifying to the relevant committee recent import policy changes for certain specific new pneumatic tyres, certain coloured television sets, and air conditioners with refrigerants. Regarding the meaning of the term restricted, which had been mentioned in the relevant import policy notifications for a particular item, it meant that such items could only be imported into India after obtaining an authorization from the Office of the Director General of Foreign Trade. In this context, his delegation also wished to state that the implementation of import authorizations by India was transparent and predictable. The issuance of such import authorization was provided under paragraphs 2.5.0. and 2.5.1 of the Handbook of Procedures 2015-2020, which was available in the public domain and could be accessed on the website of India's Office of the Director General of Foreign Trade. Applications for such import authorizations could be filed online, and Notice No. 49, dated 15 March 2019, provided the procedure. After the scrutiny of applications regarding submissions of required documents and receipts of technical inputs from the concerned administrative ministry and departments, such applications were considered by the Exim Facilitation Committee for the decision to grant import authorization. As regards the other issues that had been raised by Members, they would be transmitted to New Delhi for examination and comment.

18.7. The Committee took note of the statements made.

19 INDIA – QUANTITATIVE RESTRICTIONS ON IMPORTS OF CERTAIN PULSES – STATEMENTS BY AUSTRALIA, THE EUROPEAN UNION, THE RUSSIAN FEDERATION AND THE UNITED STATES

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

19.2. The representative of Australia stated that it should come as no surprise that his delegation was once again highlighting India's quantitative restrictions on a variety of pulses. Despite ongoing efforts by Australia and other WTO Members, India had failed to provide a sufficient explanation of the WTO-basis for its QRs, which India had implemented for more than three years. These were no longer temporary and must be removed. Pulses were not a "small" commodity for India, neither by tonnage, value produced and consumed, nor with respect to trade. Therefore, India's measures mattered in the global pulses market. India's current suite of measures on pulses, including significant levels of market price support, high tariffs, and quantitative restrictions, continued to negatively impact the stability and predictability of the global pulses market and were demonstrably ineffective. This had been evident simply by the fact that India had continued to renew some of the measures, such as the quantitative restrictions on pulses, despite calling them temporary. Putting aside their WTO-consistency, if the quantitative restrictions were effective, they would have stabilized the Indian pulses market and would have been phased out. But the reality was that the quantitative restrictions had only added to the problem and had made the global pulses market more unstable and unpredictable. Since the Committee's June meeting, India had continued to implement additional changes to its existing quantitative restrictions, announcing on 1 October what appeared to be an additional 150,000 tonnes of Urad, with restrictive import licensing requirements. Australia had made it clear on numerous occasions that it was simply seeking stability and predictability in the global pulses market and to ensure that the measures were WTO-consistent. Australia did not believe that this was an unreasonable request to make to a WTO Member, and particularly to such an important and large country like India. It was what all Members should strive to achieve in the

interests of farmers, traders, and consumers alike. Australia had posed a series of questions at the last meeting in June, and in November 2019, and had provided them to India in writing. However, his delegation had still not received a response. He would avoid repeating the questions, but wanted it to be noted that they were requesting India to provide a detailed explanation of how India's QRs satisfied the requirements of GATT Article XI:2(c)(ii) and Article XX(a) and (b), which Australia did not believe were appropriate or legally available in respect of India's import restrictions on pulses. Australia again requested India to provide prompt and fulsome responses bilaterally, and table those responses in this Committee expeditiously or, otherwise, proceed to remove the measures immediately.

19.3. The representative of the Russian Federation wished to reiterate the statement that her delegation had made during the previous meetings of the Committee on Market Access and the Council for Trade in Goods regarding the policy applied by India with respect to the import of yellow peas. The Russian Federation wished to express its concern over India's continuing restrictive trade policy measures on importation of yellow peas. In particular, the application of "temporary" import quotas, which had lasted for three years, the minimum import price requirement, ports of entry restrictions, and the imposition of an import ban on yellow peas for the current year. Russia maintained its concern over the inconsistency of India's measures on imports of yellow peas with the WTO rules. Minimum import price requirement, import quotas, import prohibitions, and restrictions on port of entry violated Articles VII:2 and XI:1 of the GATT 1994, and Article 4 of the Agreement on Agriculture. These quantitative restrictions could not be justified under Article XI:2(c) of the GATT 1994. Nor could they be justified under paragraphs (a) and (b) of GATT Article XX. The Russian Federation wondered how an import ban and quotas on yellow peas could protect human life, health, and public morals in accordance with India's explanation. Her delegation looked forward to receiving further clarification from India regarding these issues. The Russian Federation urged India to bring these measures into conformity with WTO rules.

19.4. The representative of Canada stated that, as the largest supplier of pulses to India, Canada had been most negatively affected by India's measures to limit the importation of these products. Pulses were an important source of protein for many Indian consumers and Canada was a high quality and reliable supplier. Canada was disappointed that India continued to use quantitative restrictions on the importation of dried peas and other pulses. This situation had been ongoing for more than two years for peas and three years for other types of pulses. It was difficult for Canada to see how India could still claim that these measures were temporary. The combination of a prohibitive minimum import price, import quota of zero tonnes, and restrictions on the port of entry constituted a perfect storm of measures that had blocked all access for yellow dried peas to India for an entire year. As had been expressed in previous committees, these measures violated both GATT Article XI:2(c) and Article 4 of the Agreement on Agriculture. In the meeting of the Council for Trade in Goods that had taken place in June 2020, India had justified these measures by arguing that Article 4.2 of the Agreement on Agriculture did not envisage the tariffication of temporary or short-term measures, and that, consequently, Article 4.2 of the Agreement on Agriculture should not extend to GATT 1994 Article XI:2(c). However, Canada questioned the validity of such a rationale. The Appellate Body Report in the dispute *Indonesia - Import Licensing Regimes* had clearly ruled that "Members could not maintain quantitative import restrictions on agricultural products that satisfied the requirements of Article XI:2(c) of the GATT 1994 without violating Article 4.2 of the Agreement on Agriculture." The elimination of quantitative restrictions was and remained a fundamental principle of the GATT and the Agreement on Agriculture. Article 4.2 of the Agreement on Agriculture prohibited Members to maintain, resort to, or revert to agriculture-specific non-tariff measures. Such measures included the quantitative import restrictions, minimum import prices, and discretionary import licensing which was currently being used by India. To conclude, Canada reiterated its call for India to immediately and expeditiously review the measures it had in place on pulse imports and to implement alternative, less trade-distorting, WTO-consistent policy options that promoted a predictable and transparent import regime for pulses.

19.5. The representative of the European Union stated that, unfortunately, to the knowledge of her delegation, nothing had changed since the Committee's formal meeting in June. Therefore, their previous comments remained valid. The European Union found it hard to understand why, after three years, India remained unable and unwilling to explain how its policy conformed to WTO rules. For over three years, Members had repeatedly been told that the restrictions were temporary. However, after three years these restrictions could no longer be seen as temporary. Her delegation once again urged India to eliminate this trade-distorting measure without undue delay.

19.6. The representative of the United States noted that, as her delegation had previously stated in this and other WTO committee meetings, the United States remained concerned over India's use of domestic support policies, multiple increases in tariff rates, and the application of import restrictions for pulses including pigeon peas, mung beans, black gram lentils, and peas. Previously, India had informed this Committee that its restrictions on pulses were temporary. However, some of the restrictions had been in place since August 2017, and India had recently extended them for a full year through March 2021. Also, during the June meeting of this Committee, India had asserted that it conducted periodic reviews of these restrictions, but the restriction amounts remained unchanged five months later. The United States repeated their previous requests for information on how the measures reflected India's WTO commitments, and when and how the measures would be brought to an end.

19.7. The representative of Ukraine indicated that his delegation would like, once again, to reiterate their concerns regarding India's restrictive measures on certain pulses. For more than two years, India had been imposing quantitative restrictions on imports together with other trade-distorting policies in relation to various pulses. Despite the systemic concerns that had been expressed by Members during this period at almost all meetings of the Committee on Agriculture, the Committee on Market Access, and the Council for Trade in Goods, India had not provided meaningful explanations as to the nature and duration of such restrictive measures. This year, the situation had continued to deteriorate. On 21 April 2020, the Government of India had issued Trade Notice No. 05/2020-2021, which had introduced a quota on imports of certain pulses for the fiscal year 2020-2021. In particular, the permitted amount of import for Yellow Peas (0713.10.10) had become zero. Such measures had a destructive effect on the international pulse crop markets. According to the WTO rules, quantitative restrictions had to be justified and applied temporarily. India had an obligation to guarantee Members appropriate and predictable trade opportunities to access India's pulses market. Ukraine called on India to bring its trade-distorting policies into conformity with WTO rules and eliminate its restrictive measures.

19.8. The representative of India thanked the delegations of Australia, the Russian Federation, Canada, the European Union, the United States, and Ukraine for their continued interest in this matter. Many issues had been raised in this Committee that had also been raised in the meetings of other Councils and committees. In this context, India wished to reiterate that quantitative restrictions on imports of certain varieties of pulses were necessary considering the domestic demand and supply situation of pulses in India. They had caused distress to small and medium-sized farmers and had consequences on their food and livelihood security. As regards the specific WTO provisions under which such measures had been enforced, India had already replied to similar queries from Members in earlier meetings of this Committee and the Council for Trade in Goods. India urged Members to refer to those replies.

19.9. The Committee took note of the statements made.

20 INDONESIA – CUSTOMS DUTIES ON TELECOMMUNICATIONS PRODUCTS – STATEMENT BY THE UNITED STATES

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

20.2. The representative of the United States reiterated her delegation's concerns because Indonesia had been applying tariffs at the border on a category of ICT products that appeared to exceed their WTO bound tariff commitments. To highlight a specific example, Indonesia had a duty-free tariff commitment for all products that were classified under tariff subheading 8517.62. However, US and Indonesian traders had reported that a 10% duty was being levied for certain products in this tariff category. The United States had been raising this issue in this Committee, as well as the ITA Committee, for over a year now, as well as bilaterally. Unfortunately, these issues remained unresolved. Her delegation would appreciate an explanation as soon as possible of how Indonesia intended to address their concerns regarding its applied rates.

20.3. The representative of the European Union recalled that, as had been mentioned on several occasions, and most recently at the ITA Committee, it continued to monitor this issue closely. They recalled that, in line with its commitments, Indonesia was expected to provide duty-free access for all tariff lines under the heading 8517.62. The European Union looked forward to hearing from

Indonesia on this issue and called upon Indonesia to ensure its compliance with its ITA commitments.

20.4. The representative of Japan echoed the concerns that had been expressed by the United States and the European Union over Indonesia's imposition of a 10% tariff duty on certain telecommunication products under HS8517.62, for which Indonesia had a duty-free tariff commitment. Japan urged Indonesia to provide further details on the duty, including information on possible next steps, to allow them to scrutinize the facts in depth.

20.5. The representative of Indonesia thanked the United States, the European Union, and Japan for having raised the issue of import duties on several ITA products. She reiterated the statement that had been made at the meeting of the Committee on Market Access of June 2020, and the ITA Committee meeting of October 2020, in which Indonesia had stated that it continued to comply with, and respect, the multilateral trading system in the WTO Agreement. Internal observations and investigations were ongoing in order to get to the root of the problem and to find the best solution going forward. Indonesia did not intend to take action beyond their commitments or obligations under the ITA Agreement. Thus, Indonesia wished to receive information on any concerns and to engage in further discussions with other Members.

21 MONGOLIA – QUANTITATIVE RESTRICTIONS ON IMPORTATIONS OF CERTAIN AGRICULTURAL PRODUCTS – STATEMENT BY THE RUSSIAN FEDERATION

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

21.2. The representative of the Russian Federation reiterated the statements that had been made by her delegation during the previous meetings of the Committee on Market Access, Committee on Agriculture, and the Council for Trade in Goods, concerning Mongolia's quantitative restrictions on the importation of certain agricultural products, including wheat flour, wheat, milk, drinking water, and beef. In 2020, Mongolia did not open quotas for the import of bottled water, liquid milk, and wheat flour. However, Mongolia had not excluded these products from the list of agricultural products which had been subject to annual quantitative restrictions. The quantitative restrictions on wheat flour and milk could be imposed at any moment and there were no guarantees that the import of these products would be open and fair. Mongolia's quota regime continued to be inconsistent with its obligations under the WTO Agreements and, in particular, with Article XI of the GATT 1994, and Article 4.2 of the Agreement on Agriculture, as well as Mongolia's accession commitments under paragraph 20 of the Working Party Report. The Russian Federation urged Mongolia to promptly take all necessary steps to bring its measures into compliance with the WTO provisions and to not apply quantitative restrictions that were inconsistent with its WTO commitments.

21.3. The Committee took note of the statements made.

22 NEPAL'S IMPORT BAN ON ENERGY DRINKS – STATEMENT BY THAILAND

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

22.2. The representative of Thailand noted that her delegation had carefully examined Nepal's statement at the Committee on Market Access meeting of 8 June 2020, concerning Nepal's import ban on energy drinks. With respect to the justification for adopting this measure, Nepal had referred to various points. Nepal had indicated that the import ban sought to address a trade imbalance caused by an import surge. Nepal had also asserted that it adopted this import ban because of the country's unique situation as a least-developed country (LDC) and landlocked developing country (LLDC) facing various constraints and challenges in export performance, and to safeguard Nepal from a threat to its balance of payments. Furthermore, Nepal stated that, in the context of the COVID-19 pandemic, its authorities in Capital were assessing the potential health implications of energy drinks. In light of Nepal's explanations of the reasons for adopting the import ban on energy drinks, Thailand appreciated Nepal's clarification of the precise legal basis under the WTO Agreements that Nepal was invoking as a justification for this measure. Thailand wished to recall that, absent any justification under the WTO Agreements, an import ban would be inconsistent with Article XI:1 of the GATT 1994, a provision that required WTO Members not to impose prohibitions or restrictions, other than duties, taxes or other charges, on the importation of products

of any WTO Member. In addition, Thailand noted that Nepal had sent an official note and notification to the WTO Secretariat on 21 January 2020 concerning this measure. However, that notification had not been circulated to Members. She asked Nepal to clarify why their notification had not been distributed. Thailand indicated that its exporters had been badly affected because their products had been designed specifically for the Nepalese market and labelled in the Nepali language. As a result, the exporters would not be able to export these products to other countries. Thailand was open to bilateral discussions with Nepal with a view to settling this issue amicably.

22.3. The representative of the European Union recalled that an open and rules-based trade regime gave confidence to businesses to invest and engage in a country, which was key for Nepal's economic development and upgrading from LDC status. Against this background, it was very worrying that the Government of Nepal had set an import ban in June 2019 on energy drinks and had further extended it in May 2020 to alcohol and imported automobiles. Even if the ban on alcoholic drinks and a few other items had been withdrawn, the blockage remained for the import of energy drinks and other commodities. Therefore, this was only a partial and unsatisfactory solution. Even in a situation of worsening trade deficit, Nepal needed to comply with WTO rules, which meant that quantitative restrictions should be avoided. From an economic point of view, the ban gave a very bad signal in terms of tourism recovery, including the prohibition against importing energy drinks very much targeted at foreign tourists. Also, on the side of the Balance of Payments, in mid-July 2020, the foreign reserves of Nepal reached a record USD 11.6 billion, so the argument that had originally been put forward for the ban was no longer valid. Furthermore, the import ban had not been notified to the WTO and no justification had been provided. The EU called upon Nepal to comply with its obligation to notify and observed that Nepal had not yet provided any notification of its quantitative restrictions. The European Union welcomed Nepal's views and invited Nepal to abide by its WTO commitments.

22.4. The representative of the United States supported Thailand's concerns over Nepal's ban on the import of certain energy drinks. In January 2020, the United States had requested Nepal to notify this measure through the WTO Technical Barriers to Trade (TBT) Enquiry Point, but had not yet received a response. The United States urged Nepal to notify the measure to the TBT Committee and to suspend the measure until WTO Members had been given an opportunity to review and comment on it.

22.5. The representative of Nepal extended his delegation's sincere appreciation to the Secretariat for sharing important information at the meeting. He thanked Thailand, the European Union, and the United States for their statements and continued interest in Nepal's trade policy measures. Nepal wished to refer to its statement delivered at the meeting of the Committee held on 8 June 2020. The statement had clearly mentioned that Nepal had abided by its membership role at the WTO since its accession. Nepal was fully committed to, and understood, the necessity of balancing rights and obligations. However, Nepal's export to import ratio of trade in goods had reached 1:15.3 in 2017/2018 from 1:2.5 in 2004/2005, resulting in a huge trade gap. Furthermore, the world's merchandise exports had increased from about US\$9 trillion in 2004 to about US\$19 trillion in 2018, but Nepal's exports had for the most part remained stagnant, with just a nominal growth from US\$730.5 million in 2004 to US\$783.5 million in 2018. On the other hand, Nepal's merchandise imports had significantly increased, from US\$1.85 billion in 2004, to US\$12.9 billion in 2018. Such an import surge had resulted in a huge trade gap and posed severe challenges to the entire economic development process of the country. Additionally, Nepal wished to note that the main legal basis of this measure was Section 3(1) of the Export and Import (Control) Act 1957, which allowed the Government of Nepal to take necessary measures in appropriate conditions, such as to safeguard the external financial position and balance of payments, to stop a serious decline in foreign currency reserves, and others. This Act had been under implementation during the accession period of Nepal and had been notified to the WTO at that time. Nepal had conveyed all of the concerns that had been raised by Thailand, the European Union, and the United States to the relevant Ministries in Kathmandu. He would share detailed information from the relevant Ministries as soon as it was received. He went on to say that, in its statement at the June Committee meeting, Nepal had underlined that this measure was neither concentrated on any specific area or issue, nor focused on only trade restrictions of a few products. Instead, it broadly covered trade regulation and facilitation aspects of Nepal's international trade to make it standard and smooth. This measure had been applied as a part of the Export and Import (Control) Act 1957 on a temporary basis and had fully complied with WTO laws on an MFN basis to all WTO Members. The representative of Nepal stated that his delegation was engaged in consultations with the agencies concerned and would assess this regulation after a detailed study had been conducted. It could be reviewed and revised periodically,

based on the study findings, which hopefully would provide appropriate steps forward once consultations and assessments had been completed. The process of assessment and consultation could take some time as the entire state mechanism was being fully engaged in the fight against the COVID-19 pandemic. Regarding the notification, the Permanent Mission of Nepal in Geneva had sent an official note and notification to the WTO Secretariat on 21 January 2020, and had followed up in June and November through email.

22.6. The Committee took note of the statements made.

23 RUSSIAN FEDERATION – DRAFT DECREE RESTRICTING IMPORTS BY CERTAIN ENTITIES – STATEMENT BY THE EUROPEAN UNION

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

23.2. The representative of the European Union referred to the Russian Federal Law No. 250-FZ of 31 July 2020 on amendments to Article 3 of the Federal Law No. 223, "On the Procurement of Goods, Works, Services by Certain Types of Legal Entities", which had introduced two elements for procurement by State-owned enterprises. The first element was an obligation to indicate the country of origin, and the second was a possibility for the Russian Government to introduce a quota of Russian goods. A draft Government decree, which would implement these two aspects of the law, had been published for consultation in September 2020. This draft had raised a number of concerns. Under the draft decree, State-owned enterprises and some commercial enterprises had to make sure that products of Russian origin constituted no less than a fixed, minimum share of their total purchases. These minimum shares, which ranged from 50 to 100%, varied per product, and more than 300 products had been covered under the draft decree and included items such as cars, bicycles, and musical instruments. The European Union requested the Russian Federation to clarify the following points: first, when it would notify Russian Federal Law No. 250-FZ of 31 July 2020, which was the legal basis for the draft decree, considering that it allowed for quotas of Russian-origin products in State-owned enterprises procurement; second, what was the planned scope of the import restrictions; and third, when did the Government plan to adopt the draft implementing act. The EU reserved the right to take action in case Russia introduced the quantitative restrictions at issue.

23.3. The representative of the United States stated that, like the European Union, her delegation was concerned about the draft decree that had been developed by the Ministry of Industry, which would establish minimum shares of goods, works, and services that had to be purchased domestically. Federal Law No. 250-FZ had amended Federal Law No. 223-FZ and had established the right of the Russian Government to require minimum shares, or quotas, for purchases by State-owned enterprises and certain other entities of Russian-origin goods, works, or services, over foreign goods, works, or services. Whereas the law had only created the right for the government to act, the draft decree had implemented the minimum mandatory shares for purchased goods that must be of Russian origin. The draft decree provided that, starting on 1 January 2021, companies would be obliged to source a minimum percentage of products from Russian or EAEU sources. A few of the quotas started at 25%, but most started at 50% or higher. Some quotas even started at 100%, beginning in less than 60 days. These minimum purchasing requirements applied to 293 products, including industrial products, measuring instruments, electronics, fabric and apparel, ores, appliances, heavy equipment, certain vehicle, furniture, and others. Whether or not a specific product qualified as "Russian" was apparently determined by a variety of government measures, many of which had been identified as raising WTO concerns in other committees. In addition, the draft decree would establish minimum quotas for Rostelecom's purchases of certain services. The draft decree applied to "certain entities". She asked whether those "certain entities" were all and only those that had been identified in Article 1 of Federal Law No. 223. Her delegation had noted that Federal Law No. 223-FZ, in addition to governing procurement of goods, also governed the procurement of services and works. She asked whether the draft decree had established minimum shares for the procurement of services and works performed and rendered by Russian entities, and wanted to know how would the Russian Federation ensure that the draft decree was implemented in a way consistent with its WTO obligations, including those under GATT Article III.

23.4. The representative of the Russian Federation thanked the European Union and the United States for their interest in Russia's policy. She wished to inform Members that the Russian Federation currently did not have any adopted legal acts implementing such requirements.

23.5. The Committee took note of the statements made.

24 RUSSIAN FEDERATION – TRACK AND TRACE REGIME – STATEMENT BY THE UNITED STATES

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

24.2. The representative of the United States recalled that her delegation had previously raised concerns about Russia's Track and Trace programme in other Committees. The United States was raising it again on this occasion with regard to two specific concerns. First, the lack of preparedness by the Russian Government had led to delays at the border. Her delegation understood that about two-thirds of foreign pharmaceutical companies had faced delays at customs. She requested the Russian Federation to explain what steps had been taken to remedy the border delays. The second aspect of the Track and Trace programme that had raised questions was the process for obtaining an enhanced qualified electronic digital signature and whether a participant had to be physically present in Russia to obtain this digital signature. For example, she asked whether obtaining a tax identification number required a foreign participant to be present in Russia for any period of time. Also, whether obtaining an insurance number from the Russian State Pension Fund required a foreign participant to be present in Russia for any period of time. And also, whether obtaining a state registration number required a foreign participant to be present in Russia for any period of time. She asked the representative of the Russian Federation to provide the citation to a publicly available website, or the Russian Newspaper ("Rossiyskaya Gazeta"), that provided an explanation as to how a foreign participant, whether an individual, individual entrepreneur, or state-registered entity, could obtain an Enhanced Qualified EDS from an approved accreditation centre. Finally, she asked the representative of the Russian Federation to explain whether the requirements for a foreign participant differed from the requirements applicable to a Russian participant, whether it was an individual, individual entrepreneur, or state-registered entity, to obtain an Enhanced Qualified EDS, a tax identification number, or an insurance number from the Russian State Pension Fund, or a state registration number.

24.3. The representative of the European Union stated that her delegation shared the concerns that had been raised by the United States and they were also interested in Russia's replies to the US questions. While the European Union genuinely appreciated and supported the need to fight counterfeit and illegal imports, her delegation noted that the scope of the exercise, which was supposed to cover all goods in turnover by 2024, went well beyond products for which there was evidence of significant illegal trade. In their opinion, the focus should be put on those goods where the problems with counterfeit were most important, for example tobacco or furs, where the corresponding pilot projects in Russia had delivered very positive results. The European Union also had a system of individual tracking of tobacco products and of medicinal products. However, the benefits of labelling and tracking for goods such as textiles, tyres, perfumes, footwear, or other products of light industry, were more than doubtful. Furthermore, the costs linked to the labelling exercise that companies and consumers had to bear did not seem to be proportionate to the expected results and constituted a market access barrier. Therefore, her delegation considered that these categories of products should be excluded from the mandatory labelling and tracking scheme. The European Union would advocate a highly selective, targeted use of the labelling and tracking scheme, which would not in itself constitute a market access barrier. The EU also requested that Russia notify these requirements to the WTO.

24.4. The representative of the Russian Federation thanked the United States and the European Union for their interest in Russia's trade policy. The measure applied to both domestic and foreign products and was aimed at fighting against the circulation of counterfeited products in the Russian market and ensuring that all taxes had been paid. The information about Track and Trace was available on the website of the Operator of the System "Chestniy Znak". As for pharmaceuticals, the Government of the Russian Federation had adopted the amendments to the procedure of application of the System in respect of medicines on 2 November 2020, which had facilitated this procedure for manufacturers and importers. All the market participants had enjoyed the opportunity to contact the Operator and get all the guidelines and required information about the functioning of the System. Regarding tax identification numbers and electronic digital signatures, the Russian Federation stated that these could only be provided to residents of the Russian Federation. These issues had been set in the Federal legislation of the Russian Federation, including the Law on Electronic Signature, the Tax Code, and the Law on Pensions of the Russian Federation. As for Track and Trace, domestic

manufacturers and importers that were entities of the Russian Federation were responsible for the functioning of the system. Foreign enterprises need not obtain these instruments. Her delegation was open to discuss any remaining question bilaterally.

24.5. The Committee took note of the statements made.

25 KINGDOM OF SAUDI ARABIA, KINGDOM OF BAHRAIN, THE UNITED ARAB EMIRATES, OMAN AND QATAR – SELECTIVE TAX ON CERTAIN IMPORTED PRODUCTS – STATEMENT BY THE EUROPEAN UNION, JAPAN, SWITZERLAND, AND THE UNITED STATES

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

25.2. The representative of Switzerland noted that, since the Committee's previous meeting, her delegation had been granted the opportunity to hold a video conference with the General Authority for Zakat and Tax (GAZT) of Saudi Arabia. Switzerland wished to thank the delegation of Saudi Arabia for this fruitful meeting of August 2020. During the meeting, the Governor of GAZT had indicated that a study on the reform of the tax was under way at level of the Gulf Cooperation Council (GCC), but that it had been delayed due to the COVID-19 pandemic. The Governor had also indicated that the study would soon be completed. Switzerland wished to raise the following issues. First, she asked Saudi Arabia and the other GCC member States to indicate whether or not the study was under way in all the GCC member States, and if it had been completed. If not, when would the GCC member States foresee its completion, and when would the interested parties be informed of the study's recommendations. She noted that the discrimination between energy drinks, on one hand, and carbonated soft drinks and other sweetened beverages, on the other, remained in place, as these products were subject to different tax rates. Therefore, Switzerland reiterated its request to harmonize without delay the tax rate at 50% for energy drinks and all other categories of sugar-sweetened beverages subject to the tax, as this would be a first step towards eliminating the discrimination. Switzerland also called for an exemption of all zero sugar beverages from the tax and strongly encouraged all GCC member States to engage with private industry stakeholders on revising the tax in a transparent and non-discriminatory way. Switzerland had recently been informed that the GCC competent authorities foresaw a selective tax in the form of a specific duty which would replace the current *ad valorem* selective tax, and this would be a welcome development. Unfortunately, the specific tax would not be revenue-neutral. This meant that the specific tax could be even higher than the current *ad valorem* tax in order to compensate for the decrease of the tax on the no-sugar or diet beverages. The GCC selective tax was already the highest excise tax levied in the world and, since its introduction, a sharp decrease in Swiss exports had occurred. An additional increase would again substantially and negatively impact the beverage industry, including the GCC domestic producers. Switzerland sought confirmation that the specific tax that had been foreseen would not be higher than the current *ad valorem* tax. In French there was a saying, "trop d'impôt tue l'impôt" or "too much tax kills the tax". A new increase in the selective tax would not preserve the government revenue. Switzerland also requested the GCC to provide enough time to allow the stakeholders to prepare for the implementation of the tax reform. Turning to the Digital Tax Stamp (DTS) foreseen by Saudi Arabia, Switzerland appreciated that the measure had currently been suspended. However, Switzerland continued to strongly oppose the introduction of the DTS on beverages. These were not contraband goods of high value. Switzerland encouraged the competent authorities to pursue their dialogue with the industry to find other less harmful alternatives as the cost of the stamp system on beverages would outweigh its benefits. Her delegation welcomed further exchanges and looked forward to receiving answers to their request for information from the GCC member States.

25.3. The representative of Japan stated that, in spite of the concerns that had been expressed over the past year, the issue of the selective tax on carbonated soft drinks introduced by certain GCC member States had not yet been resolved, to the ongoing concern of his delegation. In the UAE, a high tax rate was imposed on some Japanese carbonated soft drinks due to their classification as energy drinks, which was a classification based not only on the ingredients of the drink, but also on the marketing and merchandizing methods used to advertise them. Japan had no objection to the imposition of a tax for the purpose of achieving health policy objectives. At the same time, Japan believed that such an imposition should consist of a volume-based tax in accordance with the ratio of ingredients that could health. Otherwise, the tax system would not function as an incentive to control the intake of these kinds of ingredients. Japan requested that such a tax be administrated in a transparent and reasonable manner, based on objective evidence.

25.4. The representative of the United States reiterated that her delegation's concerns remained, as had been stated in previous meetings of this Committee and the Council for Trade in Goods. At the Committee's meeting in June, the United States had offered to engage with the GCC on this issue in more detail. She asked how to follow-up on that offer, and which GCC member State officials would organize such a discussion. The United States stood ready to engage with GCC member State officials on this issue as soon as possible.

25.5. The representative of the European Union noted that the EU maintained the serious concerns that it had voiced in the Council for Trade in Goods, the Market Access Committee, as well in its bilateral contacts in relation to the GCC "Treaty on Excise Tax" of December 2016. The European Union welcomed the expansion of the tax base to include other sweetened beverages by Saudi Arabia and the United Arab Emirates, thus no longer discriminating soft drinks containing sugar. However, the European Union was still concerned that the GCC countries had not decreased the tax for energy drinks from 100% to 50% in order not to discriminate between energy drinks and other sugary drinks. The EU also acknowledged recent positive steps that had been taken by the GCC countries to revise the excise tax, switching from an *ad valorem* tax to a specific tax based on content, in line with international best practice linking the amount of tax to a product's actual sugar content. The EU called for a uniform implementation of the positive adjustments of the excise tax in all GCC countries. Her delegation looked forward to receiving the results of the study the GCC was currently carrying out regarding the revision of the tax. The EU strongly encouraged the GCC to engage private industry stakeholders in the process for revising the tax, and also encouraged the GCC to provide immediate relief for industry until the revision took effect, by exempting all zero sugar beverages from the tax and harmonizing the tax rate at 50% for energy drinks and all other categories of sugar-sweetened beverages subject to the tax.

25.6. The representative of United Arab Emirates indicated that he would respond on behalf of the GCC member States. He thanked the delegations that had taken the floor for their interest in the tax situation in the GCC member States, and specifically on the excise tax on drinks. Regarding the issues that had been raised, he wished to inform the committee of the following points. The GCC member States were undertaking studies at the GCC level in order to improve the tax framework and to reach a better balance between the interests of the different stakeholders, while implementing a public health protection policy. These studies were under way, although they had been delayed by the COVID-19 pandemic. The GCC member States assured the interested delegations that said studies would be completed soon, and that they would inform the Committee of the results. In the same vein, the UAE recalled that the GCC member States had proceeded to the expansion of the excise tax base, which had been implemented in July 2019, to include all sweetened drinks, in order to take into consideration the concerns previously expressed in this Committee. The GCC member States had taken note of the suggestion that had been made by the Swiss delegation regarding the exemption of all zero-sugar beverages and the GCC competent authorities would consider it with interest. Regarding the "possible new increase of the excise tax" and the so-called "too much tax kills the tax", he wished to inform the Swiss delegation that the objective of the ongoing reform would aim to reach a better balance between the interests of the different stakeholders, while implementing a public health protection policy. In conclusion, the UAE delegation had taken note of all of the concerns expressed, and assured delegations that they would be relayed to the competent authorities in their respective Capitals. Finally, he noted that the GCC member States would also spare no effort in informing the interested delegations of any further development in this matter in a timely fashion.

25.7. The Committee took note of the statements made.

26 SRI LANKA – IMPORT BAN ON VARIOUS PRODUCTS – STATEMENT BY THE EUROPEAN UNION

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

26.2. The representative of the European Union understood that the COVID-19 crisis had put a lot of pressure on the Sri Lankan economy and its foreign currency reserves as a result of the massive reduction in remittances and tourism revenues. However, her delegation was deeply concerned by the far-reaching import restrictions that Sri Lanka had introduced in the spring of 2020, and which had been extended on 30 June 2020. Sri Lanka's broad import ban was potentially affecting hundreds of millions of exports from the European Union. The current import bans had raised serious

concerns in terms of their compatibility with Sri Lanka's WTO obligations. The European Union had not yet seen these measures notified to the WTO. Even if they had been introduced due to an emergency situation, the Government should have notified the measures immediately after they were adopted, in line with WTO rules. The temporary import restrictions introduced by the Sri Lankan Government had been linked to the shortage of foreign currency. Quantitative restrictions should be avoided even when Balance-of-Payments issues arose. The side effects of restrictive measures should be the least trade distortive and ensure that there was no discrimination among supplying countries – although this ban applied to all importers. The measures would also need to be temporary. Apart from these formal requirements, her delegation believed that the underlying motivation was the protection of Sri Lankan industries and import substitution under the guise of foreign currency pressure. In conclusion, the European Union expressed concerns about the measures that had been taken by the Government of Sri Lanka affecting EU exports, especially the lack of notification and justification of the measures. In the absence of any justification, the European Union called for their full withdrawal. Her delegation thanked Sri Lanka for the opportunity to discuss these concerns bilaterally, including in Geneva, and looked forward to further engagement should their concerns persist.

26.3. The representative of the United States thanked the European Union for having raised this issue and shared the concerns that had been expressed. The United States was monitoring the issue and was interested to hear Sri Lanka's response to the issues that had been raised.

26.4. The representative of Australia shared the concerns that had been raised by the European Union with respect to the measures that had been implemented by Sri Lanka. These measures appeared to be overly trade-restrictive, did not appear to have a clear end-date, noting that they had been put in place "until further notice", and had not been notified to the WTO. Australia appreciated the difficult circumstances that Sri Lanka had experienced as a result of the impact of the COVID-19 pandemic on its economy and trade. Nevertheless, a well-functioning, transparent, predictable and stable global trading system remained fundamental to global economic stability during the pandemic, and the economic recovery post-pandemic. This was true for Sri Lanka and for all other WTO Members. Therefore, Australia requested Sri Lanka to notify to the WTO these measures as soon as possible and to provide an explanation of the WTO basis for the measures. He urged Sri Lanka to reassure Members that the measures would only be implemented to address the immediate impact of the COVID-19 pandemic, would not be maintained longer than necessary, and would be implemented in a manner that was consistent with Sri Lanka's WTO obligations.

26.5. The representative of Sri Lanka thanked the European Union, the United States, and Australia for their interest shown in Sri Lanka's trade policies in general and for raising their specific concerns on the current trade measures that had been taken by Sri Lanka to curb the COVID-19 pandemic. Sri Lanka had been holding discussions with the EU delegation in different configurations both in Geneva and in Brussels since July 2020. Her delegation was encouraged to notice that the EU had gained a better understanding of the very specific and challenging circumstances which had led to the Government of Sri Lanka's (GOSL) decision to impose these measures. Like many countries, Sri Lanka had been a victim of the COVID-19 pandemic and had been obliged to implement a number of measures to curb the COVID-19 pandemic, including the imposition of curfews over an extended period. Due to an unexpected second wave, it had been necessary to continue with partial lockdowns to contain the spread of the virus. As a result, there had been a slowdown in the local production process and also in the export of goods. The economic fallout from the COVID-19 pandemic remained ongoing and had been increasingly difficult to predict. As a small developing country, Sri Lanka was not an exception to this situation. As an outward-looking country, which relied heavily on international trade, with imports constituting around 90% of Sri Lanka's GDP, her country had witnessed a loss of export revenue both on trade in goods and services, and the depletion of overseas migrant remittances, which had significantly offset the trade balance, thereby hitting domestic production and increasing the import bills. Therefore, the country's ability to expand its international reserves as a buffer against macroeconomic shocks had been drastically weakened. The spread of the COVID-19 pandemic had significantly impacted near-term growth prospects globally, while available indicators for Sri Lanka also suggested that economic growth would be severely affected, nullifying all predicted gains to be achieved during the year 2020. According to World Bank predictions, Sri Lanka's economy would contract by 6.7% in 2020 owing to the overall impact caused by the COVID-19 pandemic. In view of this "highly unfavourable economic climate", which had been created with the spread of COVID-19 around the globe, and the difficulty in protecting and safeguarding its external financial situation, restoring macroeconomic balance and safeguarding a healthy balance in its dollarized economy, Sri Lanka had been compelled to proceed with the

imposition of measures that may have affected the international trade and the trade interests of its trading partners in the WTO.

26.6. During the time-period specified in the enquiry by the European Union, Sri Lanka had enacted measures to counter the economic impact of the COVID-19 crisis. Even before Sri Lanka had imposed import restrictive measures, in April 2020, total imports for the January–May period in 2019 had fallen compared to the January–May period in 2018, a 14.81% decrease. And total imports in the January–May period in 2020 had fallen only by 19.24% compared to the January–May period in 2019. The economic impact of the COVID-19 challenges would have necessitated the GOSL to curtail imports by a much higher and substantial percentage. In contrast to the measures that had been notified by other Members to the WTO, Sri Lanka's measures appeared to be based on an economic rationale, which was limiting banking services to limit the flow of foreign exchange out of the country and to stabilize exchange rates and the financial sector. The measures had covered certain activities in the financial sector. It was understandable that Sri Lanka, being a potentially vulnerable island economy, was concerned about the economic impact of the COVID-19 crisis, which had compounded previously existing economic challenges. For example, the tourism industry had been crippled since April 2019 after a series of devastating terrorist attacks on key cities. Apparel and garments generated about half of Sri Lanka's foreign exchange earnings through exports, but movement restrictions associated with the global response to the COVID-19 crisis had collapsed the demand from importing countries for these textile products. Besides losing demand for apparel, the contraction in world demand had also cut off other foreign exchange revenue streams, such as remittances and income from tourism.

26.7. As a result of the measures that had been imposed by Sri Lanka, the trade deficit was estimated to have narrowed by 9.17% during January-May 2020, with the contraction in exports (-28.41%) outweighing the contraction in imports (-19.24%). Given the drastic reduction in nearly all normal sources of foreign exchange earnings and inflows of foreign exchange remittances into the country, Sri Lanka had suddenly ceased many economic activities. The value of the Sri Lankan Rupee had plunged to an unprecedented low against the US dollar in March 2020. Immediately, the GOSL had been compelled to temporarily impose measures on imports to prevent a rapid depreciation of its local currency, and it was also prompted to intervene with further measures beyond the first quarter of 2020. As a result, the Sri Lankan rupee, which had remained volatile, recorded a notable appreciation in the second and third quarters of 2020. She stated that it was also important to indicate that the measures affecting imports had been taken as *ad hoc* measures in response to the COVID-19 pandemic and had not been taken as "regular" measures by Sri Lanka. Sri Lanka had been using price-based measures, such as increasing import duties from applied levels to bound levels or imposing surcharges up to bound levels, to address the compounding effects on Sri Lanka's vulnerable dollarized foreign exchange rate and trade balance during the 2018/2019 period. However, such measures appeared to have been insufficient to arrest the significant flows of foreign exchange out of the country and to stabilize the exchange rates and the financial sector during the first quarter of 2020.

26.8. This situation had prompted Sri Lanka to resort to the application of non-price-based measures. The measures that had been introduced were mainly with respect to the facilitation of the banking services at issue, and were not directly aimed at limiting the trade of commodities *per se*, but to arrest the flow of foreign exchange out of the country in substantial amounts. In doing so, Sri Lanka had amended the provisions in the Import and Export Control Regulation No. 11 of 2011 (Special Import Licence and Payment Regulations of 02.01.2012), which had been notified to the WTO Committee on Import Licensing in 2014 (document G/LIC/N/1/LKA/2, of 19 February 2014). This Regulation had laid down sub-regulations pertaining to the terms and conditions on payment terms for importation of goods into the country for commercial purposes. These measures had temporarily suspended banking services, such that it served to limit the facilitation of banking services by Sri Lankan banks. In effect, the measures had imposed restrictions or delays on payments and transfers. This enabled the GOSL to limit the flow of scarce foreign exchange going out of the country during the COVID-19 pandemic. The measures had temporarily suspended the provision by commercial banks in Sri Lanka, including Sri Lankan branches established under GATS Mode 3 by foreign banks, of banking services relevant to the importation of goods into Sri Lanka (with certain exceptions), under an array of payment terms (that is, Letters of Credit, Documents Against Acceptance, Documents Against Payment, Open Account, and Advanced Payment arrangements), compelling importers to import items either under other payment methods or on a credit basis (90 days or 180 days credit). By temporarily limiting the provision of banking services necessary to pay for the importation of goods, the measures essentially sought to

temporarily stem the outflow of foreign exchange from Sri Lanka. Accordingly, the measures had affected the trade in services covered by Sri Lanka's WTO GATS specific commitments (under Financial Services) and thereby pertained to, or affected, the operation of the GATS. The measures that had been imposed could be considered as "measures by Members" within the meaning of the GATS, being measures of general application taken by central government authorities, which pertained to or affected the operation and implementation by Sri Lanka of its GATS-specific commitments in relation to banking services. As such, under GATS Article III:1 and Article III:2, Sri Lanka was required to publish these measures promptly or make them otherwise publicly available. Sri Lanka had complied with these obligations as the measures had all been published or made publicly available by the relevant central government authority at the latest by the time of their entry into force. Furthermore, Sri Lanka's market access commitment in its GATS schedule with respect to the Mode 3 provision of the banking services at issue was limited and conditional and therefore the measures in question were consistent with Sri Lanka's GATS commitments on market access in light of the well written schedule of commitments and the conditions and limitations specified therein. To reassure its trading partners, the measures in question, which limited banking facilities, did not discriminate between domestic banks and the Sri Lankan branches or subsidiaries of foreign banks operating in Sri Lanka. The measures were applicable to both domestic and foreign banks present in Sri Lanka.

26.9. Sri Lanka expected WTO Members to show understanding for the emergency measures of the type that had been taken, especially because these measures had been properly targeted, proportionate, temporary, and transparent, while preserving the WTO's non-discrimination principle and ensuring minimal trade effects on its trading partners. With its limited capacity, Sri Lanka had analysed the other WTO legal provisions under which the measures could have been justified and had arranged the appropriate notifications accordingly, but the time-limit of some of these measures had been less than one to three months. On some of the covered measures, Sri Lanka had already complied with its obligations, as the measures had all been published or made publicly available by the relevant central government authority at the latest by the time of their entry into force. Sri Lanka's capacity constraints in general, and particularly in the midst of significant and widespread COVID-19-related lockdown measures which had been imposed by Sri Lanka, and where the GOSL administrative machinery's priorities had been drawn towards combating and curtailing the wide spread of the disease, had resulted in delays in analysing the other precise WTO legal provisions under which the measures could have been justified for the purposes of submitting the notifications to the WTO. Sri Lanka was aware of the need to relax the current measures. As the present situation indicated certain favourable spillover effects, Sri Lanka had been progressively relaxing the measures at regular intervals and had aimed towards price-based measures, probably using the flexibility available between its applied and bound tariff levels. In conclusion, they would continue their dialogue with all concerned delegations in a constructive way and with a view to addressing their concerns.

26.10. The Committee took note of the statements made.

27 ELECTION OF THE VICE-CHAIRPERSON

27.1. The Chairperson recalled that Rule 12 of the Rules of Procedure of this Committee allowed it to elect a Vice-Chairperson, and the long-standing practice had been to elect a Vice-Chairperson during the autumn meeting. Based on his consultations, he proposed that the Committee elect Ms Elisa OLMEDA (Mexico) as Vice-Chair of this Committee by acclamation.

27.2. The Committee so agreed.

28 DRAFT REPORT (2020) OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS (G/MA/SPEC/60)

28.1. The Chairperson recalled that the Committee was required annually to submit a report on its activities to the Council for Trade in Goods. The Chairperson noted that the Secretariat had circulated a draft report covering the activities of the Committee during the review period, which had circulated in document G/MA/SPEC/60. He noted that there had been a clerical error in one paragraph, where the date had read "10 December 2020" instead of "10 December 2019", which would be corrected in the subsequent version. He proposed that the Committee request the Secretariat to update the report and to circulate to delegations by email the new version, highlighting the changes. Members

would then have until close of business of Wednesday, 18 November, to inform the Secretariat if they had any objection. In the absence of any objection, the report would be considered to have been approved by the Committee and would be submitted to the CTG.

28.2. The Committee so agreed.

29 OTHER BUSINESS

29.1 Panama – Import restrictive practices

29.1. The Chairperson recalled that this item had been included under other business at the request of Costa Rica.

29.2. The representative of Costa Rica expressed his delegation's deep concern over the growing number of unjustified import restrictions that had been implemented by Panama, and the negative effect that these measures had been having on bilateral and regional trade. The adverse effects derived from these measures had been accentuated by the high economic vulnerability caused by the COVID-19 pandemic. Costa Rica had faced an unjustified brake on its tomato exports from 2011, a situation that had been aggravated in 2019 after Panama had implemented new barriers to bananas, plantains, pineapples, and strawberries from Costa Rica. In addition to these cases, on 30 June 2019, new measures had been added, which had caused the sudden closure of the Panamanian market to the import of dairy products, pork and beef, processed poultry meat, sausages, and fish food from Costa Rica and other regional partners. This issue had been raised in July at the Committee on Agriculture. Last week, during a meeting of the SPS Committee, Costa Rica had again pointed to Panama's apparent non-compliance with its obligations under the SPS Agreement, the MFN clause under Article I:1 of the GATT, and Article XI:1, regarding the non-adoption of import restrictions or bans. Costa Rica had sought dialogue with the various Panamanian authorities to understand their reasoning and to try to find mutually satisfactory solutions. To date, this effort at dialogue, particularly between the health authorities, had not yielded results. Despite multiple bilateral meetings in recent months, the Panamanian authorities had refused to provide explanations of the reasons for the implementation of its measures, which went against regional and multilateral trade regulations. Instead, they had concentrated their arguments on a failure to comply with forms and timelines, and had emphasized the need to reduce the gap in their trade balance with Costa Rica as a valid argument for the imposition of these measures. This was an element which, in accordance with bilateral, regional, and multilateral trade rules, did not provide any support for the measures that had been applied. Unfortunately, in addition to the *de facto* closure of the Panamanian market for dairy products of last June, on 12 August, Panama had notified its intention to eliminate its bound tariff quotas for fluid and evaporated milk through document G/SECRET/45. The amendment proposed to eliminate these tariff quotas, which would leave only the out-of-quota duties. This was a bound tariff of 60% for fluid milk, and of 155.7% for evaporated milk. The in-quota duty for both TRQs was 15%. Costa Rica reserved all its rights, and underlined that the procedures to modify or withdraw the Schedules of concessions under Article XXVIII involved a negotiation and agreement with any contracting party "primarily concerned", for which consultations would be established with the provision for compensatory adjustment. Costa Rica feared that this measure was just another element in a set of protectionist policies, which were deliberately obstructive to trade and inconsistent with Panama's commitments at the WTO. They were becoming even more harmful in the context of the COVID-19 pandemic, in particular given the high sensitivity of the goods in question, and particularly dairy products. Costa Rica had maintained its willingness to give one further opportunity for good-faith dialogue and would do so to the extent that reasonableness and circumstances warranted. In this regard, Costa Rica respectfully and vehemently urged Panama to comply with their WTO commitments and to lift the import bans that prevented the normal flow of trade between their countries.

29.3. The representative of Panama took note of the comments that had been made by Costa Rica and indicated that her delegation had not been given any notice that these issues would be raised. The intervention would be sent back to Capital for analysis. With respect to dairy products, she noted that Panama would be holding consultations with Costa Rica that day. She confirmed that Panama was following the procedures under Article XXVIII and was making use of the rights that all WTO Members enjoyed, including Costa Rica. With regard to Costa Rica's comments on the certification of facilities, she noted that the comments were not new and that the situation had not changed since the last two occasions on which Costa Rica had raised its concerns. On this third occasion, Costa Rica had just summarized what they had said in the past. The facilities that

had been referred to by Costa Rica had not been inspected since 2013. As a result, their sanitary and phytosanitary certificates for export to Panama had expired shortly thereafter. Despite this, in the interests of facilitating trade, and in view of the close commercial ties between their countries, Panama had provisionally and voluntarily extended the periods of approval of the facilities until June 2020. This extension did not imply a derogation or waiver by Panama of its rights under any WTO agreement, in particular the SPS Agreement, nor under any other agreement concluded between their countries. Throughout this period of provisional extension, Panama had been in constant communication with Costa Rica to request that it initiate the process to renew the certifications. Also, during this entire period, and to date, instead of initiating the necessary evaluation and certification process, Costa Rica had preferred to argue under different rationales that Panama did not have the right to carry out its evaluation to ensure food safety and to protect human life and health, and the country's animal and plant health. The respective authorities in Capitals remained in contact. Panama remained fully committed to resolving the situation if Costa Rica decided to initiate the appropriate assessment and certification process. The representative of Panama concluded by stating that she would report back to her Capital the same day.

29.2 Canada – E-Registration system

29.4. The Chairperson recalled that this item had been included under "Other Business" at the request of Canada.

29.5. The representative of Canada wished to remind delegates of the usefulness of identifying the committees and councils for which they were responsible on the WTO's e-Registration system (<https://eregistration.wto.org>). While the current list for the Committee on Market Access covered approximately 80 delegates, representing 60 Members, he had noted that close to 90 Members had been listening online during the first part of the meeting. For this reason, he wished to remind delegates of the system, which allowed each delegate to easily update their profile once they had logged into the system. The benefits were twofold. Firstly, delegates would receive emails directly from the Secretariat to their inbox and would not need to seek out such information from the delegation coordinator. Secondly, it would assist delegates to identify their counterparts, which would greatly facilitate communication, especially in these times when all delegations had to rely upon email, Interprefy, and videoconferencing to be able to speak to one another and to discuss the different issues that they wished to address.

29.6. The Committee took note of the statement.

29.3 E-Agenda

29.7. The Chairperson recalled that, at the informal meeting of 16 October 2020, the Committee had discussed the possibility of adopting the e-agenda system, like it was being used by the SPS and TBT Committees. His sense from the informal meeting was that delegations were willing to continue exploring this possibility. For this reason, and as had already been discussed at the informal meeting, he had requested the Secretariat to prepare a mock system so it could be presented at the first informal meeting of next year. Once the mock version was ready, delegations would then have some time to test it and the Committee would discuss whether adjustments were necessary. Like in the TBT and SPS Committees, the use of the e-agenda would be strictly on a voluntary basis. Moreover, this would be a pilot project that would not prejudice whether the Committee decided to continue using it.

29.8. The Committee took note of the statement.

29.4 Dates of the next meetings

29.9. The meeting was adjourned.
