

**MINUTES OF THE COMMITTEE ON MARKET ACCESS  
29 AND 30 APRIL 2021**

CHAIRPERSON: MR ANATOLY CHAPLIN (RUSSIAN FEDERATION)

The Committee on Market Access (CMA, or the Committee) adopted the agenda as reproduced in documents WTO/AIR/MA/14/Rev.1 and WTO/AIR/MA/14/Rev.1/Add.1, with the inclusion of the following item under Other Business: "Nepal – Import Ban on Energy Drinks – Statement by Thailand". An annotated agenda had been circulated in document JOB/MA/148.

<b>1 INTRODUCTION OF HARMONIZED SYSTEM CHANGES TO SCHEDULES OF CONCESSIONS – STATUS REPORT (G/MA/W/158/REV.2) .....</b>	<b>3</b>
– HS1996 (WT/L/6905) .....	3
– HS2002 (WT/L/605 and WT/L/807) .....	3
– HS2007 (WT/L/673 and WT/L/830) .....	3
– HS2012 (WT/L/831) .....	3
– HS2017 (WT/L/995) .....	4
<b>2 THE HARMONIZED SYSTEM AND THE WORK OF THE WORLD TRADE ORGANIZATION .....</b>	<b>4</b>
<b>3 OPERATION OF THE INTEGRATED DATABASE (IDB) AND THE CONSOLIDATED TARIFF SCHEDULES (CTS) DATABASE .....</b>	<b>7</b>
– STATUS OF IMPLEMENTATION OF THE 2019 IDB DECISION (G/MA/367) .....	7
– STATUS OF IDB NOTIFICATIONS (G/MA/IDB/2/REV.53) .....	9
– LIST OF MEMBERS' OFFICIAL WEBSITES WITH TARIFF INFORMATION AND IMPORT STATISTICS (G/MA/IDB/W/13/REV.4) .....	11
– STATUS OF THE CTS DATABASE .....	11
<b>4 NOTIFICATIONS PURSUANT TO THE DECISION ON NOTIFICATION PROCEDURES FOR QUANTITATIVE RESTRICTIONS (G/L/59/REV.1) .....</b>	<b>12</b>
A. NOTIFICATIONS .....	12
B. REPORT FROM THE SECRETARIAT (G/MA/W/114/REV.3) .....	20
<b>5 TRADE-RELATED MEASURES RELATING TO THE COVID-19 PANDEMIC .....</b>	<b>22</b>
<b>6 SITUATION OF SCHEDULES OF WTO MEMBERS – REPORT BY THE SECRETARIAT (G/MA/W/23/REV.17) .....</b>	<b>27</b>
<b>7 REPORT BY THE SECRETARIAT ON THE STATUS OF RENEGOTIATIONS UNDER ARTICLE XXVIII OF THE GATT 1994 (G/MA/W/123/REV.8) .....</b>	<b>28</b>
<b>8 ENHANCING TRANSPARENCY IN APPLIED TARIFFS – COMMUNICATION BY THE RUSSIAN FEDERATION (JOB/MA/138) - STATEMENT BY THE RUSSIAN FEDERATION .....</b>	<b>29</b>

<b>9 ANGOLA – IMPORT RESTRICTING PRACTICES – STATEMENT BY THE RUSSIAN FEDERATION AND THE UNITED STATES .....</b>	<b>31</b>
<b>10 CHINA - CUSTOMS DUTIES ON CERTAIN INTEGRATED CIRCUITS - STATEMENTS BY THE EUROPEAN UNION, JAPAN, AND THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU .....</b>	<b>32</b>
<b>11 CHINA – TRADE DISRUPTIVE AND RESTRICTIVE MEASURES – STATEMENT BY AUSTRALIA .....</b>	<b>33</b>
<b>12 EUROPEAN UNION - CARBON BORDER ADJUSTMENT MECHANISM (THE EUROPEAN GREEN DEAL OF DECEMBER 2019) - STATEMENTS BY ARMENIA, THE KINGDOM OF BAHRAIN, CHINA, KAZAKHSTAN, THE KYRGYZ REPUBLIC, QATAR, THE RUSSIAN FEDERATION, AND THE KINGDOM OF SAUDI ARABIA .....</b>	<b>34</b>
<b>13 EUROPEAN UNION – VACCINE EXPORT TRANSPARENCY MECHANISM - STATEMENT BY AUSTRALIA.....</b>	<b>40</b>
<b>14 INDIA – CUSTOMS DUTIES ON TELECOMMUNICATION AND OTHER PRODUCTS – STATEMENT BY CHINA .....</b>	<b>44</b>
<b>15 INDIA - IMPORT POLICIES ON TYRES - STATEMENT BY THE EUROPEAN UNION .....</b>	<b>46</b>
<b>16 INDIA - IMPORT RESTRICTION ON AIR CONDITIONERS - STATEMENT BY JAPAN .....</b>	<b>47</b>
<b>17 INDIA – QUANTITATIVE RESTRICTIONS ON IMPORTS OF CERTAIN PULSES - STATEMENTS BY AUSTRALIA, CANADA, THE EUROPEAN UNION, THE RUSSIAN FEDERATION, AND THE UNITED STATES .....</b>	<b>48</b>
<b>18 INDONESIA – CUSTOMS DUTIES ON TELECOMMUNICATION PRODUCTS – STATEMENT BY THE UNITED STATES.....</b>	<b>50</b>
<b>19 INDONESIA – IMPORT RESTRICTION ON AIR CONDITIONERS – STATEMENT BY JAPAN .....</b>	<b>51</b>
<b>20 MEXICO – IMPORT QUOTA ON GLYPHOSATE - STATEMENT BY THE UNITED STATES .....</b>	<b>51</b>
<b>21 MONGOLIA - QUANTITATIVE RESTRICTIONS ON THE IMPORTATION OF CERTAIN AGRICULTURAL PRODUCTS - STATEMENT BY THE RUSSIAN FEDERATION .....</b>	<b>52</b>
<b>22 RUSSIAN FEDERATION – EXPORT PROHIBITION ON TIMBER PRODUCTS - STATEMENT BY THE EUROPEAN UNION.....</b>	<b>53</b>
<b>23 RUSSIAN FEDERATION – TRACK AND TRACE REGIME – STATEMENT BY THE UNITED STATES .....</b>	<b>54</b>
<b>24 KINGDOM OF SAUDI ARABIA, KINGDOM OF BAHRAIN, THE UNITED ARAB EMIRATES, THE STATE OF KUWAIT, OMAN, AND QATAR - SELECTIVE TAX ON CERTAIN IMPORTED PRODUCTS (G/MA/W/169) - STATEMENTS BY THE EUROPEAN UNION, JAPAN, SWITZERLAND, AND THE UNITED STATES .....</b>	<b>55</b>
<b>25 SRI LANKA – IMPORT BAN ON VARIOUS PRODUCTS – STATEMENTS BY AUSTRALIA AND THE EUROPEAN UNION.....</b>	<b>57</b>
<b>26 SRI LANKA - IMPORT BAN ON PALM OIL - STATEMENT BY INDONESIA.....</b>	<b>59</b>
<b>27 UNITED KINGDOM - RENEGOTIATION OF TARIFF RATE QUOTAS UNDER ARTICLE XXVIII OF THE GATT 1994 - STATEMENT BY THE RUSSIAN FEDERATION .....</b>	<b>62</b>
<b>28 UNITED KINGDOM - RECTIFICATIONS AND MODIFICATION OF SCHEDULE XIX - UNITED KINGDOM - STATEMENT BY THE RUSSIAN FEDERATION .....</b>	<b>65</b>
<b>29 EGYPT - MANUFACTURER REGISTRATION SYSTEM (DECREE N° 43/2016)- STATEMENT BY THE RUSSIAN FEDERATION .....</b>	<b>66</b>
<b>30 OTHER BUSINESS.....</b>	<b>68</b>
<b>30.1 Nepal - Import Ban on Energy Drinks – Statement by Thailand.....</b>	<b>68</b>

30.2 E-Agenda .....	68
30.3 Dates of the Next Meetings .....	69
<b>31 ELECTION OF THE CHAIRPERSON.....</b>	<b>69</b>

## **1 INTRODUCTION OF HARMONIZED SYSTEM CHANGES TO SCHEDULES OF CONCESSIONS – STATUS REPORT (G/MA/W/158/REV.2)**

1.1. The Chairperson recalled that a full version of the Secretariat's reports regarding the various transpositions of Schedules had been made available as a room document and would be incorporated into the minutes of the meeting.<sup>1</sup>

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.2, 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 6 April 2021, and had taken into account the results of the last HS multilateral review, which had been held on 28 January 2021.

### – **HS1996 (WT/L/6905)**

1.3. The Secretariat (Mrs Alya Belkhodja) recalled that one file had remained pending in HS1996 since February 2009, which was the file of the Bolivarian Republic of Venezuela.<sup>2</sup>

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

### – **HS2002 (WT/L/605 and WT/L/807)**

1.5. 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 28 January 2021 was as follows: 116 files had been certified or were in the process of certification; and 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.

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

### – **HS2007 (WT/L/673 and WT/L/830)**

1.7. The Secretariat (Mrs Alya Belkhodja) recalled that a revised written report had been issued as document JOB/MA/104/Rev.25, dated 15 January 2021. The status of the HS2007 transposition files after the multilateral review of 28 January 2021 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; one file had been released for multilateral review and would be examined at the Committee's next meeting; five draft files had been completed and sent to Members for their first review; and eight draft files remained to be prepared. Finally, ten 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.

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

### – **HS2012 (WT/L/831)**

1.9. The Secretariat (Mrs Alya Belkhodja) recalled that a revised written report had been issued as document JOB/MA/129/Rev.11, dated 15 January 2021. The status of the HS2012 transposition files after the multilateral review of 28 January 2021 was as follows: 101 files had been certified or were

<sup>1</sup> Documents RD/MA/77 and RD/MA/78/Rev.1.

<sup>2</sup> Ongoing separate procedures, GATT document L/6905.

in the process of certification; two 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.

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

– **HS2017 (WT/L/995)**

1.11. The Secretariat (Mrs Alya Belkhodja) recalled that a revised written report had been issued as document JOB/MA/143/Rev.2, dated 15 January 2021. The status of the HS2017 transposition files after the multilateral review of 28 January 2021 was as follows: 54 files had been certified or were in the process of certification; three draft files had been completed and sent to Members for their first review; and 78 draft files remained to be prepared. Finally, she mentioned that the overall status of the different transposition exercises was reflected in slide 2 of the Secretariat's presentation.

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

1.13. The Chairperson recalled that, at its last formal meeting, the Committee had requested the Secretariat to prepare a draft decision on the HS2022 transposition procedures, based on the HS2017 procedures. The draft decision had been circulated in document JOB/MA/147, on 10 December 2020, and discussed at the Committee's informal meeting of 28 January 2021. In that document, it had been noted that the Secretariat would require additional time to select and prepare examples for the Annex of the draft Decision. The Chairperson informed the Committee that the full version of the HS2022, which was required to prepare such examples, had just been released; therefore, the draft decision would shortly be finalized by the Secretariat. The Committee would resume the discussion of this document during its next informal meeting.

1.14. The Committee took note of the Secretariat's reports and the Chairperson's statement.

## **2 THE HARMONIZED SYSTEM AND THE WORK OF THE WORLD TRADE ORGANIZATION**

2.1. The Chairperson welcomed Mr Konstantinos Kaiopoulos, Director of the Tariff and Trade Affairs Directorate of the World Customs Organization (WCO), who provided an update on the WCO's Harmonized System (HS) Committee work on the HS2022 implementation.

2.2. The representative of the WCO (Mr Konstantinos Kaiopoulos) reported as follows:

2.3. On 1 January 2022, the seventh edition of the Harmonized Commodity Description and Coding System (HS2022) will come into force. Currently, the HS is used by 211 economies, of which 160 are Contracting Parties to the HS Convention. The new HS2022 edition makes some major changes to the HS with a total of 351 sets of amendments covering a wide range of goods moving across borders. In comparison, the 2017 edition contained 233 sets of amendments. The changes introduced in HS2022 fall broadly into two types: (i) recognition of new groups; and (ii) clarifying changes to reinforce correct classification. In the first group of changes, the most excitement is caused by the creation of new provisions to allow for new groupings of goods, either to recognize real-life categories of goods that are currently split in classification or to sub-divide current provisions to separate out categories of goods that are currently rendered invisible as a group in global reporting and statistics because of their inclusion in a larger group. The second group of changes aim at clarifying ambiguities in current provisions. This work can range from language alignments to alignments that also incorporate changes in thinking that affect the scope of classification.

2.4. The major features of the HS2022 amendments were: (i) adaption to changing trade patterns through the recognition of high profile or new product streams and; (ii) addressing environmental and social issues of global concern, including health and safety as well as protection of society and the fight against illicit trade and terrorism.

2.5. The agricultural, food, and tobacco sectors are subject to a large number of changes in HS2022; something similar is expected for HS2027. Three examples of major changes are as follows: first, insects are introduced as a distinct food group. This is an important issue for both food security

monitoring and recognition as an emerging global commodity group as they increase in use in regions where they have not been traditionally eaten; second, updates to olive oils where extra virgin olive oil will be reported separately from virgin olive oil, providing for both better statistics and improved compliance in the area of food fraud; and the third example is the creation of new provisions for novel tobacco products and nicotine products resulting from the difficulties in the classification of these products, the lack of visibility in trade statistics, and the very high monetary value of this trade.

2.6. In the chemical and pharmaceutical sectors, the complete list of changes is again very extensive. This is a sector that is subject to quite extensive international agreements and HS2022 includes changes in response to updates to various major international agreements, for example, for hazardous chemicals, controlled under the Rotterdam Convention, for persistent organic pollutants (POPs), controlled under the Stockholm Convention, or for drugs and precursors (for example, fentanyl), at the request of the International Narcotics Control Board (INCB). The most extensive change in this sector was in response to the Kigali Amendment to the Montreal Protocol, which brought requirements to control a new range of gases with high global warming potential. These new provisions for hydrofluorocarbons will help countries to monitor and regulate their trade and will ensure globally comparable statistics. In relation to the pharmaceutical industry, new provisions for placebos and clinical trial kits for medical research, for cell cultures and cell therapy products, and for tools for rapid diagnosis of infectious diseases (like zika virus) in outbreaks, will enable easier classification, will facilitate cross-border medical research, and will avoid the risks of delays in the deployment of medical assistance.

2.7. In the sectors of machinery and electronics, specific provisions were created for the classification of electrical and electronic waste, commonly referred to as e-waste, to assist countries in their work under the Basel Convention. This was a major achievement given that the negotiations took more than 10 years. Additive manufacturing, commonly called 3D printers, will have their own provisions in HS2022. Trade in this area is not visible in the statistics and the new provisions rectify this situation. In the area of multi-purpose intermediate assemblies, heavily traded, the flat panel display modules are recognized as a commodity in their own right, removing the need to identify the final product in which they will be used. Major reconfigurations have been undertaken for products of carbon fibres and glass fibres, both areas of trade that have rapidly increased in diversity and importance, as well as for metal working machines to adequately reflect the technological advances in these sectors, which were lacking trade statistics and facing classification difficulties. Multiple changes relate to the area of LED and solar technologies in order to be able to distinguish major commodity groups that are recognized as providing a significant increase in sustainability over the older technology. The semi-conductor technologies are again represented in the changes, as is to be expected for this continually evolving industry. Smartphones will have their own subheading and legal definition to ensure uniform classification in the future. Again, this is only a sample of the changes in this sector.

2.8. Some changes resulted not only from technological and industry changes but also from other policy imperatives, such as the protection of society and the fight against terrorism, requiring increasingly important roles for Customs. For example, many new subheadings have been created for dual-use goods that could be diverted for unauthorized use, such as radioactive materials and biological safety cabinets, as well as for items required for the construction of improvised explosive devices, such as detonators. Some other sectoral highlights relate to: (i) unmanned aircraft ("drones"), which will be brought together under one heading, increasing their visibility and easing enforcement of existing and future regulations; (ii) in the area of cultural goods, illicit trade is a major fundraising activity for criminal and terrorist organizations. HS2022 will increase the granularity of provisions to distinguish types of art and artefacts of cultural significance in order to facilitate the detection of illegal trade hidden within the flow of legitimate trade.

2.9. It is not possible to do justice to 351 sets of diverse amendments in a brief introduction to the scope of HS2022. Hence this presentation has only touched on a few of the highlights. A thorough study of the amendments is required to comprehend their full scope and impact.

2.10. Regarding the current state of play, the COVID-19 situation has delayed the timeline by six months although we are catching up. The HS2022 books and the "Amendments to the HS Nomenclature" in French and English are now available at the WCO bookshop. The HS Committee taking place currently is finalizing the Explanatory Notes to the HS2022 and the package will be placed before Members at the WCO Council in June for approval. The printed version of the

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Explanatory Notes and the updated Compendium of Classification Opinions are expected in September 2021. Customs administrations and regional economic communities have a huge task to ensure timely implementation of the 2022 HS Edition, as required by the HS Convention. They are therefore encouraged to begin the process of preparing for the implementation of HS2022 in their national Customs tariff or statistical nomenclatures.

2.11. The HS performs a vital, indeed indispensable, role in both international trade (facilitation) and controls (illicit trade), as well as in providing data, information, and statistics. The five-yearly HS review updating coverage for specific goods, or improving particular provisions, has kept the HS functional. But functional does not imply optimal. The HS is still largely based on the trade patterns of the 1950s, where raw commodities and finished goods represented the vast majority of traded goods, and where trade was mostly the preserve of large companies and trade professionals who could dedicate time and specialized resources to understanding the intricacies of the HS. There have been major shifts since that time. The increasing trade in intermediate assemblies and semi-manufactures as part of global value chains, as well as the increase in composite, multifunctional, inter-connected, customized, and novel goods, has changed the profile of traded goods and increased the overall level of difficulty for classification. With high technology now changing more rapidly than ever, the challenge for the HS to catch up is likewise becoming ever greater. The rise of SMEs in global trade, particularly with Internet-enabled trade, has changed the profile of people involved in trade and makes the retention of expertise more difficult. All of this has put more focus on the usability of the HS and the implications that it has in terms of costs and compliance. The need for a "strategic" review was recognized by all Contracting Parties and the WCO Secretariat has submitted to the Council a proposal for an Exploratory or "Strategic" Review on the current health and future sustainability of the HS, and an assessment of feasible strategies and options available to ensure its long-term viability. The project's remit is to review the HS and potential improvements and to make recommendations on concrete strategies to bring the HS into line with today's needs and tomorrow's opportunities. We aim for better alignment of the HS with the realities and needs of trade and policy in the 21<sup>st</sup> century; improvements in the ease of doing trade; the development of new and improved functionalities, including better statistics; improved robustness and predictability of the outcomes of the classification process; decreased inconsistencies in application; and a reduction in the number of disputes. This will not be an easy task because, as a tool for creating customs tariffs, the HS must be stable and remain a practical tool that can be used at borders in every country; this reality affects the type and speed of changes that can be introduced into the HS. Changes must be considered by members in relation to their impact on trade agreements and the application of customs duties. From a practical point of view, it is also important that any goods separately specified can have their identity confirmed at the border if so required. The WCO Secretariat proposal will be examined by the WCO Council in June. The study will have a duration of two years and dedicated staff will be employed for the purposes of carrying out and completing it.

2.12. The representative of Sri Lanka indicated the following:

2.13. Sri Lanka would like to commend and thank the WCO for giving information on the status of the HS2022 amendments. Sri Lanka values such briefings if they are carried out on a regular basis. Therefore, Sri Lanka commends the Secretariat for having included this agenda item and for bringing the WCO expert to brief us on this important issue. Sri Lanka understands this transposition envisaged under the HS 2022 nomenclature in terms of two sets of amendments that have been proposed and to which the contracting parties are required to give legal effect: one is the normal amendments, which Sri Lanka believes to be mandatory for the contracting parties, and the other is a set of complementary amendments. Would the WCO enlighten us on the differences between these general amendments and the complementary amendments? Sri Lanka notes that there seem to be two different deadlines that the contracting parties should honour in relation to implementing these amendments in their national practices. Sri Lanka also wishes to know, when it comes to the obligations of the contracting parties, if there is a difference between the legal obligations in the normal amendments vis-à-vis the complementary amendments. Do they bear the same legal standing, such that the contracting parties are obliged to implement them by those deadlines? Sri Lanka heard last year that the WCO is also looking at developing a certain HS code for electronic transmission, that is, under E-Commerce. Sri Lanka wishes to hear of some progress in that regard. Finally, looking at the WCO website, Sri Lanka notes that it says that the HS2022 changes are coming into effect on 1 January 2022; however, in the WCO's presentation at today's meeting, the date indicated was 3 or 5 January 2022. Please could the exact date be clarified?

2.14. The representative of the WCO indicated the following:

2.15. There are no different amendments. The HS nomenclature is a whole: it comprises the new codes, that is the headings and subheadings, as well as the explanatory notes, and together they take the legal form of a recommendation that needs to be approved by the WCO Council. Once approved, this recommendation goes to the member states that are contracting parties to the HS Convention. In other words, the member states adopt the new nomenclature in their national systems according to their domestic procedures. There are two different types of changes within the HS, not two types of adoption procedures for the HS nomenclature. With regard to electronic transmissions, the WCO is going to look into this issue in the context of the strategic study for the HS review and will follow the WTO in the decisions it takes. If the WTO decides that it wants to include electronic transmissions and their products in the nomenclature, then the WCO will follow that approach and include it in the nomenclature; however, the WCO does not take such initiatives itself. Regarding the date of entry into force, the HS changes will take effect and have to be implemented on 1 January 2022.

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

### **3 OPERATION OF THE INTEGRATED DATABASE (IDB) AND THE CONSOLIDATED TARIFF SCHEDULES (CTS) DATABASE**

3.1. The Chairperson recalled that there were four 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; and (iv) the status of the CTS database.

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

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

3.3. The Secretariat (Ms Adelina Mendoza) reported that additional projects had been undertaken relating to the implementation of provisions indicated in document G/MA/367:

- a. Developing mock-ups of revised and new analytical reports that will be part of the revised online portal. The Secretariat also foresees more seamless integration of relevant data from other satellite in-house databases like the RTA database, the PTA database, and even the I-TIP for goods.
- b. One important advantage of the IDB over other tariff and trade databases is the precise link at the national tariff line level between applied tariffs (MFN and non-MFN duty schemes) and imports by partner. The new IDB decision has encouraged the notification of preferential tariffs. However, there were many submissions for which the HS version used for the preferential tariffs was not the same as the MFN, or was in a different national breakdown even if the HS versions were the same (for example, only a portion of the "eight"-digit code was covered by a preferential agreement). In order for the notifications to be useful for analyses, the Secretariat is currently developing a module that will facilitate processing and integration of such data while allowing for easy alignment to MFN tariffs and imports at the HS 6-digit level to simplify using data for analytical purposes.
- c. The "Call to Notify" email specifically on IDB notifications being sent to concerned delegations has continuously resulted in increased submissions by the specified deadline. For 2021, 34% of expected tariff notifications have been received compared to only 21% in 2020. For the years 2000-2019, the average compliance rate of tariff notification by the 30 March deadline of the current year was only at 11%. On imports, the 2019 data are the most current requirement and 31% were notified by the deadline of 31 October 2020. The comparable timely notification percentage for 2000-2018 data was 24%. Aside from the separate notification reminder, the improved statistics can be

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<sup>3</sup> Documents RD/MA/77 and RD/MA/78/Rev.1.

attributed to an increased awareness of IDB issues as a result of the review and adoption of the new IDB decision.

- d. Related to paragraph 8 of the new IDB decision on automatic submission of data, the Secretariat has finalized the bilateral agreement with Canada and the automated notification of applied tariff data is already in place. Other Members have indicated their interest in this arrangement and the Secretariat has had several exploratory meetings with mission and Capital-based officials to further discuss this option to lessen Members' notification burden. Another concurrent project related to automatic notification of IDB data is being implemented in partnership with UNCTAD and involves customs offices using ASYCUDA. Several developing countries have expressed interest in this project and the Memorandum of Understanding has already been finalized and signed with Madagascar.
- e. The Asian Development Bank requested and was granted authorized user access to the IDB and CTS databases after it sent its formal agreement to the new provisions on the dissemination policy described in Annex 4. Thus, currently, there are twelve intergovernmental organizations which have already communicated in writing their conformance to the new dissemination policy and have received the status of authorized users. The Secretariat is still awaiting responses on this subject by the others.

3.4. The representative of the European Union indicated the following:

3.5. The European Union thanks the Secretariat for its presentation. It is interesting to hear about the implementation of the decision, especially the positive development regarding automatic data transmission. The European Union asks the Secretariat to keep the Membership informed about such developments.

3.6. The Secretariat (Ms Adelina Mendoza) noted that it had been in contact with other delegations that had expressed their interest in automatic data transmission. As had been mentioned at the Committee's previous meeting, the Secretariat could share the template of the Memorandum of Understanding and adjust the provisions contained therein to suit the needs of Members.

3.7. The Chairperson suggested to include the automatic transmission of data on the agenda of the next informal meeting for experience-sharing purposes.

3.8. The representative of Canada indicated the following:

3.9. As Canada was mentioned as having finalized its arrangements for the automatic submission of tariffs, Canada wishes to thank the Secretariat for their assistance in this regard. It was actually an easy process and Canada is happy to discuss it with any interested delegations. Canada also draws the attention of all Market Access Committee delegates to the ongoing efforts, including recently, of the Informal Working Group on MSMEs. Among the package of recommendations and declarations adopted by a number of the Group's participants last December, the "Recommendation on MSMEs and the WTO Integrated Database" highlights the role the IDB plays in providing reliable and official market access information. The information Members provide to the IDB also supports research and analysis by international organizations, including the ITC, UNCTAD, and FAO. This recommendation also highlights the importance of keeping the IDB updated and promotes new pathways for WTO Members to both provide and enrich the data contained within it. Canada encourages all WTO Members to review the 2019 Decision by this Committee, contained in document G/MA/367, and to support the work of the IDB.

3.10. The representative of Russian Federation indicated the following:

3.11. The Russian Federation wishes to express our appreciation to the Secretariat for providing the Committee with this information. In this regard, the Russian Federation would like to know if it might be possible to share the details of the bilateral agreements protocol between the Secretariat and Canada in respect of the implementation of this decision.



3.12. The representative of Canada indicated the following:

3.13. Canada is very happy to share the relevant exchange of emails and letters between Canada and the Secretariat.

3.14. The Chairperson noted that, if this topic was of general interest, and if Members so wished, it could also be discussed in experience-sharing mode, as an agenda item, in an informal meeting of the Committee.

3.15. The Chairperson drew Members' attention to paragraph 15 of the IDB Decision, which provided that: "with a view to continuously improving the functionality of the WTO data dissemination and online tools, the Secretariat will periodically consult with Members to identify their needs and to identify areas for improvement." He recalled that the Secretariat had organized a first feedback session with Members on 17 July 2019, the results of which had been summarized in document G/MA/W/144. Given that almost two years had passed, the Secretariat was planning to hold another feedback session at the informal meeting of the Committee to be held on Wednesday, 16 June. On that occasion, Members would be asked to provide feedback on the different data dissemination and online data tools relating to the IDB and CTS databases, and the Secretariat would report on the steps that it had taken to respond to Members' feedback, as well as its future plans. More details would be provided by the Secretariat in due course.

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

– **STATUS OF IDB NOTIFICATIONS (G/MA/IDB/2/REV.53)**

3.17. The Chairperson recalled that a full version of the Secretariat's report and presentation had been made available as a room document<sup>4</sup> and would be incorporated into the minutes of the meeting.

3.18. 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.53. The data cut-off date was 31 March 2021, the day following the deadline for 2021 tariffs notification. An electronic copy for all years from 1996 was also available for download from the site <https://IDBFileExchange.wto.org>. Current notification requirements for the IDB were the 2021 applied tariffs (for which the deadline was 30 March 2021) and the 2019 imports (for which the deadline was 31 October 2020). A call to notify had been sent out to Members in January 2021, followed by a reminder in early March. For the statistics cited below, the cut-off date was 26 April 2021.

3.19. The global health crisis had continued to affect the work situation in the capitals from where notifications were compiled. The IDB expected much lower numbers on submitted data, and yet, with an increased awareness of IDB issues further to the Committee's adoption of the new IDB decision, the number of notifications submitted on or before the deadline, especially on tariffs, had steadily increased for 2020 and 2021. For 2000-2019, the yearly average of datasets notified by the 30 March deadline was 11% of expected notifications (about 20 reporting members per year, on average). In 2020, this percentage doubled, to 21%, or 28 reporters, and in 2021, there were 46 reporters submitting their data within the deadline. This corresponds to 34% of the expected notifications. A similar trend could be observed regarding the data on imports. By the 31 October 2020 deadline for 2019 data on imports, almost a third of notifications had already been received. The comparable statistic for 2019 (imports for 2018) was only 20%. As mentioned above, aside from a greater awareness of IDB issues, another contributing factor was the separate "call to notify" specifically for IDB data only.

3.20. On the 2021 applied tariffs, the IDB currently included data for 56 Members, as of 26 April, which accounts for 41% of 136 expected Members' notifications. There were nine additional 2021 applied tariff notifications received after the official deadline. Of those 56 files, 52 were official submissions, while the remaining four were collected by the Secretariat from approved "framework sources". As to the inclusion of other applied tariffs, there were also 37 submissions (or 66% of notifications) which included non-MFN duty schemes. Furthermore, there were six notifications

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<sup>4</sup> Documents RD/MA/77 and RD/MA/78/Rev.1.

which contained the optional additional import taxes. Overall, 37 Members, representing 27% of notifying Members, have a complete notification compliance rate concerning their MFN applied tariffs. However, there remain 46 Members (34%) having six or more years of outstanding applied tariff data. As expected, the report on tariffs, based on submissions for the first quarter of the year, was down compared to the last quarter's report.

3.21. On the 2019 data on imports, 62 notifications had been received, which represented 46% of the 135 expected notifications. Of those, 42 datasets (31%) had been submitted by the 31 October 2020 deadline. Furthermore, data on imports for 2018 stood at 57% complete. For data on imports due from 1996 to 2019, 41 Members, or 30% of notifying Members, had notified their complete data. Fifty Members had six or more years of data still to be submitted, representing 37% of the total Membership. There were only 20 additional notifications of 2019 data on imports received compared to those reported during the November 2020 meeting of the Committee.

3.22. On the "recomposition" of single-year missing MFN tariffs for which the data on imports had been notified, and where the tariffs of the adjacent years were available, as provided for in paragraph 22 of the IDB Decision, the Secretariat had added thirty-five country periods to the data on applied tariffs. While this number may seem negligible, the more important consideration was that, regarding recomposed tariffs, the notified data on imports that previously could not be integrated had now been added into the database. There had been no comments received from the Members concerned regarding these recomposed tariffs.

3.23. Overall, as of the same data cut-off date, IDB disseminated data consisted of 2,759 country periods of either applied tariffs with matched imports at the national tariff line level or else applied tariffs only. The Secretariat estimated that IDB notifications on MFN applied tariffs were 82% complete for the data expected until 2021, and 76% complete for imports until 2019. Except for Afghanistan, all other Members, plus six acceding Members (Algeria, Bahamas, Belarus, Comoros, Iran, and Serbia), had notified their data to the IDB, as also disseminated in TAO, TDF, and WTODATA.

3.24. With more automatic data notification arrangements, the Members concerned would have less of a notification burden and the IDB would contain more timely and complete data. Therefore, Members were encouraged to explore this option as it would benefit them directly, including through fewer notifications to prepare, and also, indirectly, through more current and comprehensive data for the purposes of trade policy analysis.

3.25. She recalled that the submission of mandatory data for Members covered by the Preferential Trade Arrangements Transparency Mechanism (PTA-TM) should be notified in the context of IDB notifications. Of the 24 notifying Members of the PTA (counting the EU-27 and UK separately from 2021 for tariffs, and Switzerland and Liechtenstein as one), ten had not yet notified their applied tariffs for 2021. Of the 14 Members that had notified their tariffs, one had submitted only MFN tariffs without including the mandatory non-reciprocal GSP/LDC schemes. The PTA-TM required that import data be notified with the necessary breakdown, and in 17 of 23 expected notifications for 2019 (counting the EU-27 and UK as one until 2019 in terms of data on imports in the context of IDB notification), four Members had only submitted the regular data on imports, without including the breakdown by duty scheme, and six Members had not yet submitted any of their data on imports. As stipulated in paragraph 5 of the IDB Decision, and to avoid multiple processing of data, the Secretariat would await the complete PTA-TM datasets (tariffs or imports) before integrating these notifications into the IDB.

3.26. The following additional notifications had been received between 31 March and 27 April 2021:

- a. Benin 2017, 2018, 2019 imports
- b. Brunei Darussalam 2021 applied MFN and preferential tariffs
- c. Chad 2021 applied MFN tariffs
- d. Cuba 2021 applied MFN tariffs
- e. Dominican Republic 2021 applied MFN tariffs
- f. Guatemala 2021 applied MFN and preferential tariffs
- g. Lao People's Democratic Republic 2018, 2019 imports
- h. Madagascar 2020 applied MFN and preferential tariffs
- i. Nicaragua 2021 applied MFN, preferential tariffs, and ODCs

- j. Norway 2021 applied MFN, preferential tariffs
- k. Panama 2021 applied MFN, preferential tariffs and 2018, 2019, 2020 imports
- l. Turkey applied MFN and preferential tariffs for 2014-2016, 2020, 2021 and imports (with PTA-TM breakdown) for 2005, 2010-2020

3.27. Since the Committee's previous meeting, in November 2020, the Secretariat had participated in the following online technical assistance activities concerning the IDB/CTS data and related tools:

- a. CLDP/WTO Virtual Workshop on WTO Notification Requirements for Afghanistan
- b. Two TAs on Tariff Renegotiations for Senegal (with MAD)
- c. TA on SDG trade monitor with UNESCAP and UNECA
- d. Accession of Timor-Leste on market access offer for goods
- e. National TA with Djibouti on notifications
- f. Presentations on WTO databases for the 2021 cohort of WTO young professionals and the NTP trainees

3.28. Finally, the 2021 edition of the World Tariff Profiles was being prepared and the English version was expected to be launched electronically in June 2021, which was its regular release data. The French and Spanish versions would be available by July 2021.

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

– **LIST OF MEMBERS' OFFICIAL WEBSITES WITH TARIFF INFORMATION AND IMPORT STATISTICS (G/MA/IDB/W/13/REV.4)**

3.30. 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 fourth revision of this document had been prepared by the Secretariat. In this regard, the Secretariat had consulted with Members informally prior to circulating this fourth revision in document G/MA/IDB/W/13/Rev.4 and its corrigendum.

3.31. The Secretariat (Mr Simon Neumueller) reported that the fourth revision of the list of Members' Official Websites with Tariff Information and Import Statistics contained more than 30 updated links. As in previous revisions, the Secretariat would continue sharing with Members the draft document with the objective of keeping it up to date prior to issuing its next revision. He invited delegations to contact the Secretariat in case a link had changed or if additional weblinks had become available.

3.32. The Chairperson recognized the importance that this document had for Members and trade operators in general and that almost all Members nowadays had this information available on the Internet. He therefore urged delegations to test the links in the document and to inform the Secretariat as soon as possible of any change.

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

– **STATUS OF THE CTS DATABASE**

3.34. The Chairperson drew the Committee's attention to the Secretariat report on the status of the CTS database. 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.<sup>5</sup>

3.35. The Secretariat (Ms 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, 54 had been made available in HS2017, 46 in HS2012, 19 in HS2007, and 14 in HS2002; two remained in HS96. All legal instruments were available through the Goods Schedule e-Library (<https://goods-schedules.wto.org/>). The Secretariat also informed the Committee of a project to issue the complete CTS database in MS Excel. Each Member's file reflected the latest information on its bound commitments as presently included in the CTS MS Access files. However, the format of the MS Excel files followed the presentation used in the legal instruments, such as the

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<sup>5</sup> Documents RD/MA/77 and RD/MA/78/Rev.1.

Uruguay Round schedules of concessions. The MS Excel files would first be made available to Members, to give them an opportunity to comment, and they would then be released to the public. The Secretariat planned to issue the MS Excel files during the month of May and Members would be given one month to comment on them.

3.36. The representative of Switzerland indicated that:

3.37. The transposition of the CTS file in Excel will greatly facilitate our work at home. In this connection, is there any project to modernize the TAO and to make it more user-friendly?

3.38. The Secretariat (Ms Alya Belkhodja) replied that, as part of the new IDB Decision, there existed a project to develop a new TAO, including new features and functions and a more modern layout.

3.39. The Chairperson informed the Committee that the project on the new TAO would be presented at the Committee's informal meeting scheduled to be held in June.

3.40. The representative of Russian Federation indicated that:

3.41. The Russian Federation would like to express its appreciation to the Secretariat for its work in making the TAO more user-friendly. The Russian Federation also underscores how important it is to have access to this information, not only in MS-Access but also in Excel files.

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

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

4.1. The Chairperson recalled that there were two sub-items to discuss under this agenda item: (a) an examination of the notifications received; and (b) the Secretariat's factual report on the notifications received. Under the first sub-item, he drew Members' attention to the notifications of quantitative restrictions (QRs) from 27 Members, of which four were notifying their complete list of QRs for the first time. He noted that many of these notifications related to measures implemented in response to the COVID-19 pandemic and, to the extent possible, asked Members to refer to them under agenda item 5. Finally, he recalled that, in the case of a connection problem preventing any Member from indicating that it wished to have more time to examine a notification, and thus keep the notification on the Committee's agenda for its next formal meeting, that Member would have until 7 May 2021 to inform the Secretariat accordingly.

##### **A. NOTIFICATIONS**

– *Afghanistan (G/MA/QR/N/AFG/3)*

4.2. The Chairperson drew Members' attention to a new complete notification from Afghanistan for the biennial period 2020-2022.

4.3. The Committee took note of this notification.

– *Argentina (G/MA/QR/N/ARG/2)*

4.4. The Chairperson drew Members' attention to a new notification from Argentina for the biennial periods 2018-2020 and 2020-2022.

4.5. The representative of the United States indicated the following:

4.6. As Members are aware, the United States shared some questions on the import licensing system in Argentina in the Import Licensing Committee. The United States looks forward to Argentina's responses to those questions and appreciates the transparency of this process. The United States notes that Argentina indicated, on page 14, Section 2, Item 4 of its notification to this Committee that it did not notify any QRs in its notifications to the Committee on Import Licensing.

The United States has concerns about the possible trade impact of the system for non-automatic import licences in Argentina, including whether they could result in a quantitative restriction. The United States would be interested in hearing from Argentina how it analysed its system for non-automatic import licences and determined not to notify any as a quantitative restriction.

4.7. The representative of Argentina indicated the following:

4.8. Argentina thanks the United States for reiterating its interest in Argentina's import licensing regime and its recent notifications. Argentina takes note of the concerns and will respond as soon as possible to the questions raised in this Committee, as well as to the written questions raised in the Import Licensing Committee.

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

– *Australia (G/MA/QR/N/AUS/4/Add.3)*

4.10. The Chairperson drew Members' attention to a new notification from Australia which related to the elimination of a measure imposed in response to COVID-19.

4.11. The Committee took note of this notification.

– *Kingdom of Bahrain (G/MA/QR/N/BHR/1/Rev.1, G/MA/QR/N/BHR/1/Rev.1/Add.1)*

4.12. The Chairperson drew Members' attention to two new notifications from the Kingdom of Bahrain. The first notification was a complete notification for the biennial period 2018-2020, while the addendum was a notification of measures imposed in response to COVID-19. On behalf of the Committee, he thanked Bahrain for its first complete notification and for complying with this important transparency obligation. He also informed the Committee that a third notification had been recently submitted by Bahrain relating to the full elimination of temporary export measures introduced as a response to COVID-19. This notification would be considered at the Committee's next formal meeting.

4.13. The Committee took note of these notifications.

– *Brazil (G/MA/QR/N/BRA/2/Add.2)*

4.14. The Chairperson drew Members' attention to a new notification from Brazil that related to new measures introduced in response to COVID-19.

4.15. The Committee took note of this notification.

– *Canada (G/MA/QR/N/CAN/4/Add.1)*

4.16. The Chairperson drew Members' attention to a new notification by Canada, which had been circulated in document G/MA/QR/N/CAN/4/Add.1.

4.17. The Committee took note of this notification.

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

4.18. 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 remained from the United States.

4.19. The representative of the United States indicated the following:

4.20. The United States again reiterates its concerns, as expressed previously in this and many other WTO bodies, regarding the negative trade and environmental impacts resulting from China's progressively restrictive import ban, and accompanying measures, on certain solid waste imports.

The United States reiterates its concerns that certain scrap materials like bundled recycled newspaper have been banned, whereas other more processed scrap materials such as pulped paper and "smelter ready" metals are allowed. Can China please explain what scientific basis it used to determine which categories of scrap materials are safe and which are not? Additionally, these policy measures appear to be contrary to China's own pro-circular economy narrative that it is promoting in the WTO as well as internationally. These measures hinder China's aspirations to transition to a more resource efficient, global circular economy by directly impacting global recycling networks. The United States reiterates its request that China immediately revise the relevant measures in a manner consistent with existing international standards for trade in scrap materials, which provide a global framework for transparent and environmentally sound trade in recyclable commodities.

4.21. The representative of China indicated the following:

4.22. China takes note of the concern raised by the United States. As China has provided replies on this issue many times in various WTO bodies, for the sake of time, China refers to its statements made at previous meetings of this Committee, the Committee on Import Licensing, and the Council for Trade in Goods. China wishes to reiterate that its ban on all solid waste imports, starting from 1 January 2021, is to effectively protect public health and China's ecosystem. China is working on WTO notifications of the measures pursuant to its notification requirements under the WTO Agreements. China notes that it also issued national quality standards for recycling materials for brass, copper, cast aluminium alloys, and iron and steel materials. These recycled materials, complying with China's national quality standards and posing no hazard to human health and the environment, are not regarded as solid waste and can be traded in a normal manner.

4.23. 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.2)*

4.24. The Chairperson drew Members' attention to a new complete notification by Colombia for the biennial periods 2018-2020 and 2020-2022. On behalf of the Committee, he thanked Colombia for complying with this important transparency obligation.

4.25. The Committee took note of this notification.

– *Ecuador (G/MA/QR/N/ECU/1)*

4.26. The Chairperson drew Members' attention to a new notification by Ecuador that related to measures introduced in response to the COVID-19 pandemic. On behalf of the Committee, he thanked Ecuador for complying with this important transparency obligation.

4.27. The representative of Switzerland indicated the following:

4.28. For the Committee's information, Switzerland asked a question of Ecuador regarding the status of its measures, including whether or not they were in force, and Switzerland is awaiting Ecuador's answer.

4.29. The representative of Ecuador indicated the following:

4.30. Ecuador thanks Switzerland for its questions and wishes to highlight that only the measure on face masks is still in force although currently under review. This is a temporary measure; the other measures were all terminated. Ecuador stands ready to provide more information if necessary.

4.31. The Chairperson asked Switzerland if the Committee needed to revert to this notification at its next meeting.

4.32. The representative of Switzerland indicated the following:

4.33. Switzerland considers that it is not necessary to revert to this notification at the Committee's next meeting.

4.34. The Committee took note of the notification.

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

4.35. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to Egypt's notification in document G/MA/QR/N/EGY/1/Rev.1/Add.1. Questions from Switzerland remained open. However, Egypt had since submitted a new notification, in document G/MA/QR/N/EGY/1/Rev.1/Add.2, which related to measures introduced in response to the COVID-19 pandemic.

4.36. The representative of Switzerland indicated the following:

4.37. Switzerland has no other additional questions; it is no longer a problem for us.

4.38. The Committee took note of this notification.

– *European Union (G/MA/QR/N/EU/5/Add.1, G/MA/QR/N/EU/5/Add.2, G/MA/QR/N/EU/5/Add.3)*

4.39. The Chairperson drew Members' attention to three new notifications by the European Union, which related to measures introduced in response to the COVID-19 pandemic.

4.40. The Committee took note of these notifications.

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

4.41. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by India in documents G/MA/QR/N/IND/2 and G/MA/QR/N/IND/2/Add.1. Questions from the United States remained open.

4.42. The representative of the United States indicated the following:

4.43. The United States prefers not to comment at this time.

4.44. The representative of the European Union indicated the following:

4.45. The European Union notes that it has been almost three years since India submitted its one and only QR notification. Several of the topics on the current meeting's agenda, such as India's import restrictions on pulses, as well as other trade restricting measures, should be notified. The European Union urges India to bring its record on notifications of QRs up to date as soon as possible.

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

– *Kazakhstan (G/MA/QR/N/KAZ/3, G/MA/QR/N/KAZ/3/Rev.1)*

4.47. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notification by Kazakhstan contained in document G/MA/QR/N/KAZ/3. Questions from Switzerland remained open. Since then, Kazakhstan had submitted a revised version of its notification, in document G/MA/QR/N/KAZ/3/Rev.1.

4.48. The representative of Switzerland indicated the following:

4.49. Switzerland thanks Kazakhstan for its revised notification. This revised notification addresses many of our previous comments. Switzerland has submitted follow-up questions bilaterally regarding five measures. Switzerland will require some time to revise the answers just received from Kazakhstan.

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

- *Kyrgyz Republic (G/MA/QR/N/KGZ/1/Add.2, G/MA/QR/N/KGZ/1/Add.3, G/MA/QR/N/KGZ/1/Add.4, G/MA/QR/N/KGZ/1/Add.5 and G/MA/QR/N/KGZ/1/Add.6)*

4.51. The Chairperson drew Members' attention to five new notifications by the Kyrgyz Republic in documents G/MA/QR/N/KGZ/1/Add.2-G/MA/QR/N/KGZ/1/Add.6.

4.52. The Committee took note of these notifications.

- *Republic of Korea (G/MA/QR/N/KOR/3/Add.1)*

4.53. The Chairperson drew Members' attention to a new notification by the Republic of Korea informing Members that its measures introduced in response to the COVID-19 pandemic had been lifted.

4.54. The Committee took note of this notification.

- *Montenegro (G/MA/QR/N/MNE/2)*

4.55. The Chairperson drew Members' attention to a new complete notification by Montenegro for the biennial period 2020-2022.

4.56. The Committee took note of the notification.

- *New Zealand (G/MA/QR/N/NZL/5)*

4.57. The Chairperson drew Members' attention to a new complete notification by New Zealand for the biennial period 2020-2022.

4.58. The Committee took note of the notification.

- *Nicaragua (G/MA/QR/N/NIC/4)*

4.59. The Chairperson drew Members' attention to a new complete notification by Nicaragua for the biennial period 2020-2022.

4.60. The Committee took note of the notification.

- *Norway (G/MA/QR/N/NOR/2)*

4.61. The Chairperson drew Members' attention to a new complete notification by Norway for the biennial period 2020-2022.

4.62. The representative of Switzerland indicated the following:

4.63. Switzerland has one question relating to some international conventions in the notification on which we are awaiting Norway's answer.

4.64. The representative of Norway indicated the following:

4.65. We are working on the reply in Capital and will respond to Switzerland on this point as soon as possible.

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

- *Philippines (G/MA/QR/N/PHL/2)*

4.67. The Chairperson drew Members' attention to a new complete notification by the Philippines for the biennial periods 2014-2016, 2016-2018, 2018-2020, and 2020-2022.



4.68. The representative of Switzerland indicated the following:

4.69. Switzerland has submitted some additional comments and questions and will wait to receive the answers from the Philippines.

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

– *Seychelles (G/MA/QR/N/SYC/2)*

4.71. The Chairperson drew Members' attention to a new complete notification by Seychelles for the biennial periods 2018-2020 and 2020-2022.

4.72. The Committee took note of the notification.

– *Singapore (G/MA/QR/N/SGP/5)*

4.73. The Chairperson drew Members' attention to a new complete notification by Singapore for the period 2020-2022.

4.74. 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 and G/MA/QR/N/THA/2/Add.3)*

4.75. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by Thailand, where questions had been raised by the European Union.

4.76. The representative of the European Union indicated the following:

4.77. At the last meetings of this Committee, the EU noted that Thailand's import licensing requirements for feed wheat should have been included in Thailand's QR notification, given that they are non-automatic licensing requirements. The EU encourages Thailand to provide its next biannual QR notification as soon as possible. The EU also expressed its concerns on the import procedures for feed wheat numerous times in the Committee on Import Licensing and the Committee on Agriculture. The EU would like to again remind Thailand that its written replies to the EU's questions submitted in the Committee on Import Licensing in April 2017 and March 2018 are still pending. The EU reiterates its interest in understanding on what basis the measure, announced as temporary, can be maintained since January 2017 and when it will cease to apply. The EU is also concerned about the WTO-compatibility of Thailand's import licensing regime for feed wheat. Furthermore, given market and policy developments related to corn, the European Union sees no economic reasons to keep the measure in place. The European Union would also like to understand whether, pending the removal of the licensing regime, Thailand intends (i) to notify it in accordance with Articles 1.4 and 5 of the Import Licensing Agreement; and (ii) to add them to its notification on QRs. As also indicated, the European Union acknowledges that the price support programme for corn has been extended until October 2021, in parallel to additional measures to support corn farmers. The European Union would like to seek an update on the implementation of the price support programme and requests Thailand to notify it to the WTO Committee on Agriculture.

4.78. The representative of Thailand indicated the following:

4.79. Thailand thanks the European Union for its statement. Thailand would like to inform the Committee that, for the last two years, Thailand's imports on feed wheat increased by 8.59%, amounting to 1.85 million tonnes in 2020, an increase of 1.7 million tonnes in 2019. Currently, Thailand is in the process of reviewing its import permit measures on feed wheat, including giving consideration to an appropriate amendment of its MFN applied rate within the scope of Thailand's commitments at the WTO. However, the procedure may be delayed due to the COVID-19 pandemic and recent mandatory work-from-home regulations resulting from rising new infection cases in Thailand. As for the notification of the domestic support programme, Thailand needs to collect information and documents from its relevant authorities. Thailand will notify it to the WTO as soon

as possible. Thailand will also provide an update of further developments to the Committee and Members in due course.

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

– *Tonga (G/MA/QR/N/TON/1)*

4.81. The Chairperson drew Members' attention to a new complete notification by Tonga for the period 2020-2022. On behalf of the Committee, he thanked Tonga for complying with this important transparency obligation.

4.82. The Committee took note of the notification.

– *Turkey (G/MA/QR/N/TUR/2/Add.1)*

4.83. The Chairperson drew Members' attention to a new notification by Turkey relating to measures introduced in response to the COVID-19 pandemic.

4.84. The Committee took note of the notification.

– *United Kingdom (G/MA/QR/N/GBR/1)*

4.85. The Chairperson drew Members' attention to a new complete notification by the United Kingdom for the biennial period 2020-2022. On behalf of the Committee, he thanked the United Kingdom for complying with this important transparency obligation.

4.86. The Committee took note of the notification.

– *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/QR/N/USA/5/Add.1, G/MA/W/116, G/MA/W/127)*

4.87. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by the United States, as there were still questions open from the European Union that had been circulated in documents G/MA/W/116 and G/MA/W/127. Since then, the United States had submitted one new notification relating to new measures introduced in response to the COVID-19 pandemic.

4.88. The representative of the European Union indicated the following:

4.89. The European Union has been raising its concerns regarding US trade prohibitions on sturgeon products in this Committee since 2015. In the latest US notification (G/MA/QR/N/USA/5), the restrictions pursuant to the Endangered Species Act are listed in measure Nos. 11 and 12. As previously explained, the EU's main concern is that the US does not consider wild and farmed sturgeon and their products as separate categories and, consequently, applies the same conservation measures to both, in a more restrictive way than the international environmental legislation (CITES) recommends. At a recent bilateral meeting between the relevant authorities in Brussels and Washington, the European Union has been able to explain these concerns in more detail. The European Union has also appreciated receiving an update about the ongoing review carried out by the US Fish and Wildlife Service on the listing of sturgeon species as endangered. The European Union will continue its dialogue with the United States on this matter and engage on the findings of the review, as appropriate, when they become available. For this purpose, updates on the roadmap and calendar for the whole review process would be very useful. The European Union would also appreciate receiving further information in the context of this Committee.

4.90. The representative of China indicated the following:

4.91. China would like to reiterate its concerns about the import quotas on steel and aluminium products under Section 232, which have been reflected in the US notification circulated as document G/MA/QR/N/USA/4. As this Committee is aware, China raised this issue at several

previous meetings of the Committee and asked the United States to provide detailed information and clarification of its measures. Unfortunately, the United States has yet to provide any detailed information. China reiterates its prior request that the United States provide details about the import quota measures, such as the specific quantities and requirements of the quotas, and that it clarifies how these measures are consistent with WTO rules, in particular, under Article XI and Article XXI of the GATT 1994.

4.92. The representative of the United States indicated the following:

4.93. The United States appreciates the European Union's continued interest in this matter. The United States also appreciates the recent opportunity to bring our respective experts together to discuss this issue. The United States notes that there are five foreign species of sturgeon listed as endangered under the US Endangered Species Act (ESA). The ESA applies not only to wild animals but also to animals in captivity. Therefore, when a species is listed under our ESA, the listed entity includes both captive and wild animals. There are 10 additional species of sturgeon under review by the US and Fish and Wildlife Service (USFWS). In December 2017, the USFWS published a preliminary determination that one of those species, the Yangtze River sturgeon, is presently in danger of extinction and should be considered endangered under the ESA. The USFWS published its final determination earlier this week, in the 26 April Federal Register. With respect to the current status of the nine other species under review, the USFWS is conducting a 12-month status review on the petition to list those species of sturgeon under the ESA. The Service is collecting and evaluating information and has not made a determination regarding the listing of these species. A listing determination will be made on the best scientific and commercial information available. More specifically, the Service is currently reviewing the Amur, Caspian, and Siberian sturgeon. The Caspian sturgeon review includes Russian, Persian, ship, and stellate sturgeon. At any time during the Service's review, the European Union may provide additional information to help the USFWS to make this determination. Once the status review is completed, if the Service finds that listing is warranted, the Service will prepare a proposed rule. At that point, the public will be given 60 days to comment on the proposed listing. This will give the European Union another opportunity to provide the Service with information. The United States is happy to facilitate a continued discussion among the relevant authorities, as appropriate.

4.94. The United States also takes note of the comments and questions raised by China regarding the WTO-consistency of the Section 232 quotas. The United States has invoked Article XXI(b) of the GATT 1994 and the actions are therefore wholly WTO-consistent. Regarding questions related to the operation of the Section 232 quotas, the United States refers Members to the relevant proclamations issued under Section 232, and to quota implementation information published on the website of US Customs and Border Protection.

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

4.96. The representative of Canada indicated the following:

4.97. On all of these items, Canada thanks those Members that have submitted a notification, especially those that are submitting notifications for the first time. This is a very good exercise for Members to go through to examine their domestic policies and to ensure that they are notifying those that are required to other WTO Members. It is a long process, as Canada knows from its own recent notification, which considerably updated its previous notifications; nevertheless, it is an important part of the transparency process here at the WTO and Canada therefore encourages Members to continue in their efforts in this regard. Canada also wishes to thank those Members that promptly notified changes in their QRs as this helps to support information-sharing among stakeholders regarding recent changes in the administration of QRs. Canada suggests that Members consider over the coming months, and prior to the Committee's next formal meeting, the possibility of holding a spring 2022 workshop similar to that held in 2018, which helped Members to pull together information in the relevant format so as to be able then to submit their QRs. This had been a good capacity-building exercise and perhaps, at its next formal meeting, the Committee could give its consideration to a further such workshop.

4.98. The Chairperson suggested that the Committee discuss the idea of a QR workshop at its next informal meeting to see if there existed any wider appetite for such an initiative.

4.99. It was so agreed.

## **B. REPORT FROM THE SECRETARIAT (G/MA/W/114/REV.3)**

4.100. The Chairperson drew Members' attention to document G/MA/W/114/Rev.3, entitled "Quantitative Restrictions: Factual Information on Notifications Received". In this periodic report, the Secretariat summarized the content of the QR notifications that had been received.

4.101. The Secretariat (Mr Simon Neumueller) provided a factual presentation of all notifications of QRs received until the date of the meeting. In his presentation<sup>6</sup>, he provided a general overview covering the number of notifications and the size of the resulting dataset, the different types of restrictions that had been notified, the product categories most concerned, and the types of WTO justifications and other non-WTO justifications cited by Members. The focus was on the measures in force. In total, 53 Members had submitted at least one QR notification since 2012. In the period January-April 2021, 16 Members had notified their QRs, whereas in 2020 35 Members had submitted notifications. In addition, since 2020, 13 Members<sup>7</sup> had made a QR notification for the first time. He highlighted that the COVID-19 pandemic had resulted, since early 2020, in a significant increase in QR notifications, including new QR notifications.

4.102. The QR database<sup>8</sup> contained all notifications up until 3 April 2021, which represented notifications from 51 Members. These notifications indicated a total of 1,622 QRs currently in force, which translated into 2,098 measures, and more than 160,000 tariff lines. He explained that the difference between QRs and measures was due to the fact that some QRs involved more than one measure. To avoid multiple counting, only the latest notifications were considered, plus the addenda for each of the 51 Members concerned. Regarding the types of measures notified, prohibitions were the most prevalent among both import and export-related measures, followed by non-automatic licensing and prohibitions under defined conditions. In relative terms, prohibitions were almost twice as frequent on the import than on the export side. Quotas and state trading operations were notified to a much lesser extent. QRs covered a wide range of products; however, HS Chapter 29 relating to Organic Chemicals stood out and was cited in more than 258 QRs. On the other hand, 10.5% of QRs had been notified without referring to any HS codes or else remained general by stating that they related to "various" HS codes, for example. HS Chapters 28 and 38, also pertaining to chemicals, had been referred to in another 359 QRs. Mechanical and electrical machinery (Chapters 84 and 85) had also been indicated in a large number of QRs. Weapons and ammunitions were frequently subject to trade restrictions, as well as animal products often in relation to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

4.103. According to Article XI of the GATT 1994, QRs were only allowed as exceptions, which meant that the WTO justification was an integral component of the notification. However, the QR Decision (document G/L/59/Rev.1) set out, *inter alia*, that the "justification is provided for transparency purposes only and is therefore indicative" and "It shall not prejudice any legal position a Member may take on the particular measure that the justification is intended to cover." All in all, the GATT 1994 had been the most frequently cited justification, whereas other justifications, such as the Kimberley Process Waivers, Accession Protocols, TRIPS, and Safeguards played to date only a minor role. No WTO justification had been provided for 39 QRs. In terms of the specific GATT provisions, Members had mostly cited Article XX (76% of the QRs in the dataset). Within that provision, the most prominent specific justification was paragraph (b), which covered measures "necessary to protect human, animal or plant life or health", which had been referred to in almost 50% of the QRs. The national security exception under Article XXI of the GATT 1994 had been mentioned in 15% of the notified QRs, mostly in relation to weapons and ammunitions. The carve-out in Article XI:2 of the GATT 1994 had been cited as a justification more often in the case of exports than imports, in particular in relation to COVID-19 measures. Many of the notified QRs were grounded in an international agreement or convention that existed outside the WTO framework. These so-called "non-WTO justifications" referred in particular to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which had been mentioned in 66 QRs. The Montreal Protocol and the Vienna Convention for the Protection of the Ozone Layer had been

<sup>6</sup> Document RD/MA/79.

<sup>7</sup> Bangladesh; Kingdom of Bahrain; Colombia; Ecuador; Egypt; Israel; Malaysia; Republic of Moldova; North Macedonia; Paraguay; Kingdom of Saudi Arabia; United Kingdom; and Viet Nam.

<sup>8</sup> <https://qr.wto.org/en#/home>

cited as a justification for 83 QRs. The Rotterdam, Stockholm, and Basel Conventions, and to a lesser extent the Minamata Convention on Mercury, accounted for another large share of non-WTO justifications relating to the protection of the environment. The three UN Conventions relating to trade in narcotics and psychotropic substances had been cited at least 31 times each. The Wassenaar Arrangement, which related to trade in arms and dual used goods, as well as the Chemical Weapons Convention, had been the main justifications used by Members in relation to measures on weapons and ammunitions. He informed the Committee that Members could access all this information, and much more, in the QR database.

4.104. The Chairperson reminded Members that the Decision on Notification Procedures for Quantitative Restrictions, contained in document G/L/59/Rev.1, provided that: "Members shall make complete notifications of all QRs in force by 30 September 2012 and at two-yearly intervals thereafter." Even though the number and quality of notifications had improved over the past years, the vast majority of Members had not yet, or never, provided information on the full list of QRs that they maintained. There were also several Members that had notified measures introduced in response to the COVID-19 pandemic and indicated that they would submit a complete notification of all of their measures at a later date; however, many had not yet done so. He therefore encouraged Members to contact the Secretariat in case they needed technical assistance to comply with this important transparency provision.

4.105. The representative of Colombia indicated the following:

4.106. Colombia would like to extend its particular thanks to the Secretariat for the support and technical assistance it extended to Colombia during the preparation of its complex QR notification, which enabled Colombia to comply with its transparency obligations. Colombia also agrees with Canada that the workshop organized in 2018 was useful; like Canada, Colombia would support the organization of another such activity. On the Secretariat's factual report, Colombia finds it a useful analysis that provides an overview of the substance and justifications of the QRs adopted by Members. Regarding point 2.6 of the document, Colombia considers that the analysis could be complemented with factual information on how the different measures are administered, for example, by grouping the different methods of administration into general categories. This would provide a clearer indication of whether the measures have to be applied across the board by all Members, or whether there are differences in their administration. Regarding the consultation of this information, and given the large number of measures that have been notified by Members, Colombia considers it useful to make the database available to Members for easy consultation. Finally, Colombia finds this information useful not only for the purposes of the Market Access Committee, but also for other WTO committees. As document G/MA/W/114/Rev.3 points out, several of these measures have been adopted under international conventions covering different areas that are closely linked to trade. In this sense, we consider that the information in these notifications can be analysed and taken into consideration in other instances, such as the Trade and Environment Committee, which also has the database of environment-related measures. If not already the case, there could be a cross-sharing of information between the two databases in relation to the information notified by Members.

4.107. The representative of Switzerland indicated the following:

4.108. Switzerland thanks the Secretariat for its report, which gives a very precise overview of the QRs notified by Members. Although the increase in the number of Members that notified is a very positive development, more efforts need to be made to increase transparency in this area, in terms of quantity and quality. In terms of quantity, now that there are many notifications, which provide good examples, Switzerland encourages those Members that have not yet notified to use these notifications as a source of inspiration when preparing their own notifications. In terms of quality, Members could make efforts to provide the HS codes of the goods subject to the QR, as foreseen in the QR Decision, and also the precise WTO justification, even if it is only indicative, such as which letter of Article XX of the GATT is being referred to in the notification. When other international commitments are relevant, and Members are parties to those international conventions, Switzerland fails to understand why those conventions are not cited as justification. On the suggestion in the report regarding the administration of the restrictions, Switzerland would welcome a more detailed assessment of this information from the Secretariat given that it would again increase transparency. Switzerland stands ready to support the idea of a workshop as suggested by Canada.

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

## 5 TRADE-RELATED MEASURES RELATING TO THE COVID-19 PANDEMIC

5.1. The Chairperson recalled that there were three issues listed under this agenda item. The first issue concerned the updated list of all notifications and communications relating to the COVID-19 pandemic, which had been submitted by Members to this Committee as of 15 April 2021, as contained in document G/MA/W/157/Rev.2. The second item concerned a new summary report on export restrictions and trade-facilitating measures relating to the COVID-19 pandemic, which had been prepared by the Secretariat at the request of the Committee and circulated in document G/MA/W/168 and its corrigendum. The third item was a new communication submitted by Australia concerning unilateral measures aimed at facilitating trade for essential products to combat the COVID-19 pandemic (document G/MA/W/165). He thanked 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 thanked those Members that had responded to his call to provide more information. He proposed to discuss the three agenda items together and to begin by requesting the Secretariat to make a presentation on the new document summarizing the information received.<sup>9</sup>

5.2. The Secretariat (Mr Simon Neumueller) reported that, since the start of the COVID-19 crisis, trade had played a major role in the response to the pandemic both in terms of facilitating imports and restricting exports of essential goods. Export restrictions ranged from full prohibitions to licensing requirements for statistical purposes; they covered a wide range of products, from personal protective equipment to food products. As of the date of the meeting, 29 Members had notified export restrictions in relation to the response to the COVID-19 pandemic, in 69 notifications, which translated to 48 measures.<sup>10</sup> These Members had decided to provide as much transparency as possible by notifying all modifications of these measures as they occurred, as well as their date of termination, where applicable. Under the QR Decision<sup>11</sup>, Members had an obligation to notify all quantitative restrictions in force, including their changes; however, according to the WTO's Trade Monitoring Report, there were an additional 10 Members with export restrictions in place that had not yet notified these measures to the WTO.

5.3. When looking at the types of export restrictions, it emerged that the most popular measures seemed to be non-automatic export licences, followed by full prohibitions and prohibitions except under certain defined conditions. In some instances, the type of restriction had changed over time: for example, a measure was first a full prohibition for all face masks, which subsequently evolved into a non-automatic licensing scheme only for "N95"-type masks. In one case, there was one very brief measure, lasting less than one month, which was an export quota for food products. When looking at when the measures had been introduced, it was evident that, in March 2020, at the peak of the pandemic, many Members had considered it necessary to introduce export restrictions. Over the northern hemisphere's summer months, no additional measures had been notified; it was only in early 2021 that new measures began to be introduced again. In three cases, it had not been possible to deduce when a given measure had entered into force. Regarding the duration, almost all of the export restrictions that had been entered into force were listed as "temporary". Given the lack of a precise definition of the word "temporary", it was at least possible to see what was the actual duration of the notified measures. For the categories in the report, the total duration of a measure had been considered, in other words, if a measure had first been introduced for 90 days but had then been extended by a further 90 days, it would be counted as a 180-day measure. Seven measures had been shorter than three months, an additional four measures had been below six months, 12 additional measures had been below one year, while two measures had lasted beyond one year. However, almost half of the measures did not have a clearly indicated duration, despite being notified as "temporary" in the majority of cases. Regarding the current status of the restrictions, at the end of April, during the first big wave of the COVID-19 pandemic, the highest number of export restrictions had been in force. Since then, the number of measures had dropped but seemed to have plateaued in recent months.

5.4. In order to make the measures comparable, product categories had been defined according to Annex Table 4. The majority of the export restrictions related to face masks and protective garments such as medical gowns and gloves, which, taken together, were classified as "personal protective

<sup>9</sup> The presentation is contained in document RD/MA/80.

<sup>10</sup> The list of Members is provided in Appendix Table 1 of the Secretariat's report contained in document G/MA/W/168.

<sup>11</sup> Document G/L/59/Rev.1.

equipment" (PPE). Other important affected categories were as follows: sanitizers; pharmaceuticals; other medical supplies, such as syringes; and medical equipment, such as ventilators. Only three measures related to vaccines directly. Foodstuffs, soap, and toilet paper had also been restricted, but to a lesser extent. The vast majority of notified restrictions had been justified by Members under Article XI:2(a) of the GATT 1994, which stated that: "The provisions of paragraph 1 of Article XI shall not extend to the following: (a) Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party". In addition, 46% of the export restrictions also referred to Article XX:(b) of the GATT 1994, which covered measures that were necessary to protect human, animal or plant life or health. However, a considerable number of measures did not make explicit reference to any WTO provision. As of 29 April 2021, about 50% of the measures remained in force, whereas the remainder had either expired or else their termination had been explicitly notified.

5.5. The Secretariat (Mr Roy Santana) noted that, in addition to the export prohibitions and restrictions, the report also provided summary information on trade facilitating measures that had been communicated by Members to the Committee. These accounted for 25 communications, from 11 Members, which had voluntarily provided information in respect of 34 trade-related measures that had been implemented in response to the COVID-19 pandemic. He highlighted that in the WTO Agreements there was no notification requirement to provide such information. Nevertheless, for transparency purposes, Members had considered it important to share this information. Additional Members had provided similar information to the Trade Monitoring Report; however, there existed no mechanism whereby this information could be considered by the CMA, or any other Committee. In contrast, all information that had been notified to different Committees had been automatically integrated in the information collected by the Trade Monitoring Report. Due to this asymmetry in the flow of information communicated to the Secretariat, the Committee was not in a position to discuss information provided in the context of the Trade Monitoring Report; however, this information could be taken into account in a revised version of the report if Members so decided. He clarified that the report made reference to "trade facilitating" measures because the measures in question sought to make it easier to import, export or transit through the territory of a Member. However, this did not mean that such measures were covered by the Agreement on Trade Facilitation (TFA). For the handful of measures that did seem to be covered by the TFA, the Secretariat had aggregated them under a single category in an effort to be more succinct in its summary and to avoid duplicating ongoing work in the Committee on Trade Facilitation. If these were to be disaggregated, there would be many more measures than those currently listed in the report. The summary of trade facilitating measures could be found in Annex 2 of document G/MA/W/168. As the information currently available was from 11 Members only, the analysis of trade facilitating measures was probably less representative than that regarding export prohibitions and restrictions, where a much higher share of Members had provided information. Finally, he noted that the same approach and variables in the statistical analysis had been used to describe the information on export prohibitions and restrictions; however, while there were many similarities, there were also some differences in the results.

5.6. Regarding the types of measures, two-thirds of trade facilitating measures were tax-related measures, which seemed to be explained by two different types of motivations. A first motivation was to try to reduce the price of products that were considered to be essential to combat the COVID-19 pandemic. However, some of the measures applied rather to all products, which suggested a second motivation, namely a desire to provide liquidity and improve the cash flow of traders, who were disproportionately impacted in March and April 2020 by the combination of many different factors, including the closure of government agencies due to lockdowns and other health protocols, as well as disruptions in international transport. The tax-related measures mostly consisted of the elimination, suspension or waiver of tariffs (that is, import duties), followed by the elimination, suspension or waiver of other internal taxes, fees, charges and other duties and charges. In most cases, tariff or tax elimination was qualified as temporary and focused on a narrow list of products. Finally, some Members did not eliminate the obligation to pay, but rather provided for a deferral or moratorium that allowed importers to extend the period in which they were required to pay import duties or other taxes due on importation. These deferrals were typically applicable to all products. The second major category of measures related to different types of customs procedures and included expedited or simplified clearance procedures, mostly for essential products, as well as the simplification of other customs procedures. Many measures in this category, but not all, seemed to relate to provisions covered by the TFA. Finally, there was a third category, of "residual" measures, which included, for example, the establishment of procedures for donated goods in a state of emergency ("relief goods").

5.7. Most of these measures were qualified by Members as being "temporary" in nature. In terms of their expected duration, no information was indicated for 14 of the 34 measures; that is, the Member indicated the date in which the measure had entered into force but not when it would expire or be reviewed. For those measures where such information was available, the majority were put in place for a period of between six months and one year. It was also worth noting that four of the measures were described as permanent changes. Another important point to note was that this analysis had been based on the information contained in the communications received, hence it was not possible to know whether these measures had been renewed or terminated differently.

5.8. In terms of product types, the majority of Members seemed to have focused on facilitating imports of PPE. More specifically, for face and eye protection, nine out of 11 Members sought to simplify the importation of these products. PPE was also the product category with the highest number of export prohibitions or restrictions, which demonstrated the importance that Members attached to sourcing these products from the international market, in particular during the first phase of the pandemic. For the remaining products, there were similarities in terms of export restrictions, such as the importance given to sanitizers and disinfectants, as well as to medical devices and equipment, such as mechanical respirators. However, some differences were registered with respect to pharmaceuticals, which ranked highly in the analysis of export restrictions, but which were proportionally less relevant in the area of trade facilitating measures.

5.9. With respect to the current status of the measures, it was clarified that the analysis presented in the report was based exclusively on the information contained in these communications; it should, therefore, be interpreted with caution. In particular, the Secretariat could not really know if these measures had already expired or if they remained in force; indeed, for almost one third of these measures, insufficient information was available to make such a determination. Finally, he noted that Secretariat had to work under considerable time pressure to summarize and analyse the information; any errors in the report would be addressed in its revision. Given the issue's importance, he encouraged those Members that had submitted QR notifications and information on their trade facilitating measures to carefully review the report and to contact the Secretariat in case of error. The Secretariat stood ready to adjust or update the report as necessary in order to respond to Members' needs in this respect.

5.10. The Chairperson highlighted that one of the main points that had emerged from the Secretariat's presentation was that only 10 Members<sup>12</sup> had notified the termination of their export prohibitions or restrictions, and that many other Members had not yet done so. Given the importance of transparency, he urged Members to look carefully at the Secretariat's report and to swiftly notify any change so that the Committee could be kept informed of developments in this area.

5.11. The representative of Chile indicated the following:

5.12. Chile underscores how important it is that Members work together to make the WTO relevant and to improve transparency.

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

5.14. This analysis of Members' notifications and communications, as well as the link with the WTO Trade Monitoring Exercise, effectively increases transparency concerning trade measures taken in response to the COVID-19 pandemic. The European Union would like to share a few observations based on the report. First, the report mentioned that "10 additional Members [...] introduced similar export restricting measures in response to the COVID-19 pandemic which have not yet been notified under the QR Decision". The European Union believes that it is in the interests of all Members to be aware not only that such measures exist, but also their rationale, particularly when they are taken by major exporters. Members should be open to discussing the underlying causes for the measures. Second, the European Union notes that the duration or status of a number of the measures is unclear. The European Union believes that transparency in this regard, which means also possibly providing updates, would be of benefit to all Members. Third, the European Union has taken note of the call from the WTO's Director-General to reduce the number of export restrictions. While such measures may be justified and necessary in a situation of critical shortage of essential products, they should always be proportionate, targeted, and time-bound. If a Member considers that a

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<sup>12</sup> Australia, Kingdom of Bahrain, Bangladesh, Egypt, the European Union, Republic of Moldova, Norway, Switzerland, Ukraine, and Viet Nam.



situation of critical shortage exists, and provides explanations, the Membership should consider how, as a community, we can assist that Member in reducing its critical shortage. That said, more than a year has now elapsed since the beginning of the crisis, but many restrictions remain in place, including on PPE products. This raises the question of whether such restrictions remain justified, given that a lot of investment has been made to scale-up PPE production across the globe. Finally, the European Union also notes that 11 Members communicated 34 measures that were trade facilitating in character. These measures predominantly eliminate customs duties or provide additional tax relief to importers. While many have expired, there are still some Members that are maintaining such trade facilitating measures; the European Union is one of these. The European Union encourages Members to work closely together, in the context of the Trade Facilitation Committee, on best practices that Members could follow in emergency situations such as that which the world is currently facing. The European Union thanks the Secretariat for its informative overview and looks forward to an update at the Committee's next meeting.

5.15. The representative of Switzerland indicated the following:

5.16. Switzerland considers that the report provides a very good overview of the measures adopted and notified. Switzerland shares the majority of the comments made by the European Union with respect to the 10 Members that have adopted but not yet notified their measures to the Committee. As the information is available in the Trade Monitoring Report, Switzerland asks if it might be possible for them also to be taken into consideration in the context of the CMA in order to have a more accurate. If Members had difficulties in completing QR notifications, Switzerland asks if it might be possible for them to make a cross-reference to the Trade Monitoring Report in a QR notification so that the relevant information is also available in the context of this Committee. In addition, Switzerland has one suggestion to make in relation to the useful QR database its search and explore options, in particular as concerns products. It seems to Switzerland that a user needs first to select the Member and only then the product; however, Switzerland requests a search and explore functionality allowing users to select only the products of interest to them in their search and to see at once the results for all Members instead of having to pre-select each Member.

5.17. The representative of Colombia indicated the following:

5.18. Colombia considers that document G/MA/W/157/Rev.2 is useful for centralizing the different notifications, identifying the different measures, and monitoring the actions taken by Members over time. Colombia also welcomes document G/MA/W/168, which sets out Members' notified export prohibitions and restrictions. Colombia wishes to take this opportunity to share some comments on the restrictions, regulatory measures, and bans on exports of vaccines and other medical technologies to treat COVID-19, which have been introduced in the context of the COVID-19 pandemic. This issue is directly related to agenda item 15, submitted by Australia, in relation to which Colombia has also registered its interest. When the request was made a year ago to include the agenda item on pandemic-related trade measures, and the Secretariat initiated the preparation of these factual papers, Members imagined that there would be a significant number of both facilitating and restrictive measures affecting medical products. Nevertheless, Colombia wishes to express its serious concern over the rising trend in applying export restrictions on vaccines and medical technologies. Despite multiple calls from Colombia and others, and the terrible experiences of limited access to medical products, the situation seems to be getting worse rather than better.

5.19. Some of these restrictions and prohibitions have been notified by Members, which is positive in terms of transparency and access to information; however, many others are hidden among rules, requirements, and regulations, that Members do not know about or fully understand. Article XI:2 of the GATT is used to justify such measures and it does indeed afford Members the possibility of adopting temporary restrictions in the case of acute shortages. However, this provision is precisely an exception, a flexibility, which departs from the general rule of not applying and maintaining restrictions of this kind. Exceptions and flexibilities should be used in critical circumstances and at critical times only, and the comprehensiveness of the objectives pursued and the consequences for all Members of the system should be reviewed before resorting to them. In other words, the exception in Article XI:2 of the GATT should not be used without taking other considerations into account. In addition to the principles of non-discrimination and transparency, before resorting to flexibilities, it should be questioned how these measures impact on other Members and how they correspond to the objectives of the multilateral trading system. It is worth questioning whether such measures respect the founding principles of the GATT and the Marrakesh Agreement, one being

precisely that Members participate in these multilateral agreements with a desire for reciprocity and mutual advantage through the elimination of trade barriers.

5.20. Colombia reiterates the call to strengthen world trade and global value chains, this being the right response to the global health crisis. The basic principles of free trade that have been so strongly advocated in this house must continue to guide us. Export restrictions on inputs and vaccines, and the resulting retaliation by aggrieved countries, can trigger unpredictable risks with a domino effect. Vaccines and treatments need to be shared globally much faster than at present. Time is against everyone. These are crucial discussions. Therefore, Colombia urges all Members to continue to work together to avoid vaccine nationalism. Finally, Colombia encourages the Secretariat to continue monitoring and analysing the measures adopted and to update its report prior to the Committee's future meetings. Colombia also urge Members to submit notifications and to avoid applying restrictive measures.

5.21. The representative of Canada indicated the following:

5.22. Canada considers it particularly interesting that almost 80% of the 48 export-restricting measures notified by Members specifically cite Article XI:2(a) of the GATT as a justification for such action. By comparison, as of early 2019, by our count, only 14 out of the 432 measures on exports reported by Members since 2012 cited Article XI:2 of the GATT in general as a justification. And, in looking back at the details in the notifications in which those 14 measures were reported, it appears that only three of them were actually intended to impose temporary restrictions on exports. As opposed to Article XI:2 of the GATT, other provisions apply in those cases. Canada also notes that, according to the Agriculture Information Management System, there have been only 22 export restriction notifications to the Agriculture Committee since 1995. For which reason, you may wonder why Canada is mentioning these figures. Essentially, Canada wishes to highlight the following two elements: first, Article XI:2(a) is a carve-out from the GATT as it excludes certain measures from the scope of the obligation that prohibits the implementation of an export restriction; and second, Members have not used this carve-out very often.

5.23. As Canada mentioned at the previous meeting of the Council for Trade in Goods, the rules governing QRs were drafted long ago. The original draft of the carve-out that became Article XI:2(a) of the GATT reads as follows: "Export prohibitions or restrictions temporarily imposed to relieve conditions of distress which are local to the exporting country and which are caused by severe shortages of foodstuffs or other essential products". Canada believes it is important to note the word "local" here. It was also emphasized during the preparatory discussions in 1947 that, indeed, the carve-out was intended to respond to situations when "local supplies of a product are scarce". In looking back at the various QR notifications that claim Article XI:2(a) of the GATT as their justification, the measures do indeed seem, from Canada's perspective, to be driven by local economic situations in relation to actual or potential shortages of a specific product. The measures notified also seem to be designed to keep prices low and support the ability of local populations to access a supply of locally produced products, mainly foodstuffs. However, pandemics are by their very definition not a local emergency; nor are they first and foremost an economic emergency.

5.24. It has been a year since the heads of the WTO and IMF stated the following regarding the emerging use of export restrictions at that time: "What makes sense in an isolated emergency can be severely damaging in a global crisis. Such measures disrupt supply chains, depress production, and misdirect scarce, critical products and workers away from where they are most needed. Other governments counter with their own restrictions. The result is to prolong and exacerbate the health and economic crisis — with the most serious effects likely on the poorer and more vulnerable countries." The continuing health crisis is a global health crisis, and as is often stated, it will not be resolved until all areas of the world address it. In response to the proliferation of new export restrictions at the outset of the pandemic, G20 leaders affirmed that: "[E]mergency measures designed to tackle COVID-19, if deemed necessary, must be targeted, proportionate, transparent and temporary, and that they do not create unnecessary barriers to trade or disruption to global supply chains, and are consistent with WTO rules." But what if that political guidance is not enough? What if "consistent with WTO rules" does not help? What if, instead, WTO Members, when faced with a similar global health crisis, only look to impose restrictions on exports of essential medical goods as a last resort? What if WTO Members choose to first look for ways to collaborate, to support multilateral efforts to maintain the free movement of medical goods and their inputs? What if the multilateral trading system could be improved to provide some certainty? Certainty that Members will look to work together to harness all available global resources in order to maximize the

production and distribution of the medical goods needed to face the next global health emergency. Canada believes that WTO Members should take stock of the lessons learned throughout this pandemic in relation to the use of GATT Article XI:2(a). Canada will continue considering how WTO Members could improve the use of this provision in support of collective efforts to address future health crises and looks forward to working with Members on this important issue.

5.25. The representative of Singapore indicated the following:

5.26. Singapore thanks the Secretariat for both documents, in particular for document G/MA/W/168, which provided a very useful overview of the measures notified by Members. Singapore would also like to request the Secretariat to provide an update at the Committee's next meeting, while continuing to take into account the inputs from the Trade Monitoring Report and other relevant sources as well.

5.27. The representative of Paraguay indicated the following:

5.28. Paraguay thanks the Secretariat for its presentation and echoes the observations made by Colombia regarding the supply of vaccines. Paraguay will speak to this issue in more detail under agenda item 13, as requested by Australia. Paraguay agrees with Canada on its considerations regarding the WTO rules governing export restrictions. Paraguay's impression is that it is important and urgent that Members undertake an analysis to ensure that there is no abuse of this Organization's rules. Members should not use the COVID-19 pandemic as a reason not to abide by those rules. Indeed, the COVID-19 pandemic has not helped to bring an adequate response; to the contrary, it has worsened the conditions in terms of equitable access to vaccines and their components.

5.29. The representative of Australia indicated the following:

5.30. Australia would like to register its appreciation to the Secretariat for its work on the report. Australia also thanks Colombia for its comments on the unilateral trade facilitating measures from Australia referenced under agenda item 5.3. The WTO's transparency function has proven to be valuable throughout the COVID-19 pandemic. Australia encourages Members to ensure that emergency measures introduced in response to the COVID-19 pandemic remain targeted, proportionate, transparent, temporary, consistent with WTO rules, and avoid creating unnecessary disruptions to supply chains. It will be important to honour commitments to roll back COVID-19-related trade restrictive measures in order to ensure that temporary measures do not become permanent fixtures.

5.31. The Chairperson, based on the discussions held, tasked the Secretariat to update the report with information coming from the Trade Monitoring Report. In addition, he asked the Secretariat to follow up with Switzerland on the adjustments to the QR database.

5.32. The Committee took note of the reports by the Secretariat, the three documents, and the statements made.

## **6 SITUATION OF SCHEDULES OF WTO MEMBERS – REPORT BY THE SECRETARIAT (G/MA/W/23/REV.17)**

6.1. The Chairperson drew Members' attention to a new revision of the report by the Secretariat describing the current situation of Members' WTO Schedules of concessions (documents G/MA/W/23/Rev.17 and G/MA/W/23/Rev.17/Corr.1). The full version of the Secretariat's report and presentation had been circulated in document RD/MA/76.

6.2. The Secretariat (Ms Roberta Lascari) reported on the procedures that had been undertaken to rectify or modify Members' Schedules of concessions, which had been summarized in the annual report (documents G/MA/W/23/Rev.17 and G/MA/W/23/Rev.17/Corr.1). In this regard, the Secretariat noted that Members had submitted 655 notifications under the 1980 Procedures for Modification and Rectification of Schedules, which included a wide range of different changes. They included, for example, changes relating to unilateral liberalization efforts, rectifications of errors, tariff concessions resulting from plurilateral agreements modifying schedules of concessions, such as the ITA, the ITA Expansion, and the Agreement on Pharmaceuticals (Pharma), as well as the

more recent changes to Part IV of the Schedules resulting from the Nairobi Declaration eliminating export subsidies. These notifications further included the certification of renegotiations under Article XXVIII of the GATT, which would be reported separately in the next agenda item. However, the majority of notifications to change WTO Schedules, 454 to be exact, were the result of different HS transposition procedures.

6.3. The Secretariat's report sought to highlight the work that remained pending for each Member, including the procedures on which reservations were outstanding or where the Member concerned had indicated that the changes were subject to the completion of domestic procedures that had not been finalized after several years. Overall, of the 655 procedures thus far, 633 had been certified (that is, 93%) and 20 procedures remained pending either because reservations had been raised (16 procedures) or Members had yet to notify the conclusion of their domestic procedures (4 procedures). Of these, two procedures had also been withdrawn. The Secretariat reminded Members that a wealth of information relating to Schedules of concessions and their changes at the WTO was available in the new website Goods Schedules E-library (<https://goods-schedules.wto.org/>).

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

## **7 REPORT BY THE SECRETARIAT ON THE STATUS OF RENEGOTIATIONS UNDER ARTICLE XXVIII OF THE GATT 1994 (G/MA/W/123/REV.8)**

7.1. 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.8. The full version of the Secretariat's report and presentation had been circulated in document RD/MA/75.

7.2. The Secretariat (Ms Roberta Lascari) recalled that the "Factual Report on the Status of Renegotiations under Article XXVIII of the GATT 1994" (G/MA/W/123/Rev.8) provided an overview of all the renegotiations which had been undertaken by WTO Members pursuant to Article XXVIII of the GATT 1994. As of 14 April 2021, Members had undertaken 49 renegotiations, which were at different stages of the procedures. The overall status was as follows: 24 renegotiation procedures had been concluded and the modifications to the WTO Schedules certified; five renegotiations had been concluded (step 1), and the draft changes to the Schedules had been submitted under the 1980 Procedures (step 2), but they had not yet been certified; 10 renegotiations remained ongoing; one request to initiate a renegotiation under Article XXVIII:4 had not been approved; and nine renegotiation procedures had been withdrawn. The Secretariat also provided additional information with respect to each of those categories. Of the 49 renegotiations, 24 had been successfully concluded and the modifications certified. In five cases, Members had concluded the Article XXVIII negotiations and consultations with the interested Members, notified the bilateral agreements and 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.

7.3. With respect to the conclusion of negotiations, the Secretariat recalled that renegotiations under Article XXVIII of the GATT 1994 followed a "two-step" process from their initiation to their full completion. Under the first step, Article XXVIII procedures were undertaken and concluded once the negotiating 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 resulting from such negotiations 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 and the Article XXVIII process would be considered formally concluded. With respect to the nine procedures that had been withdrawn, some of these were linked to the 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. Finally, there were 10 renegotiations that had been launched, or the authorization to launch a renegotiation

had been authorized. These procedures remained ongoing either because the negotiations and consultations had not yet been concluded or the renegotiating Member had not completed the formal steps to conclude the process. The Secretariat stood ready to provide technical assistance to Members as required.

7.4. The representative of Switzerland indicated the following:

7.5. Switzerland notes that, regarding ongoing procedures for seasoned meat, the modifications of the Swiss Schedule have been applied on a provisional basis since 1 January 2021, as agreed. The modifications have been approved by the Federal Government, in January 2021, and by Parliament in March 2021, as planned. Only one legal formality remains to be completed. In Switzerland, international treaties and their modifications are subject to a referendum procedure of 100 days. The Swiss Schedule is an international treaty subject to the referendum. This means that the modifications in the Swiss Schedule will become definitive as of 8 July 2021, when these 100 days expire. As all stakeholders have been involved since the beginning, Switzerland expects that the definitive entry into force will be 8 July. Switzerland will make the appropriate notifications related to the completion of our domestic procedures in due course.

7.6. The Committee took note of the report and the statement made.

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

8.1. The Chairperson drew the Committee's attention to a communication from 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 the following:

8.3. As the Russian Federation has noted in previous meetings of this Committee, a greater availability of information regarding tariffs could help to boost businesses' capacity to participate in global trade. This issue has become even more relevant in light of the new challenges created by the COVID-19 pandemic. While binding commitments in principle cover all agricultural products, this is not always the case for non-agricultural goods. There is also a divergence between bound and applied tariffs in respect of both agricultural and non-agricultural products. This is why the Russian Federation is convinced that the issue of transparency in tariffs should cover both agricultural and non-agricultural products. The Russian Federation examined the changes in tariffs adopted by Members during the past year. The Russian Federation has identified 440 Members' actions relating to tariff changes, the number of which has more than doubled from the 2018 figure. More than 130 of those actions were related to an increase in tariff rates. A possible variation in tariff treatment creates uncertainty in market access conditions and a risk of unpredictable trade. The Russian Federation believes that timely and accurate information with regard to tariff rates could contribute significantly to the predictability of trade and to restoring trade flows. The Russian Federation notes that, during the previous year, certain Members had submitted to the WTO Secretariat information on temporary decreases and increases in their tariffs in light of the COVID-19 pandemic. The Russian Federation considers that this practice is an essential starting point and a move in the right direction. The Russian Federation has also noticed the interest in this issue among Members and stands ready to seek ways of improving transparency in applied tariffs together with other Members in order to develop specific MC12 proposals.

8.4. The representative of Canada indicated the following:

8.5. Canada, too, has noticed an interest in this issue among a number of Members. In this regard, Canada would like to take this opportunity to remind delegates in the CMA of the ongoing discussions in the COASS on ways to improve transparency and applied tariffs for shipments *en route*. Canada, Australia, Brazil, and Ukraine will continue to reach out, to address Members' questions and concerns, and to continue to refine the options paper, with a view to developing a proposal for MC12 similar to that of the Russian Federation. The objectives of this proposal would be as follows: (i) to take a step forward to increase transparency and predictability in international trade but without engaging in new rule-making; and (ii) not to employ a one-size-fits-all approach to increasing

transparency in the application of applied tariffs, but rather to provide a menu of options for Members to do so.

8.6. The representative of Paraguay indicated the following:

8.7. Paraguay wishes to reiterate its willingness to work on solutions that take into account the transitional measures that some Members apply in the event of a tariff change, and which could offer the possibility for importers to benefit from the lower tariff in cases where the changes resulted in an increase. Early notifications would be complicated for those Members with legal systems where such changes are adopted by Presidential Decree. Transitional measures, which offer a better alternative to importers, should be considered as an exception to such notification requirements. Paraguay considers that, in this sense, a decision should be mutually advantageous while at the same time bringing more clarity and transparency in applied tariffs.

8.8. The representative of Australia indicated the following:

8.9. As noted in previous meetings, Australia supports the consideration within this Committee of how we might improve transparency in Members' applied tariff schedules. The need to provide greater certainty for traders in cases where tariffs change once a shipment has departed from a point of export has been a concern held by several Members for some time. Furthermore, this issue has a real-life impact along the supply chain, impacting producers, exporters, importers, and consumers alike; it causes unnecessary distortions, and in some cases commercial losses, that are avoidable. Transparency in tariff rate changes is a cross-cutting issue involving both agricultural and non-agricultural trade. As such, Australia encourages Members of this Committee to respond to the survey circulated in the Committee on Agriculture in Special Session (JOB/AG/168) and to consider the practical options set out by Canada, Brazil, and Australia (G/MA/W/160) to address this important issue. Australia looks forward to working with all Members to find practical solutions to this issue.

8.10. The representative of the European Union indicated the following:

8.11. As mentioned in other fora, the European Union would like to reiterate its interest in all constructive initiatives to enhance transparency on trade measures. This submission has also been discussed in the Committee on Agriculture in Special Session; in that context, the European Union has shown openness to engage on the matter further. The European Union would like to reiterate its request for clarification as to the scope of the submission, namely, if the focus is on sudden tariff increases, or if it would concern also tariff changes due to other trade measures, such as application of safeguards.

8.12. The representative of the United States indicated the following:

8.13. As it has stated previously, the United States recognizes that greater transparency in tariffs will benefit all of our traders. Therefore, the United States continues to follow this issue with interest. The United States looks forward to continued engagement on this issue.

8.14. The representative of India indicated the following:

8.15. India would like to thank the delegation of the Russian Federation for again placing this issue on the Committee's agenda. In this context, India wishes to state that it puts all notifications affecting tariff changes into the public domain immediately, that is, on the same day, and details of the same can be obtained from the website of the Central Board of Indirect Taxes and Customs. India has notified to the WTO, including under the Trade Facilitation Agreement, websites from where such information can be obtained. Such details can also be obtained from the e-gazette system. India also annually notifies changes in its applied MFN tariff to the IDB database. Changes are also reflected in the WTO Trade Monitoring Report on a regular basis. India finds that, despite such information already being available, proponents still consider that additional notification obligations relating to changes in the applied MFN tariffs are required. In this context, India believes that a Member is entitled to change its applied tariffs to address domestic compulsions, as long as those tariffs are within its bound tariff commitments. India does not support such additions to an ever-growing list of obligations that seek to circumscribe Members' negotiated rights under the WTO Agreements.

8.16. The Committee took note of the statements made.

## **9 ANGOLA – IMPORT RESTRICTING PRACTICES – STATEMENT BY THE RUSSIAN FEDERATION AND THE UNITED STATES**

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

9.2. The representative of the Russian Federation indicated the following:

9.3. The Russian Federation remains concerned by Angola's import restrictions, which are unlikely to be in line with WTO rules, especially its import restrictions on certain agricultural and industrial products, under Presidential Decree No. 23/19, which aims to protect Angola's domestic industries. The Russian Federation's concern has been raised multiple times in this Committee as well as in the Council for Trade in Goods; the Russian Federation also shared this concern with the delegation of Angola during the previous week's bilateral meeting between them. The Russian Federation looks forward to receiving replies from Angola regarding the status of its Decree, its implementation, and requirements for the importation of certain goods.

9.4. The representative of the United States indicated the following:

9.5. As the United States has expressed in this and other Committees, it remains concerned that this decree appears aimed at restricting Angola's imports. The United States appreciates Angola's engagement on this issue with the US Embassy in Luanda. However, as the United States seeks to resolve its concerns, that engagement is not a substitute for addressing the issue in this or other Committees. The United States continues to hear reports of confusion over how the decree is being enforced and of delays facing goods at the border. Our agricultural exporters remain concerned over delays that perishable goods face amidst all this uncertainty. The United States urges Angola to revise this decree to address our concerns and ensure that its measures with respect to imports are in compliance with WTO rules.

9.6. The representative of the European Union indicated the following:

9.7. The European Union also maintains its deep concern over Presidential Decree No. 23/19, which aims to protect domestic industries in a manner that is incompatible with WTO rules. This Presidential Decree could prove detrimental to foreign investments in Angola. Since 2019, the European Union has raised its concerns repeatedly in various WTO bodies, most recently at the Committee on Agriculture, the Council for Trade in Goods, and in the Import Licensing Committee. The European Union remains supportive of Angola's intention to diversify its economy and to develop its domestic industry. That said, the European Union has doubts concerning the WTO-compliance of the Decree, and the European Union has not yet received any substantive replies and explanations to address its concerns. In particular, the Decree does not provide information on how these restrictions are implemented. It is notably unclear whether licences are to be used to manage these restrictions, in which case the measure would need to be notified under the Import Licensing Agreement. In case of non-automatic licences, they would also need to be notified as a quantitative restriction. The European Union once again urges Angola to provide clarity as to the process regarding this Decree and as to whether any amendments are planned. The European Union urges Angola to review the relevant measures in order to ensure their compliance with WTO rules.

9.8. The representative of Angola indicated the following:

9.9. Angola took note of the statements made by the delegations of the Russian Federation, the United States, and of the European Union, and of their concerns regarding Angolan imports. In fact, the concerns mostly focus on Decree No. 23/19, which is one of the instruments being used to achieve Angolan economic diversification. Angola is doing its best, despite a number of disruptions caused by the COVID-19 pandemic. Angola's trade policies aim to develop its economy while at the same time being based on compliance with international trade rules and based on mutual benefits, with the support of Angola's commercial partners. Angola's declaration made at the previous formal meeting of the Council for Trade in Goods, as well as those of the Committee on Agriculture and the Committee on Import Licensing, remains valid, since Angola had fruitful bilaterally discussions to clarify certain specific issues. At this point, Angola has prepared its response to the questions raised

by the United States, the European Union, and the Russian Federation, and this response will hopefully be sent in due course. Nevertheless, Angola wishes to add that, even after this decree had entered into force, Angola does not see any real impact on imports into Angola; our partners are still exporting into our market. Angola is confident that the reason for any possible reduction in Angolan imports relates to the availability of foreign currency, and not to trade restrictions. Again, Angola takes note of the concerns raised, and informs Members that internally Angola has a technical team working on a possible revision to Decree No. 23/19. Angola remains available for any further clarification, especially as Angola is a strong supporter of the Multilateral Trading System.

9.10. The Committee took note of the statements made.

#### **10 CHINA - CUSTOMS DUTIES ON CERTAIN INTEGRATED CIRCUITS - STATEMENTS BY THE EUROPEAN UNION, JAPAN, AND THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU**

10.1. The Chairperson recalled that this agenda item had been included at the request of the European Union, Japan, and the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu.

10.2. The representative of the European Union indicated the following:

10.3. The European Union regrets that, despite many requests and concerns raised at numerous meetings of the ITA and Market Access Committees, China has not thoroughly addressed this issue; nor has it amended its classification methodology. The European Union continues to urge China to reconsider its classification of certain Multi-Component Semiconductor (MCO) products, where duties should not apply, even if such duties are being gradually lowered as the implementation of staged cuts progresses. The European Union will continue to closely monitor the implementation of China's commitments in respect of this issue.

10.4. The representative of Japan indicated the following:

10.5. As Japan has reiterated on successive occasions, including at the previous meeting of the ITA Committee, some tariff lines that were bound duty-free have still been increased. Hence, Japan continues to share the concern expressed by other Members. Japan is closely monitoring the situation with regard to China's commitment to abolishing customs duties in July this year on all relevant items in line with the staging of the ITA Expansion.

10.6. The representative of Chinese Taipei indicated the following:

10.7. Chinese Taipei's views on this agenda item have, since 2018, already been expressed on numerous occasions. Chinese Taipei takes note of the fact that all the duties on the multi-component semiconductors (MCOs) concerned will be eliminated by this July; nevertheless, Chinese Taipei must still reiterate the fundamental principle that the scope of Members' tariff concessions under their WTO commitments should not be altered during their tariff transpositions. Chinese Taipei will continue to closely monitor developments in this issue until the duties on the products concerned have been completely eliminated.

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

10.9. The United States would like to support the statements and questions raised by the European Union, Japan, and Chinese Taipei, and reiterate its concern with regard to a change in China's applied duty rates for certain semiconductor products. This is an issue the United States has previously raised in this Committee as well as in the ITA Committee and the Council for Trade in Goods. These semiconductor products have been duty-free for over a decade yet are now being charged import duties. In line with the General Council Decision on HS transpositions, the United States continues to assert that the scope of China's concessions appears to have changed substantially, and the value of the concession has been impaired. In addition, the United States is closely monitoring China's commitment to eliminate its tariffs on advanced semiconductors by 1 July 2021.

10.10. The representative of China indicated the following:



10.11. China thanks the European Union, Japan, Chinese Taipei, and the United States, for their consistent interest in this issue. As China has provided its responses to this issue in various bodies and bilaterally, it will not repeat its detailed statement in full. China would like to reiterate that its methodology is consistent with the WTO rules, and that the duties on the MCO products concerned will be eliminated in July 2021.

10.12. The Committee took note of the statements made.

## **11 CHINA – TRADE DISRUPTIVE AND RESTRICTIVE MEASURES – STATEMENT BY AUSTRALIA**

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

11.2. The representative of Australia indicated the following:

11.3. Australia and China have enjoyed a strong bilateral partnership and mutually beneficial trading relationship over many decades. It is therefore with regret that Australia raises China's implementation of trade disruptive and restrictive measures on certain imports from Australia, as it has done at the Council for Trade in Goods, in other relevant WTO committees, and bilaterally. Australia has not received from China a satisfactory response to any of the issues it has raised, all of which directly impact Australia's market access rights under the WTO Agreement. Australia remains concerned by the sudden increase of measures, both formal and informal, that China has taken against Australia, particularly since mid-2020, and official Chinese statements and articles in state media linking China's trade actions to unrelated issues in our bilateral relationship.

11.4. In terms of the measures relevant to this Committee, Australia is concerned about a series of what appear to be QRs or *de facto* import bans. In November 2020, Australia received multiple credible reports, including from Chinese industry, that Chinese authorities had informally instructed importers not to purchase Australian barley, coal, copper ores and concentrates, lobster, logs, sugar, and wine. Such reports have continued in 2021. Similar credible reports were also received in relation to cotton in October 2020. In addition, Australia notes that China has taken formal actions against Australian barley, lobsters, logs, and wine that have effectively stopped trade in these commodities. Australia also notes Chinese trade data shows zero Chinese imports of Australian coal and copper ores and concentrates since December 2020. This is despite, as Australia understands, no formal measures being implemented by China on these goods. Notably, China continues to import these products from countries other than Australia. A significant number of vessels carrying coal from Australia have faced long-term delays at Chinese ports waiting to discharge cargo, peaking at 79 in December 2020. The delays have impacted the welfare of crew aboard these vessels and imposed significant costs on the commercial parties involved. On cotton, there have been credible reports that on 16 October the Chinese National Development and Reform Commission (NDRC) told Chinese cotton millers to stop or limit purchases and imports of Australian cotton. According to these reports, Chinese businesses that do not stop purchases and imports from Australia risk losing future access to imports of cotton under existing or future cotton tariff-rate quotas. As noted at the recent Council for Trade in Goods, Australia understands from our cotton exporters that this situation remains the same. Allowing enterprises to make their own commercial purchasing decisions based on economic and business fundamentals is central to the market-oriented principles that underpin WTO membership.

11.5. Australia expects all WTO Members to conduct their trading relationships with other WTO Members, including Australia, in a manner consistent with their WTO obligations. China has consistently stated that it is committed to open trade and the multilateral trading system. Australia urges China to immediately cease any measures or directions potentially being applied, formally or informally, to restrict imports of Australian products. Furthermore, Australia again seeks: (i) advice from China for the basis of, and reasons for, instructions from Chinese officials to importers not to purchase Australian barley, coal, copper ores and concentrates, cotton, lobster, logs, sugar, and wine; (ii) assurances from China that all Australian exports to China are not the subject of QRs or *de facto* import bans now or in the future, including in the form of formal or informal instructions to stop or limit purchases; and (iii) reassurance that China will issue relevant import licences, and ensure consignments from Australia are cleared by relevant Chinese customs officials, in a timely, transparent, non-discriminatory, and predictable manner, consistent with China's WTO obligations. China has implemented a range of trade disruptive and trade restrictive measures against Australian

goods that have undermined Australia's access to China's market. These measures have created uncertainty and damaged business confidence in both countries, regardless of whether the measures are formal or informal. Australia has sought bilateral meetings at working and ministerial levels to discuss its concerns and has engaged in good faith on the technical merits of announced measures. It is unfortunate that Australia's engagement and transparency have not been reciprocated by China. Australia remains open, ready, and willing to meet bilaterally with China at the earliest opportunity and at all levels – in Geneva, in Beijing, and in Canberra – in order to progress constructively on any technical issues in our trade with China.

11.6. The representative of the United States indicated the following:

11.7. The United States shares Australia's concern regarding China's recent trade actions. The United States is committed to working with partners and allies to address China's coercive and unfair trade practices.

11.8. The representative of China indicated the following:

11.9. China takes note of the concern raised by Australia and the United States. China would like to refer to our statements made at previous meetings of the Council for Trade in Goods. Taking this opportunity, China would like to reiterate that the strengthened inspection and quarantine measures taken by China are intended to deal with problems of certain Australian products that have been occurring continuously since 2019. China has also published those measures on its relevant government websites and notified them to Australia without delay, in line with China's laws, with international practices, as well as with the provisions of the China-Australia Free Trade Agreement.

11.10. The Committee took note of the statements made.

## **12 EUROPEAN UNION - CARBON BORDER ADJUSTMENT MECHANISM (THE EUROPEAN GREEN DEAL OF DECEMBER 2019) - STATEMENTS BY ARMENIA, THE KINGDOM OF BAHRAIN, CHINA, KAZAKHSTAN, THE KYRGYZ REPUBLIC, QATAR, THE RUSSIAN FEDERATION, AND THE KINGDOM OF SAUDI ARABIA**

12.1. The Chairperson recalled that this agenda item had been included at the request of Armenia, the Kingdom of Bahrain, China, Kazakhstan, the Kyrgyz Republic, Qatar, the Russian Federation, and the Kingdom of Saudi Arabia.

12.2. The representative of the Russian Federation indicated the following:

12.3. The Russian Federation would like once again to express its concern in respect of the proposed European Union Carbon Border Adjustment Mechanism (CBAM), and reiterates its statements made during the previous meetings of the CMA and the Council for Trade in Goods. The draft measure is supposed to be developed and published by the end of the second quarter of 2021. According to the European Union's plans, this measure should enter into force by 2023. Despite the fact that the parameters of the measure have not yet been determined, the Russian Federation is deeply concerned by this proposal.

12.4. Application of the CBAM has been announced by the European Union as a measure aimed at decreasing the risks of so-called carbon leakage, namely, the delocalization of carbon-intensive industries to countries whose regulations differ from those of the European Union on climate regulation. The Russian Federation wonders whether the measure pursuing this goal can be justified under current WTO rules. For example, the EU-ETS, one of the cornerstones of its policy, provides free allocation of allowances and compensation of indirect emissions that are nothing more than supporting measures for EU industries aimed at reducing their costs of compliance with this trading system. Another issue of concern to the Russian Federation is why third country exporters should bear the costs of the EU industry compliance with its domestic environmental legislation. The Russian Federation requests the European Union to clarify whether supporting measures will be eliminated or incorporated into the formula calculation of the CBAM. If not, the Russian Federation wishes to know how the CBAM could be compatible with WTO rules. The Russian Federation also requests the European Union to elaborate on how it envisages maintaining the competitiveness of its exported products if the CBAM enters into force. The Russian Federation is also concerned about the potential inconsistencies of the proposed measure with the basic rules of the WTO Agreements, such as the

national treatment and most-favoured-nation principles. The Russian Federation requests the European Union to confirm that the CBAM will comply with WTO rules. Finally, the Russian Federation urges the European Union to take into account all of its comments and to follow the principle of global cooperation in the field of combatting climate change, as laid down by the international climate agreements.

12.5. The representative of Kazakhstan indicated the following:

12.6. Kazakhstan is closely monitoring the development of the proposed EU CBAM. Kazakhstan urges the European Union to fully consider the compatibility of the CBAM with WTO rules and regulations so that any such measure does not create obstacles to trade. Kazakhstan looks forward to learning more about this initiative, including its current state of development, the specific form of the measure, and its coverage at the sectoral and product level.

12.7. The representative of the Kyrgyz Republic indicated the following:

12.8. The issue of the European Union's proposed CBAM has been raised more than once in the different bodies of the WTO. A number of Members expressed their views and positions on this issue during the meeting of various WTO bodies at the end of 2020 and in 2021. The Kyrgyz Republic commends the efforts of WTO Members to establish and achieve a sustainable ecological environment. The issues relating to ecology and the environment are important to all Members of the WTO. At the same time, the Kyrgyz Republic believes that actions and measures in this area should not affect the interests of other Members and should be implemented and maintained in full compliance with WTO rules and norms.

12.9. The representative of China indicated the following:

12.10. China would like to register its concern regarding the EU's plan to propose a CBAM. As climate change is a common challenge for us all, it is important that the international community develop unprecedented ambition and take action to tackle climate change. However, in order to successfully address the challenge, Members need to be committed to multilateralism and the principle of common but differentiated responsibilities, as laid out in the UN Framework Convention on Climate Change (UNFCCC) and its Paris Agreement. Members should not create green trade barriers and disrupt international trade flows. China notes that the EU parliament adopted a resolution on 10 March 2021, namely "A WTO-compatible EU Carbon Border Adjustment Mechanism", which supports the introduction of a CBAM, provided that it is compatible with WTO rules and EU free trade agreements by not being discriminatory or constituting a disguised restriction on international trade. China wishes the European Union to provide more detailed clarifications and explanations of how it will ensure the consistency of the CBAM with the WTO's rules. China encourages the European Union to maintain transparency in the legislation progress and stands ready to continue its engagement with the European Union on this issue.

12.11. The representative of the Kingdom of Saudi Arabia indicated the following:

12.12. The Kingdom of Saudi Arabia wishes to thank the proponents for raising the subject matter of the CBAM. From Saudi Arabia's perspective, while the European Union stated that the proposed mechanism would be in conformity with WTO rules and its other international obligations, the European Union is yet to provide an explanation of how it aims to do so. The European Union states that the CBAM is intended to address the risk of investment leakage from the European Union to other countries; however, in fact, the main objective is to maintain the competitiveness of the EU's industries. Saudi Arabia's very preliminary review indicates that the proposed mechanism raises very serious concerns due to its potential long-term negative implications on global trade, notably that it will distort the full value chain of trade, including goods, services, and jobs. Saudi Arabia urges the European Union to engage in further consultations with Members in order to ensure the full compliance of the CBAM with WTO rules and agreements and to ensure that the proposed mechanism would not create unnecessary barriers to trade or be applied in a manner that constitutes protection to EU domestic industries. Finally, Saudi Arabia looks forward to hearing further details and reflections from the European Union on this proposed mechanism; furthermore, the Kingdom stands ready to engage with the European Union and other interested Members on this issue.

12.13. The representative of the Kingdom of Bahrain indicated the following:

12.14. The Kingdom of Bahrain shares similar concerns to those raised by the Russian Federation, the Kingdom of Saudi Arabia, and other proponents. The Kingdom of Bahrain urges the European Union to engage in further consultations with Members in order to ensure the full compliance of the proposed CBAM with the WTO's rules and Agreements and to ensure that the proposed mechanism does not create any unnecessary barriers to trade, and that it is not applied in a manner that constitutes protection to EU domestic industries. Finally, Bahrain looks forward to receiving further details and clarifications from the European Union on this proposed mechanism; in this regard, Bahrain stands ready to engage with the European Union and all other Members interested in this matter.

12.15. The representative of Uruguay indicated the following:

12.16. Uruguay recognizes the policy objectives outlined by the European Union. Uruguay reaffirms its commitment to the climate in the multilateral environmental agreements, including the Paris Agreement, and the adoption of policies for its compliance. Uruguay reiterates its interest in the development of the CBAM in the context of the broader EU Green Deal. Uruguay hopes to continue receiving updated and more detailed data regarding this initiative, including concerning its development and process of adoption, design, and scope in terms of products and sectors. Finally, Uruguay wishes to emphasize the importance of ensuring the compatibility of this measure with the commitments undertaken by the European Union under the WTO Agreements.

12.17. The representative of the Republic of Korea indicated the following:

12.18. The Republic of Korea appreciates the European Union's leading role in global efforts to tackle ongoing climate change. The European Union is considering introducing a CBAM to address the issue of possible carbon leakage with a view to achieving carbon neutrality by 2050. However, when introducing environmental measures, such as the CBAM, individual countries should ensure that those measures comply with WTO rules and will not impede the free flow of trade by creating additional barriers. Korea also suggests having sufficient discussion among WTO Members to ensure transparency and predictability in the process of introducing the CBAM.

12.19. The representative of Thailand indicated the following:

12.20. Thailand fully acknowledges the urgent threat to humankind posed by climate change and recognizes that the international community shares a common cause in tackling this global challenge. At the same time, it is important to ensure that international rules and principles, including those under the WTO, are respected. Such rules and principles help to ensure fairness and minimize any trade-distorting effects of measures taken to tackle climate change. Crucially, to pass muster under the WTO rules, these measures must be genuine environmental measures and not a restriction on international trade. In light of these remarks, Thailand wishes to express its concern at the European Union's proposed CBAM and its potential adverse effects on trade and market access. Thailand understands that a number of policy options are being considered, all of which have the underlying aim, as suggested in the European Commission's Inception Impact Assessment, published in March 2020, to "ensure that the price of imports reflect more accurately their carbon content." It should be reiterated that such policies must be consistent with WTO rules, particularly in light of the principle of non-discrimination.

12.21. Pending more information about the design of the CBAM, Thailand is aware that any examination into the WTO-consistency of the CBAM could only be premature. Regardless, it must be pointed out that this is a source of unease among traders and businesses, many of whom possess a strong desire to decarbonize. Under these circumstances, Thailand strongly hopes that, in coming up with the CBAM, the European Union will ensure adherence to all relevant international rules and principles and be guided by a spirit of international dialogue and cooperation. In closing, Thailand wishes to recall the sixth recital of the preamble to the United Nations Framework Convention on Climate Change (UNFCCC), which reads: "the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions." Thailand strongly hopes that these principles will be taken into close consideration by the European Union in regard to the CBAM.

12.22. The representative of Paraguay indicated the following:

12.23. As Paraguay commented upon at the most recent meeting of the Council for Trade in Goods, the European Union published, on 10 March 2021, a Resolution by the Parliament on the CBAM and its compatibility with WTO rules. Paraguay would like to reiterate our questions regarding the following elements: (i) if Landlocked Developing Countries (LLDCs), being a special category of developing countries, would enjoy the same special and differential treatment as small island states; (ii) whether the CBAM would or would not include agricultural products, given that the EU Emissions Trading System (EU ETS 2020) includes certain products such as milk powder, casein, lactose, frozen potatoes and peas, dehydrated potatoes, tomato puree and concentrates, yeast, manufactured malt, sugar, fats and oils; (iii) if the EU could provide an update on how the procedure for importing countries to submit their own data in the calculation of the carbon footprint would work; (iv) whether there are plans to introduce positive incentives, such as a tariff reduction, for products that have a lower carbon footprint than European products; and (v) if the EU could provide explanations on the functioning of the "export rebate" alternative and its compatibility with WTO rules. Finally, Paraguay urges the European Union to publish its impact assessment and share it with its trading partners once completed. Paraguay also stresses the importance of acting multilaterally on environmental challenges, of preserving the principle of common but differentiated responsibilities, and of unconditional respect for this house's rules. Paraguay would be very grateful if the European Union could provide answers to these questions.

12.24. The representative of Pakistan indicated the following:

12.25. This is an issue of extreme importance to Pakistan as the European Union represents a large export market. Pakistan appreciates the initiative by the European Union. However, Pakistan is concerned about the various technicalities and operations of this programme, its wider impact on trade flows, and the potential negative implications for Pakistan's exports into the European Union. Pakistan is also concerned that the CBAM will affect, in a very short time, our industry and employment structures if no immediate adjustment mechanisms are in place. Therefore, Pakistan would appreciate receiving more information from the European Union about this mechanism. Overall, Pakistan, like many other developing countries, has a very small per capita capacity for carbon footprint. Pakistan hopes that the European Union also takes this into account when finalizing this scheme. Pakistan will continue to follow developments in this issue.

12.26. The representative of the Philippines indicated the following:

12.27. The Philippines supports the holistic effort by the European Union in the area of sustainable trade and development. The Philippines makes the following intervention to contribute to the EU's assessment processes in relation to the CBAM proposal. First, the Philippines would like to seek clarification from the European Union regarding if the CBAM will take into account the limitations and capacity of some trading partners, including the Philippines, which could affect compliance in respect of, for example, measuring and assessing its carbon footprint per commodity. The Philippines is in the process of building its own institutional capacity consistent with the enhanced transparency framework, or ETF, of the Paris Agreement. However, much will depend on the methodology of the approach that the European Union will eventually decide upon when implementing the CBAM. This emphasizes the importance of trade-related technical support and assistance to enable compliance by developing country Members in their domestic industries. Second, the Philippines would like to ask the European Union if and how the CBAM could affect the EU GSP+ and the tariff rates of the products benefiting from EU GSP+. Third, the Philippines would like to ask the European Union if it has considered the possibility of double counting with respect to the counting of carbon leakage from emissions associated with the imported goods. The Philippines notes that the CBAM could potentially conflict with Article 4 of the Paris Agreement, which states that: "when recognizing and implementing mitigation actions with respect to anthropogenic emissions and removals, parties should take into account as appropriate existing methods and guidance under the convention in light of the provisions of paragraph 13 of the article", which in turn refers to ensuring the avoidance of double counting. There is a likelihood that said emissions are already accounted for and reported by the exporting country as part of its domestic emissions reduction measures. Fourth, the Philippines is concerned that the implementation of the CBAM could have a significant impact on our main exports to the EU, namely electronic products, machinery and transport equipment, and other manufactured goods. Such goods are likely to be covered by the CBAM based on the EU Parliament's proposal. Fifth, the target implementation date of the CBAM, which is 2023, may be ill-timed, since, at that time, the majority of the world's economies, especially developing countries, will still be recovering from the impact of the COVID-19 pandemic. The CBAM may only amplify the negative social and economic impact resulting from the damage to international trade from the

COVID-19 pandemic, especially in terms of unemployment and poverty; it may only exacerbate the post-COVID-19 challenges faced by many countries.

12.28. The representative of Chinese Taipei indicated the following:

12.29. Chinese Taipei commends the European Union's ambitious proposals and international leadership towards the goal of climate neutrality by 2050. However, it appears to Chinese Taipei that the CBAM is part of a broader EU industrial strategy that could have wide implications for international trade. As the CBAM is planned to be implemented in 2023, Chinese Taipei would urge the European Union to engage further with international stakeholders in a more transparent and comprehensive manner, taking into account the relevant WTO rules and international standards, avoiding undesirable trade barriers arising from the mechanism, and ensuring sufficient transitional periods for industries. Chinese Taipei will continue to follow this topic closely and would welcome an update from the European Union.

12.30. The representative of India indicated the following:

12.31. India echoes the concerns raised by several Members on this issue. India believes that a thorough legal examination will be required of the various elements of the European Green Deal, including the CBAM, to ascertain its conformity with the relevant WTO rules. India believes that there may be possible WTO non-compliance issues relating to any such mechanism that will require further deliberation once more details of the CBAM are made available by the European Union. India would reiterate that any such mechanism must take into consideration the principle of common but differentiated responsibilities and the respective capabilities of different countries in light of their different national circumstances, and fiscal and development levels.

12.32. The representative of Turkey indicated the following:

12.33. Turkey shared its position on this issue at the most recent meeting of the Council for Trade in Goods; therefore, Turkey limits itself, on this occasion, to restating its ongoing interest in this issue. Turkey continues to closely follow the developments around the European Green Deal, and the CBAM in particular. As stated previously, Turkey believes that combatting climate change requires coordination at the global level. That said, any necessary step to that end should take into account the historical responsibilities for greenhouse gases and common but differentiated responsibilities. Turkey believes that the European Union will continue to inform the Membership of developments regarding this policy, making sure to design its final measures in line with WTO rules and principles, and paying special attention not to create any unintended negative effects on the development goals of developing Members. Finally, Turkey suggests that the European Union's proposal could also be discussed in the Climate Change Negotiations and Response Measures Forum, in the UNFCCC negotiations, in the 26<sup>th</sup> Session of the UN Climate Conference to be held in Glasgow in November of this year in order to analyse the CBAM's detailed economic, social, and environmental impact on developing countries' economies as well as on international trade.

12.34. The representative of the United States indicated the following:

12.35. The United States has been following with interest the EU progress to develop a CBAM, particularly given our bilateral trading relationship. The United States is committed to appropriately utilizing trade channels as another tool for tackling the potentially catastrophic impact of climate change, including through market and regulatory approaches to address greenhouse gas emissions and to achieve net-zero global emissions by 2050 or before. Regarding the EU's CBAM under current development, the United States looks forward to additional and detailed information and engagement, as the EU promised, at the earliest possible convenience so that the United States may better understand how the CBAM is being developed and how it would be implemented. The United States further encourages the European Union to fully consider the compatibility of any such measure it develops with applicable WTO rules to ensure there is an open system of trade and that any such measure will not constitute a barrier to trade. It will be important to ensure that our respective approaches to climate change mitigation are complementary, achieve the desired climate and environmental benefit, and minimize interruptions to our transatlantic trade relationship.

12.36. The representative of Australia indicated the following:

12.37. Australia is strongly committed to addressing climate change and believes that international trade can contribute to this objective. In particular, Australia believes that policies that facilitate increased trade in environmental goods and services, and related investment, can make a strong contribution in support of international climate policy. Australia welcomes the consultative approach that the European Union has taken so far in respect to its CBAM. Australia encourages the European Union to share to the maximum extent possible, in the WTO and in other relevant international bodies, details of its policy deliberations and the likely form a CBAM might take, consistent with the central WTO principle of transparency. Australia also notes the European Union's commitment to ensuring the consistency of its eventual measure with its WTO obligations. Further detail addressing the issue of WTO consistency would be helpful for the many Members, including Australia, which have questions and concerns about border carbon adjustment policies, including their possible protectionist impact.

12.38. The representative of Mexico indicated the following:

12.39. Mexico wishes to register its interest in this issue. Mexico will closely follow the developments and implications of this measure, as well as the future policies of the European Union's Green Deal. Mexico thanks the European Union for the information and update that they can provide in this Committee.

12.40. The representative of Brazil indicated the following:

12.41. Brazil reiterates that it is carefully monitoring the European Union's proposal for the establishment of a CBAM. While the exact contours of the EU's CBAM are still unclear, as there are several methodologies to quantify the carbon footprint of products, there are risks related to the establishment of carbon quantification, based on industry performance benchmarks from the EU, which may constitute undue privileges. Brazil expects that, once specific elements of the CBAM have been defined, opportunity for more direct dialogue between the competent authorities will be provided in order to ensure that the measure does not have a discriminatory character and is fully compatible with WTO rules. Finally, as has been highlighted by other delegations, Brazil must also stress that the principle of common but differentiated responsibilities, enshrined in the UNFCCC since it was agreed in Rio in 1992, cannot be ignored. Countries that have contributed the most to global warming so far must ensure they live up to their commitments towards the least developed and developing countries in the context of the UNFCCC if they want to exert a leadership role. Thus, establishing waivers for only a handful of LDCs with little impact on trade is not the best way forward.

12.42. The representative of Canada indicated the following:

12.43. Canada is following the European Union's work on a new CBAM with great interest. Canada anticipates that the design of a CBAM will account for the carbon pricing policies and climate measures of partner countries and be implemented in a manner consistent with the EU's international obligations.

12.44. The representative of the European Union indicated the following:

12.45. The European Union appreciates the interest of its partners in this important issue. The European Union is determined to ensure that its declared greenhouse gas reduction targets, required to keep the temperature goals of the Paris Agreement within reach, are implemented in practice. This is why the European Union is fully translating into legislation the necessary steps. But the climate challenge is inherently global. As long as climate action is not equally taken at a global level, there is a risk of "carbon leakage"; put simply, companies transferring production to places where decarbonization requirements are less strict and, as a result, increasing their emissions there, thus leading to a global increase in emissions. This would end up undermining global climate action efforts. The Commission has announced in the European Green Deal that, should differences in levels of climate action worldwide persist as the EU upgrades its own commitments, it will need to propose a carbon border adjustment mechanism, for selected sectors, to tackle the risk of carbon leakage. The decarbonization objectives of EU action would be sharply curtailed if EU businesses in certain emission-intensive sectors were to transfer production to other countries with less stringent emissions constraints, which could lead to an increase in total emissions globally, thus undermining the effectiveness of the EU's emissions mitigation policies. Importers will be treated in an even-handed manner and would not be subject to an adjustment that is higher than that applied

domestically. The European Union wishes to work with partners to promote effective methods of decarbonization, from technological innovation to market-based approaches, and much in between. The European Union is committed to stepping up its bilateral engagement. The Commission is committed to working with EU trading partners to ensure that adjustment measures work in an open and fair manner while being in full compliance with WTO rules. The European Union will take account of all relevant provisions such as existing carbon pricing mechanisms applied to the proven actual carbon emissions of given products.

12.46. The Committee took note of the statements made.

### **13 EUROPEAN UNION – VACCINE EXPORT TRANSPARENCY MECHANISM - STATEMENT BY AUSTRALIA**

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

13.2. The representative of Australia indicated the following:

13.3. With the COVID-19 pandemic surging in many parts of the world, Australia would first like to recognize the immense loss and severe public health challenge facing many Members. It is in the interests of all Members to ensure timely, equitable, and global immunisation against COVID-19, which will form one important component of our collective efforts to bring the pandemic under control. Australia's long-standing position is that COVID-19 vaccines should not be subject to restrictive trade measures, and that there is a global and moral responsibility upon all countries to share COVID-19 vaccines far and wide. While Australia understands the political and humane impulse that can lead to the imposition of trade restrictive measures, it believes that such measures and the retaliation that they may trigger may ultimately lead to fewer total vaccines being produced, thus being counter-productive. At the 14 April vaccine equity event hosted by Director-General Okonjo-Iweala, Members heard from a wide variety of stakeholders involved in the global vaccine effort that export restrictions and other trade barriers are making this health crisis worse. In that regard, Australia remains concerned by the imposition by some Members of trade barriers, including both formal and informal export restrictions, on COVID-19 vaccines and their inputs. In particular, Australia again expresses its concern regarding the European Union's Vaccine Export Transparency Mechanism.

13.4. Australia recognizes that, compared to some other vaccine manufacturing countries, the European Union has played an important role as a significant exporter of COVID-19 vaccines. At the same time, Australia has called upon the European Union to ensure that this measure is no more trade restrictive than necessary to achieve the objective of vaccine export transparency, and that it is consistent with the EU's WTO obligations. Australia is disappointed that, instead of exercising restraint, the European Union has expanded the grounds on which exports may be refused. Australia is particularly concerned that the measure can now be used to prevent exports based on the epidemiological situation, vaccination rate, and availability of vaccines in the country of destination, even when the EU's own contracts have been fulfilled. Australia views the scheme and its expansion as an inappropriate method of dealing with commercial contractual disputes. Australia also believes that it is inconsistent with the EU's WTO obligations. The European Union is a global leader in the fight against COVID-19, and its decisions are closely watched. As such, the continued imposition of this measure sends a disturbing signal. Widespread adoption of export restrictions on vaccines would have disastrous consequences for our collective efforts to combat the virus. Australia urges the European Union, and all Members maintaining unnecessary trade barriers on COVID-19 vaccines, to consider removing such measures as soon as possible. Australia urges Members to work together to find ways to keep supply chains open to ensure the maximum possible production of vaccines.

13.5. The representative of Paraguay indicated the following:

13.6. Paraguay reiterates its concern, as reflected in document WT/GC/W/818, about the EU's export licensing mechanism for COVID-19 vaccines, as notified in document G/MA/QR/N/EU/5/Add.1. As we noted in our most recent intervention on this issue at the Council for Trade in Goods, the extension and tightening of this measure has increased our concern regarding equitable access to vaccines. However, the problem goes beyond the specific measures adopted by the European Union. Extreme inequity in access to vaccines is undermining the global fight against the pandemic. In the three months since vaccination has started around the world, only



a dozen Members have administered the vast majority of approximately one billion vaccines distributed to date. Meanwhile, the COVAX mechanism has benefited from only 5% of all vaccines administered globally, which is equivalent to about 68 million vaccines. The problem of unequal distribution is further exacerbated when vaccines are distributed without taking into account the epidemiological or emergency situation in the allocation criteria. In this regard, Paraguay would like to note that, although Latin America is currently the region most affected by the pandemic, it has benefited from only about 3 million COVAX vaccines. The COVAX mechanism claims that this is due to lack of supply and logistical problems, leading to a delay in distribution. Recently, the WHO Director-General has pointed out that, while major economies have supported the initiative both financially and politically, they have also undermined it by hoarding vaccines through measures that restrict export of vaccines and their components, many of which have been announced and not notified, while others are simply *de facto* restrictions since there are some Members that have not exported one single dose. It is urgent to lift all these measures restricting exports of vaccines and their components to advance in immunization against the virus, as well as to advance in measures concerning trade facilitation and intellectual property, which enhance and increase the production capacity of vaccines. Paraguay reiterates the call to the entire Membership to refrain from imposing such measures that harm global health. Instead, measures should consider an equity component and the real health situation and promote international cooperation and solidarity.

13.7. The representative of Pakistan indicated the following:

13.8. Pakistan is a staunch supporter of equitable, easy, affordable, and swift access to COVID-19 vaccines for the entire global population, for we understand that no one is safe until everyone is safe. Pakistan's Prime Minister, in his letter to the UN Health Assembly, has openly called for making the COVID-19 vaccine a global public good. In this regard, any steps that restrict vaccine availability are unwelcome in our collective fight against the pandemic. Pakistan understands that vaccine supply shortages are indeed a reality and can lead countries to take certain steps in the interests of only their own populations. This issue is evidence and the reason that the current approach to vaccine sharing and equitable global supply is not working. Members clearly need a new approach. It is for this reason that Pakistan, along with almost 60 other WTO Members, has been calling for the open availability of technology, and technical know-how, of vaccine manufacturing, to allow large-scale production of vaccines in all relevant countries. While manufacturing capacity in developing countries remains idle, the shortages in production of the vaccines in developed countries is leading to a global shortage, thereby giving rise to phenomena such as vaccine hoarding and nationalism. The only way to avoid this eventuality is to support the proposal on a temporary waiver from certain TRIPS obligations. Pakistan will continue to follow developments on this issue and will remain committed to finding ways to allow vaccines to be available across the globe in an equitable, affordable, and swift manner.

13.9. The representative of the Republic of Korea indicated the following:

13.10. The Republic of Korea shares the concerns raised by Australia and other Members that any trade restrictive measure may disrupt the global distribution of COVID-19 vaccines. The Trade and Health Initiative includes trade facilitating actions and export restrictions that Members are to review in order promptly to eliminate any unnecessary existing restrictions on exports of essential medical goods. Actions in the initiative will contribute to ensuring equitable distribution of scarce essential medical goods and vaccines. In this regard, Korea would like to urge all WTO Members, as well as the European Union, to act pursuant to this initiative.

13.11. The representative of Ecuador indicated the following:

13.12. Ecuador wishes to refer to its statement made on this issue at the meeting of the Council for Trade in Goods of 31 March 2021. Ecuador notes with concern the implementation of any measures restricting the export of COVID-19 vaccines and their components, while we are still facing a very critical situation in the fight against this pandemic. Ecuador insists on the need to find a global and coordinated solution to the benefit of all. Ecuador therefore encourages the WTO to promote a spirit of transparency, cooperation, and international solidarity, not only among its Members, but also among the pharmaceutical companies and vaccine distributors, such that access to vaccines will be universal and guaranteed by collective action.

13.13. The representative of Switzerland indicated the following:

13.14. Switzerland takes note of the EU export authorization mechanism introduced in January 2021, which has recently been made more restrictive. Switzerland also notes with satisfaction that the EU has been very transparent regarding this mechanism, and that it is one of the major vaccine exporters. However, Switzerland regrets the EU's decision regarding the export authorization mechanism, particularly because of the highly integrated production chains across national borders for the manufacture of vaccine active ingredients and preparations, which makes a smooth flow in supply chains essential, especially during the fight against this pandemic. Switzerland underlines the importance of open and barrier-free supply chains for these essential products as well as the need for cooperation and solidarity in addressing this global challenge. Switzerland itself being a contributor to the production of vaccines aims for a frictionless production chain and will continue these efforts. Switzerland also takes this opportunity to note that other countries have either taken restrictive export measures on inputs needed for the manufacturing of COVID-19 vaccines or on COVID-19 vaccines themselves, in view of prioritizing the vaccination progress of their own populations. All these restrictive measures have a chilling effect on the global supply value chain and run the risk of a domino effect, which is not in the interests of anyone. As this pandemic affects every country around the world, cooperation and solidarity are needed more than ever. Switzerland calls upon all WTO Members to remove as soon as possible their trade restrictive measures and to ramp up their production capacities and contribute to the sharing of vaccines. It is only by working together, with a collective effort, that we will be able to put an end to this pandemic.

13.15. The representative of Turkey indicated the following:

13.16. Turkey notes that this measure was discussed at the most recent meeting of the General Council, where Members voiced their concerns over the possible negative repercussions it could have on global trade and health. After that meeting, however, this measure was extended both in scope and duration, as was then discussed at the most recent meeting of the Council for Trade in Goods (CTG). Turkey has taken note of the underlying concerns of the EU in terms of the ongoing third wave of the pandemic and the continuing shortfalls. However, Turkey wishes to underline the important role the EU has played in the global response to the pandemic and thus the danger of any possible domino effects its measures may have on other Members in terms of what many call "vaccine nationalism." Once again, Turkey would like to invite the European Union to act in line with the principles put forward in the Trade and Health Initiative and with its commitments to "fair and equitable access to critical supplies". Turkey hopes that the EU will exercise restraint in imposing export restrictions on essential medical goods and vaccines and will not extend the duration of this measure.

13.17. The representative of the United Kingdom indicated the following:

13.18. The United Kingdom wishes to echo some of the concerns raised by Members over the recent changes to the EU's vaccine regulations. The extension of the Transparency and Authorization Mechanism until the end of June, coupled with the addition of new criteria to be used when assessing vaccine export authorization requests, sends the wrong signal in terms of both trade and public health. The United Kingdom asks that the EU reviews this measure to ensure that it does not constitute an unnecessary barrier to coordinated global COVID-19 efforts, and is duly adherent to WTO obligations, including on non-discriminatory application of export restrictions. The delivery and creation of the vaccine has been a multinational effort. These are international projects that require international cooperation because this virus knows no borders. Trade-restrictive measures hinder our global immunization efforts, causing negative spill over effects on highly complex supply chain systems and barriers to the flow of critical medical goods. The United Kingdom would like to conclude by recognizing the shared challenges of the pandemic. The United Kingdom looks forward to continuing to work closely with partners on this important issue, and leveraging on existing work through the Trade and Health Initiative (TAHI) to ensure trade measures adhere to the principles underpinning it. The United Kingdom will continue to support discussions on the role of trade in combatting COVID-19, ensuring fair and equitable access to vaccines globally, and enabling us to build back better.

13.19. The representative of New Zealand indicated the following:

13.20. The COVID-19 pandemic has imposed risks to public health and human security on an unprecedented global scale. As a global community, we have a responsibility to ensure that access to COVID-19 vaccines, therapeutics, and diagnostics, is available for all, especially for the most vulnerable, and that the global supply chains for COVID-19 medical supplies remain uninterrupted.

Export restrictions on these essential products, particularly for vaccines, will only introduce inefficiencies into supply chains and slow global pandemic recovery. Members need to ensure that any trade measures applied to the export of vaccines should be facilitative and implemented strictly in accordance with WTO obligations. It is for these reasons that New Zealand has supported the TAHI. New Zealand recognizes the vital role of the European Union, as one of these Members, in producing vaccines for supply internationally, even while experiencing the devastating impact of the pandemic at home. However, New Zealand is troubled by the implications of restrictions on COVID-19 vaccines for global supply chains and equitable access. New Zealand encourages governments to work together with pharmaceutical companies to optimize supply chains to ensure the uninterrupted availability of vaccines to all and to make full use of existing global manufacturing capacity alongside global leadership to bring the pandemic to an end.

13.21. The representative of Colombia indicated the following:

13.22. As indicated under agenda item 5, Colombia expresses its interest in this issue, not only for the measures adopted by the European Union, but more generally and systemically for the various restrictions on exports of vaccines, including those measures that have been notified as well as more opaque measures that are complex to understand and that have not been made transparent before the Membership. Colombia reiterates the call to strengthen world trade and global value chains as the right response to the global health crisis. The basic principles of free trade that have been so strongly advocated in this house must continue to guide us. Export restrictions on inputs and vaccines, and the resulting retaliation by aggrieved countries, can trigger unpredictable risks and a domino effect. As we have stated since the beginning of the pandemic, the global health crisis requires a coordinated and multi-level solution. Colombia has participated constructively in all the different spheres allowed by the WTO to improve trade in protective equipment, medical devices, medicines, and vaccines, that is, in the General Council, in the Council for Trade in Goods, in the TRIPS Council, and also in this Committee. These are crucial discussions. Colombia urges all Members to continue to work together to avoid vaccine nationalism.

13.23. The representative of India indicated the following:

13.24. India believes that an export restriction is a legitimate policy tool. If used in the right manner, it could lead to equitable delivery of scarce commodities and prevent countries with deep pockets from cornering such supplies. While India demonstrated this during last year's first wave of the COVID-19 pandemic, where it used this tool for ensuring equitable distribution of critical medicines, diagnostic kits, ventilators, and PPEs, to more than 150 countries based on mutually assessed needs, and also this year, where it provided more than 60 million vaccines to more than 80 countries, ensuring their equitable distribution, some have chosen to do the opposite and are using export restrictions as a tool to prevent cross-border shipment of vaccines from its territory. Therefore, export restrictions will continue to play their role as a policy tool although all depends upon how a Member chooses to use them.

13.25. The representative of Panama indicated the following:

13.26. Panama reiterates its statement delivered on this issue at the most recent meeting of the Council for Trade in Goods.<sup>13</sup> Panama is particularly concerned about the implementation of measures that restrict exports of vaccines and their ingredients, which are necessary for global concerted efforts in the fight against COVID-19. Panama calls upon Members to refrain from implementing this type of policy. COVID-19 does not recognize levels of development or borders. The problem is global, and Members will continue to suffer globally because of it. Panama believes that the efforts of the Director-General, Dr Ngozi Okonjo-Iweala, to identify places with manufacturing capacity, especially in developing countries, are necessary to expand vaccine production and reduce the access gap. However, her efforts will only be successful if Members all work together to avoid interruptions in supply chains. Otherwise, we risk seeing an even slower economic and social recovery for all. The solution to the pandemic lies in ensuring that the means to control COVID-19 are distributed equally across the world.

13.27. The representative of the European Union indicated the following:

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<sup>13</sup> G/C/M/139, paragraphs 9.29-9.31.

13.28. The European Union takes note of the views and comments of Members. As explained at the General Council's meeting of 2 March, and at the Council for Trade in Goods on 31 March, the EU introduced a mechanism to ensure the transparent distribution of vaccines. The objective is to avoid a situation where the much-awaited vaccine goes to the highest bidder, or where distribution is left to the arbitrary decision of vaccine producers. As persistent delays in vaccine deliveries continued on 25 March, the EU decided to extend the measure until the end of June. As already explained, the European Union revised the scheme to take into account export openness towards the EU of the destination country and the epidemiological situation in that country. This was adopted in the spirit of ensuring fairness and equity in vaccine distribution. The mechanism has been in operation for three months already. During this time, the European Union has exported, under this mechanism, more than 140 million doses of vaccines to the world. In total, since the introduction of the vaccines to the market in December, and counting also exports exempted from the mechanism, the European Union has exported more than 175 million doses. No other OECD member and vaccine producer has matched that effort. Vulnerable, low, and middle-income countries will continue to be exempted from the scope of the mechanism, as are any exports to the COVAX facility. In the meantime, as all of us here, the European Union continues to struggle with a speedy delivery of vaccines to our own citizens. We are all of us under enormous pressure to deliver. The question is how to increase access to vaccines for those countries that are not vaccine producers and that do not have sufficient resources to set up production on their own.

13.29. The WTO event on equity of vaccine distribution of 14 April has shed further light on the fact that equitable access requires very close cooperation between governments, regulators, financial institutions, and companies themselves, to scale up production. To do that, a scale-up must take place across the whole value chain. There is a need to have more information about markets and government measures. The European Union has taken note of the call of the Director-General to reduce the number of export restrictions. However, Members should distinguish between measures that operate as an effective ban on exports and measures that are intended to ensure some degree of fairness in the distribution of scarce goods and which do not restrict exports more than absolutely necessary. As the European Union has reiterated on numerous occasions in the past, the EU's measure is not an export ban. The EU has also already explained that it has promptly and diligently reported all versions of the mechanism to the WTO's monitoring of trade measures relating to COVID-19. The EU notified them under the relevant requirements, such as the Decision on Quantitative Restrictions. The European Union is committed to ensuring the greatest degree of transparency and calls on other Members to do the same with respect to any measure that may have a trade-restricting effect. As export controls are rooted in underlying scarcity of goods, Members must make every effort to help manufacturers to increase production in cooperation with reliable partners globally with whom they could share their know-how and technology. This is a wide-ranging topic with many angles to it, and many international actors involved. The European Union appreciates the efforts of the Director-General in this respect and looks forward to working with her on concrete actions that the WTO can take to help fight the pandemic.

13.30. The Committee took note of the statements made.

#### **14 INDIA – CUSTOMS DUTIES ON TELECOMMUNICATION AND OTHER PRODUCTS – STATEMENT BY CHINA**

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

14.2. The representative of China indicated the following:

14.3. China regrets having to raise this matter again; however, China continues to have concerns about India's customs duties on telecommunication and relevant products, especially mobile phones and their components, which China believes exceed India's bound rates and are inconsistent with WTO rules. In addition, China is also concerned that India has further increased its customs duties on some ICT products and other products in its 2021-2022 national budget. China urges India to immediately withdraw its customs duties on the relevant ICT products.

14.4. The representative of the United States indicated the following:

14.5. The United States regrets that it, and others, have to raise yet again 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 continues to charge on imported products, including commercially significant products from the United States. As the proceedings for the disputes brought by the European Union, Japan, and Chinese Taipei get under way, the United States looks forward to its continued participation as a third party in those disputes. The United States would also like to note its new concerns over possible further tariff increases in products identified in India's 2021-2022 budget proposal. Once again, the United States calls upon India to provide duty-free access for the ICT and telecommunications equipment products for which India has a WTO commitment to do so.

14.6. The representative of the European Union indicated the following:

14.7. In recent years, the European Union has observed a worrying trend in India's policy, namely, the promotion of its domestic industry sometimes irrespective of its WTO commitments. The European Union recalls that, under the ITA, India undertook a commitment to remove duties on printed circuit boards as well as other items of telecommunications apparatus. The European Union observes now a reversal in this commitment. For this reason, the EU would appreciate further clarification from India regarding the exact tariff classification in India's schedule of the items for which duties are increased as per Notification No. 03/2021, dated 2 February 2021. This would allow the EU to properly ascertain the impact of the measures on its exports. The EU regrets that India has chosen to increase levels of tariff protection in an attempt to curb imports. The EU urges India to make sure that its policy choice remains in line with its WTO commitments. The European Union urges India to rectify the current situation and to reinstate the duty-free status of items for which India had undertaken WTO commitments.

14.8. The representative of Singapore indicated the following:

14.9. Singapore shares the concerns that have been expressed by previous speakers about India's applied tariffs on certain IT products exceeding its bound rates. Singapore wishes to reiterate our systemic and commercial interest in this matter. Singapore will continue to monitor this issue closely.

14.10. The representative of Canada indicated the following:

14.11. As mentioned in our interventions in this Committee, the Council for Trade in Goods, and the ITA Committee over the past few years, Canada views the continued application of tariffs above India's bound rates on a broad range of ICT products to be inconsistent with India's WTO commitments. It is Canada's understanding that India has made further increases to certain tariffs on ICT products above its bound rate in its 2021-2022 national budget. Canada notes the ongoing dispute settlement processes on this issue brought by Japan, Chinese Taipei, and the European Union, and is actively participating as a third party in those proceedings.

14.12. The representative of India indicated the following:

14.13. On the issue of customs duty imposed on certain products, alleged to be ITA-1 products by some of the 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, India will not repeat those statements. However, India would like to reiterate that it has been fully abiding by its obligations and commitments under the ITA-1, as contained in WTO document WT/Let/181. Moreover, India does not intend to commit what is there beyond the scope of its ITA-1 commitments, as inscribed in that document. India has also stated in its earlier interventions that Members have a right to revisit any errors or mistakes committed in assigning bound tariffs while transposing their HS schedules, and to place the necessary rectification request before the WTO body concerned. Accordingly, India has filed a rectification request for correcting certain errors in its HS2007 transposition Schedule. This rectification request is 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 would urge Members to go through India's rectification request, and in case any Member has any other views on the technical aspects of these products, as well as their classification, India would be happy to discuss the same with the Member concerned.

14.14. The Committee took note of the statements made.

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## 15 INDIA - IMPORT POLICIES ON TYRES - STATEMENT BY THE EUROPEAN UNION

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

15.2. The representative of the European Union indicated the following:

15.3. The European Union wishes to reiterate its concerns raised already in the context of the Import Licensing Committee regarding India's licensing regime for the importation of pneumatic tyres for a number of products under Notification No. 12/2015-2020, on "Amendment in Import Policy of Tyres", of 12 June 2020. As already discussed at the April 2021 meeting of the Import Licensing Committee, the measure has not been duly notified to the WTO, either at the Import Licensing Committee, for being a licensing regime, or, to our knowledge, to the Market Access Committee, in view of the non-automatic licensing requirements. The European Union continues to be concerned about the effect of this measure on imports of tyres, which have been highly impacted since June 2020. Only a limited number of licences have been granted to EU tyre manufacturers. These licences are limited in terms of duration, quantities, and types of tyres. The European Union therefore urges India: (i) to comply with the applicable notification requirements under the WTO; (ii) to increase transparency with respect to the applicable requirements and procedural steps to follow by tyre importers; and (iii) to reconsider and eliminate any implicit or explicit quantitative or other restrictions on the import of replacement tyres that could go contrary to WTO requirements.

15.4. The representative of Thailand indicated the following:

15.5. Thailand wishes to reiterate its concern raised at the CMA meeting of November 2020 regarding India's import policies on tyres under Notification No. 12/2015-2020, which changed the import conditions for tyres from "Free" to "Restricted". Additionally, Thailand's concerns extend also to import policies on television sets and air conditioners, for which import conditions have changed subject to two additional notifications, Notification No. 22/2015-2020 and Notification No. 41/2015-2020. Thailand had requested India to provide clarification regarding these matters, including the import licensing procedures applied to the importation of tyres and television sets, and the specific public policy together with legal acts under India's legislation justified for the measures concerned; however, to date, Thailand has not yet received any responses from India. Therefore, Thailand again requests India to provide detailed clarification of the three aforementioned notifications, as well as notifying the above amendments on India's import policies to the WTO at the earliest opportunity. Thailand wishes to reiterate the importance of transparency and the principle of non-discrimination in this rules-based trading system. Thailand requests India to give this matter its attention, including by exploring a less restrictive alternative measure and by sharing all necessary information with other Members. Thailand stands ready to meet bilaterally with India with a view to achieving a mutually satisfactory solution to this issue.

15.6. The representative of Chinese Taipei indicated the following:

15.7. Chinese Taipei wishes to echo the concern raised by the European Union. India announced the restrictive import measure on new pneumatic tyres on 12 June 2020. The product list included tyres for motor cars, buses or lorries, and motorcycles and bicycles. Importers must apply to the Directorate General of Foreign Trade (DGFT) for a licence or special approval before importing those items. Chinese Taipei has been informed by our exporters that they have encountered difficulties in India because the applications of their Indian importers in June 2020 for import licences from the DGFT were delayed and not approved until December 2020. Furthermore, it seems that import licences being issued by India are only for pneumatic tyres which are not produced domestically. This has constituted a ban on tyre imports, which is in violation of WTO rules concerning QRs. As such, Chinese Taipei urges India to comply with the regulations as set out under the Agreement on Import Licensing Procedures and Article XI of GATT 1994. In particular, non-automatic licensing procedures should be implemented in a transparent and predictable manner and should not have trade-restrictive or trade-distortive effects on imports additional to those caused by the imposition of restrictions.

15.8. The representative of the Republic of Korea indicated the following:

15.9. The Republic of Korea has expressed its concern over India's import policy on tyres in other meetings; however, this concern remains unchanged. Korea wishes to seek further clarification from India regarding the criteria it followed in selecting items as well as the legal basis for its policy. Lastly, Korea wishes to ask when India will complete the necessary notification. The policy substantially bans imports of tyres and this is inconsistent with Article 3.2 of the Agreement of Import Licensing Procedures. Korea urges India to introduce improvements to this policy so that it does not become a barrier to trade.

15.10. The representative of the United States indicated the following:

15.11. The United States continues to share the European Union's concerns and to monitor this issue. The United States is interested to hear India's response to the issues raised.

15.12. The representative of India indicated the following:

15.13. India notes that this issue has also been raised in the Committee on Import Licensing recently, where India also replied to some of these queries. In this context, India notes that it has changed its import policy in respect of certain specific new pneumatic tyres and is in the process of notifying these changes to the Committee. Moreover, the process of implementation of import authorizations by India is fully transparent and predictable. The procedure for issuance of such import authorizations is provided under paragraphs 2.50 and 2.51 of the Handbook of Procedures 2015-2020, which is available in the public domain and can be accessed at the Directorate General of Foreign Trade (DGFT) website. Applications for such import authorizations can be filed online. The DGFT Trade Notice No. 49, dated 15 March 2019, provides the procedure. After scrutiny of applications regarding submission of the documents required and receipt of the relevant technical inputs from the concerned administrative ministries and departments, such applications are considered by the Exim Facilitation Committee for a decision on the granting of import authorizations. This process is being administered in a fair and equitable manner and a number of licences have been granted after approval by the Exim Facilitation Committee.

15.14. The Committee took note of the statements made.

## **16 INDIA - IMPORT RESTRICTION ON AIR CONDITIONERS - STATEMENT BY JAPAN**

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

16.2. The representative of Japan indicated the following:

16.3. As mentioned at the previous TRIMs Committee and CTG meetings, Japan considers that India's import ban on air conditioners, including refrigerants, introduced on 15 October last year, is a measure that unreasonably imposes a restructuring of corporate supply chains. Japan is strongly concerned that this measure is likely to be an import ban that is inconsistent with GATT Article XI:1. In this respect, India has thus far explained that the measure is consistent with India's obligations under the Montreal Protocol and also the relevant regulations on HCFCs, which are ozone-depleting substances. However, this import ban is superfluous and irrational in that it covers a wide range of air conditioners that use refrigerants. Furthermore, these air conditioners are subject to neither India's domestic regulation nor India's reduction and elimination obligation under the Montreal Protocol. Japan calls upon India to proceed with the early withdrawal of this measure. In addition, Japan is preparing some written questions for India after receiving its request at the previous TRIMs committee meeting. If India considers the measure to be justified, Japan would like India to explain in more concrete terms the reasons why.

16.4. The representative of Thailand indicated the following:

16.5. Thailand shares similar concerns to those of Japan and encourages India to provide detailed clarifications of its import procedures, the specific public policy and legal acts under India's legislation justifying this measure, as well as its notification process to the WTO. Thailand reiterates the importance of transparency and the principle of non-discrimination in this rules-based trading system. Thailand requests India to give this matter its attention, including by exploring a less restrictive alternative measure and by sharing all necessary information with other Members.

Thailand stands ready to meet bilaterally with India with a view to achieving a mutually satisfactory solution to this issue.

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

16.7. The United States thanks Japan for raising this issue and shares their concerns. The United States is monitoring this issue and is interested to hear India's response.

16.8. The representative of India indicated the following:

16.9. India wishes to reiterate its response given on this issue in the most recent meeting of the Council for Trade in Goods, namely that this measure was necessary for the application of standards and regulations for the marketing of the item, besides reducing risks to human, animal and plant life and health, consistent with India's commitment to the Montreal Protocol. Furthermore, as per the Ozone Depleting Substances (Regulation and Control) Amendment Rules of 2014, the import of air conditioners containing Group VI substances (HCFCs) has been prohibited since 1 July 2015.

16.10. The Committee took note of the statements made.

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

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

17.2. The representative of Australia indicated the following:

17.3. Australia's concerns with India's restrictive measures on pulses imports are well known to all Members, particularly India's QRs. Australia was extremely disappointed with India's decision to renew the QRs for mung beans (Moong), pigeon peas (Tur), and black gram (Urad), for the 2021-2022 marketing year. The renewal of the QRs means that India will have had these WTO-inconsistent measures in place over five marketing years, noting that the QRs were first introduced in August 2017. Australia would request India to clarify the status of peas, which were also the subject of a QR in 2020-2021. These QRs are clearly no longer temporary and must be removed. Despite Australia's regular requests, India has failed to provide a sufficient explanation of the WTO-basis for the QRs. In the recent Council for Trade in Goods, Australia, along with Canada, the European Union, the Russian Federation, Ukraine, and the United States, submitted formal questions to India. It is imperative that India provide detailed answers to explain the market and other conditions behind its decision and to explain how its measures are WTO-consistent. While the WTO Agreements contain exceptions, the onus is on the Member implementing the measure to explain how such exceptions may apply. Pulses are not a "small" commodity for India, neither by tonnage nor the value produced and consumed, nor with respect to trade. Therefore, India's measures matter in the global pulses market. India's current suite of measures on pulses, including significant levels of market price support, high tariffs, and QRs, continue to negatively impact the stability and predictability of the global pulses market and are demonstrably ineffective. In this Committee, Australia posed a series of questions to India at the last three meetings, held in November 2020, June 2020, and November 2019, including providing them to India in writing. Australia has still not received a response. Australia will avoid repeating the questions, but notes that it was 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 does not believe are appropriate or legally available in respect of India's import restrictions on pulses. Australia again requests India to provide prompt and fulsome responses bilaterally, and to table those responses in this Committee expeditiously. Australia requests India to remove the measures immediately.

17.4. The representative of the Russian Federation indicated the following:

17.5. The Russian Federation recalls its long-standing concern over India's pulses import policy and urges its trading partner to stop applying restrictive measures on imports of yellow peas that are inconsistent with its WTO commitments. During the period from 2018 to 2021, India has been progressively restricting the access of pulses to its market through measures that India has been



calling "temporary" for three consecutive years. Due to India's import restricting policy, in 2020, exports of yellow peas from Russia into India declined by a factor of 145, compared to the value exported in 2017. At the same time, India fell short of providing sound reasoning for its introduction of measures that hinder pulses imports into India to such an extent. Import quotas, an import ban, a minimum import price requirement, and ports of entry restrictions have led to a situation where import volumes of yellow peas have plunged almost to zero. As expressed on many occasions, these restrictive measures contravene Article XI:1 of the GATT and Article 4 of the Agreement on Agriculture and cannot be justified under Article XI:2(c) or paragraphs (a) and (b) of Article XX of the GATT. Specifically, on paragraphs (a) and (b) of Article XX of the GATT, India failed to provide the causal link between the protection of public morals, human, plant or animal life or health and import restrictions and prohibition on yellow peas. As we are at the beginning of the new financial year, the Russian Federation wishes to clarify whether India has extended its import quota on pulses and import prohibition on yellow peas for the 2021-2022 financial year. In line with written questions circulated prior to the most recent Council for Trade in Goods, the Russian Federation was wondering what market conditions or other conditions are needed for these restrictions to end. The Russian Federation once again urges India to remove its unjustified import restrictions on yellow peas and to bring its policy into compliance with WTO rules.

17.6. The representative of Canada indicated the following:

17.7. The last quantitative restriction of India on dried peas was scheduled to expire on 31 March 2021. However, India has not yet been able to clarify if this measure was extended or if it has expired. This situation is creating significant uncertainty for traders. 29 days after the end of the application period of the quantitative restriction for peas, exporters and importers of dried peas are still unaware of the importing rules and restrictions surrounding dried peas. Canada asks for India to clarify the situation promptly and to notify its procedures to import dried peas in a timely manner in order to ensure predictability for traders. That said, Canada remains disappointed that India continues to use QRs on the import of dried peas and other pulses. This situation has been ongoing for more than three years. It is difficult for Canada to see how India can still be claiming these measures to be temporary. Canada also continues to question the legal interpretation provided by India to justify its QRs, minimum import prices, and discretionary import licensing procedures, such as limiting imports of dried peas to a single port of entry. To conclude, Canada calls for India immediately and expeditiously to review its trade restrictive measures put in place on dried peas and other pulses and to implement alternative and WTO-consistent policy options that promote a predictable and transparent import regime for pulses.

17.8. The representative of Ukraine indicated the following:

17.9. Ukraine wishes to once again reiterate its concerns about India's pulses policy and draw attention to its statement on this issue made during the most recent meeting of the Council for Trade in Goods. Ukraine expresses its disappointment at the recent decision to extend the restrictive measures and wishes to seek clarification on this matter.

17.10. The representative of the United States indicated the following:

17.11. As has been previously stated in this and other WTO committee meetings, the United States remains concerned with 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. The United States repeats its previous requests for information on how the measures reflect India's WTO commitments, and when and how the measures will be ended.

17.12. The representative of the European Union indicated the following:

17.13. The European Union would like to again voice the concerns it has been raising for a long time now. This supposedly temporary measure has been in place for more than three years. Every time Members have raised this issue, India has referred to its responses in other committees; however, in none of these committees has India actually provided a substantive reply. The European Union urges India to engage meaningfully on this issue. The European Union notes that India, in its reply in the 31 March meeting of the Council for Trade in Goods, referred to Article XI:2(c)(ii) of the GATT, relating to the removal of a temporary surplus. Could India therefore provide a balance sheet for pulses for each of the years 2017, 2018, 2019, and 2020? In case of a repeated surplus of pulses

for four years, the European Union would welcome clarification as to what steps India has taken to reduce such surplus. India has also referred in the CTG to Article XX of the GATT as its justification for an import ban on pulses to protect small farmers. The European Union would welcome clarification as to the reference to the protection of public morals and of human life.

17.14. The representative of India indicated the following:

17.15. India notes that many of the issues raised here in this Committee have also been raised in the meetings of other committees, as also at the CTG. In this context, India wishes to reiterate that its QRs on imports of certain varieties of pulses are aimed at alleviating distress caused to small and marginal farmers and its consequent impact on their food and livelihood security. This measure is temporary, as it is being periodically reviewed with a view to regulate and monitor imports. As regards the specific WTO provisions under which such measures have been imposed, India has already replied to similar queries by Members in the earlier meetings of this Committee and the Council for Trade in Goods. India would urge Members to refer to its replies in those Committees and in the Council for Trade in Goods.

17.16. The Committee took note of the statements made.

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

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

18.2. The representative of the United States indicated the following:

18.3. The United States continues to note concerns that Indonesia is applying tariffs at the border on a category of ICT products that appear to exceed its WTO bound tariff commitments. The United States has been raising this issue repeatedly with Indonesia over the past year, along with others, including in the Council for Trade in Goods and the ITA Committee, as well as bilaterally. Unfortunately, Indonesia has yet to provide a substantive response to US concerns. The United States has even provided concrete examples of its concerns, specifically with tariff subheading 8517.62. Unfortunately, US concerns are growing, and the United States has identified additional examples of applied tariffs of ICT products that do not appear to reflect Indonesia's bound commitments. In an effort to further engage with Indonesia on these concerns, the United States has prepared several questions, which have been circulated in the ITA Committee as document G/IT/Q/1. The United States would expect a detailed, substantive response to those questions in writing. In addition to raising questions with respect to Indonesia's bound commitments, the costs of Indonesia's policies in this space are not insignificant as a practical matter. Indonesia's tariffs not only impose a financial burden on foreign firms, but they also limit access for Indonesian consumers and firms to important high-tech products.

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

18.5. The European Union has made repeated requests and calls for aligning the tariff treatment of certain ICT products classified under subheading 8517.62 with Indonesia's WTO commitments. However, it appears that Indonesia continues to charge a significant tariff (10%) on products classified under tariff line 8517.62.49. In this particular category of products, the EU has recorded a significant drop of exports to Indonesia. The EU has observed a 60% drop in the value of EU exports in 2020 compared to 2019, and a 21% drop in 2020 compared to 2018. The EU therefore reiterates its calls for bringing the tariffs in tariff subheading 8517.62 down to zero. The EU seeks further clarification from Indonesia as to how it intends to apply tariffs that are not in line with Indonesia's WTO bound commitments. Considering that this issue has been raised on several occasions, the European Union counts on receiving a meaningful reply from Indonesia at this meeting.

18.6. The representative of Indonesia indicated the following:

18.7. Indonesia thanks the delegations of the United States and the European Union for raising their interest again concerning our tariff applied to certain ICT products. Indonesia is paying serious

attention to the imposition of import duties on several Information Technology products of concern to the United States and the European Union. Indonesia reiterates its statements made at the ITA Committee meetings of 31 October 2019 and 30 October 2020, and the CMA meetings of 11 November 2019, 8 June 2020, and 12 November 2020, that the Indonesian Government is committed to comply with the WTO Agreements, and in particular Indonesia's commitments under the ITA. Information Technology products have developed rapidly and dynamically in recent years; therefore, Indonesia's technical authorities still need time to analyse and coordinate with other related parties in order to find the best solution regarding this issue. Indonesia has no intention of taking measures beyond our obligations under the ITA.

18.8. The Committee took note of the statements made.

## **19 INDONESIA – IMPORT RESTRICTION ON AIR CONDITIONERS - STATEMENT BY JAPAN**

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

19.2. The representative of Japan indicated the following:

19.3. As it has mentioned in other relevant meetings, Japan is concerned about Indonesia's import permits system for air conditioners under the Minister of Trade Order No. 68 of 2020, enacted in August 2020. The measure has virtually the same effect as an import restriction and could be inconsistent with Article XI:1 of the GATT. Japan found a number of cases in which it took a few months from the time of application to the issuance of the import permits, with no explanations provided for this delay. This occurred particularly during the first six months after the Order was enforced. In addition, the number of air conditioning units approved for importation is restricted to less than the number requested in applications made by importers, without any reason provided as to why. Regarding this point, the Order specifies neither the time for the permission nor the criteria of the determination about how many applications would be approved. For these reasons, Japan is concerned that the measure lacks transparency and is seriously diminishing predictability for businesses. Japan therefore requests Indonesia to explain the rationale behind the quantitative restriction measure and the criteria it is based upon. Japan also wishes to ask Indonesia to explain why the procedures took several months. Japan further requests that Indonesia improve its transparency by providing the duration period and the criteria for any restrictions in the rules and regulations. Japan requests Indonesia to provide further clarification about the background and the WTO-consistency of this measure; ultimately, Japan urges Indonesia to eliminate this measure.

19.4. The representative of Indonesia indicated the following:

19.5. Indonesia thanks Japan for its intervention with regard to importation of air conditioners. Indonesia understands that Japan has addressed this concern in other committees, such as the TRIMs Committee and the Committee on Import Licensing, therefore, the government of Indonesia would like to take note of Japan's concern on this matter. Indonesia also encourages Japan to submit written questions through the CMA. In the meantime, Indonesia is currently coordinating with related parties regarding the aforementioned issues.

19.6. The Committee took note of the statements made.

## **20 MEXICO – IMPORT QUOTA ON GLYPHOSATE - 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 indicated the following:

20.3. The United States would like to register its concern with the 4 April announcement by Mexico's National Council for Science and Technology (or CONACYT) recommending an import quota on glyphosate and glyphosate-containing products. Our industry estimates that the announced quota represents a 20% reduction from the Mexican market's annual need for glyphosate. The announcement of this import quota comes 18 months after Mexico implemented a *de facto* import ban on glyphosate-containing products. Since November 2019, Mexico has rejected all applications for import permits for glyphosate-containing products. During that time, Mexico has not provided an

opportunity for public comment, submitted a notification to the WTO of these QRs, or provided scientific evidence for the rejections. How does Mexico justify these measures in light of its GATT obligations, including Article XI of GATT 1994? Does Mexico intend to notify this import quota to the WTO? Can Mexico explain how the quota level was determined? Did Mexico solicit and consider public input when making its determination? When does Mexico intend to provide additional information to traders on how this quota will be administered? What HS codes are affected? How will the quota be allocated? Furthermore, CONACYT's announcement indicates different quota volumes for formulated glyphosate and for technical glyphosate, which is then further processed within Mexico into formulated glyphosate. How does Mexico justify such differential treatment under GATT Article III?

20.4. The representative of Canada indicated the following:

20.5. Article XI of the GATT prohibits Members from imposing QRs. While paragraph 2 of Article XI of the GATT provides carve-outs for very specific circumstances under which Members may impose certain import or export restrictions, these do not appear to be relevant in the context of Mexico's measure limiting imports of glyphosate. Canada requests Mexico to provide a justification for the imposition of this measure.

20.6. The representative of Mexico indicated the following:

20.7. Mexico has taken note of the comments from the United States and Canada and will pass them to Capital. Unfortunately, the lack of further information prior to this meeting on the issues to be addressed and the specific questions raised today limits our ability to address them substantively. The Decree to which the United States has alluded was published in the Official Journal of the Federation on 31 December 2020, and the work of the agencies responsible for its implementation has not been completed and is still in progress. Mexico reiterates the commitment of the Federal Government and the agencies involved in the implementation of the Decree to ensure that the execution of this instrument will be carried out according to its terms and taking into consideration Mexico's international obligations and commitments. This is the only information that Capital was able to send given the absence of prior information regarding the concern raised by the United States. In addition, the aforementioned decree is a Presidential Decree, and not necessarily the decree about which the United States is requesting information. Finally, Mexico takes this opportunity to reiterate the importance of improving the functioning of our Committee, which could undoubtedly benefit from a greater exchange of information. That is, if the intention is to allow for substantive feedback from Members that genuinely wish to respond on the first occasion on which an issue is raised, all Members would benefit from including at least a few lines on each item on the annotated agenda, and not just mentioning which Member has requested the inclusion of that item. Mexico therefore encourages all Members to consider providing the WTO Secretariat and the Member to which the issue is addressed a brief explanation or references that would allow that Member to better identify the issue.

20.8. The Chairperson clarified that Members raising trade concerns during a committee meeting, especially new concerns, are generally encouraged to contact the relevant delegations and inform them on the main aspects of the concern in advance of that meeting.

20.9. The Committee took note of the statements made.

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

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

21.2. The representative of the Russian Federation indicated the following:

21.3. In 2013, Mongolia introduced legislative changes establishing a quota regime for the importation of certain agricultural products, including wheat flour, wheat, milk, drinking water, and beef. Since then, implementing secondary legislation has been evolving, resulting in different market access conditions for the above-mentioned products, from total ban to limited quantities allowed for import. In March 2021, Mongolia informed the Membership that the National Food Security Council

of Mongolia, at its 4 March meeting, had issued a recommendation not to set a precise cap on wheat flour and liquid milk import quantities and therefore not to enforce its import quota regime for these products in 2021. Past practice shows that, despite this decision, there can be difficulties during import customs clearance. The Russian Federation requests Mongolia to submit the Security Council recommendation in writing to Russia so that Russian exporters can present it at the border. Russia draws attention to the fact that flour and milk are still not excluded from the legislative list of agricultural products subject to import QRs, which means that the import quota or ban may be imposed in future. In this context, Russia calls upon Mongolia to specify the timeline of its legislative changes to completely eliminate its import quota regime for wheat flour and milk, since such a regime is inconsistent with WTO rules.

21.4. The representative of Mongolia indicated the following:

21.5. Mongolia thanks the Russian Federation for its statement and questions. Mongolia wishes to reiterate its statements made at the last meetings of the Committee on Agriculture, the TBT Committee, and the CTG. Mongolia continues working with its respective agencies internally. Measures are being taken step-by-step. Import quotas on wheat flour and liquid milk have been eliminated since the beginning of 2020. Due to the upsurge in COVID-19 infections in recent months, followed by strict lockdown measures, the pace of work has slowed. However, Mongolia continues taking the necessary measures. With regard to the specific concerns of the Russian Federation, Mongolia is preparing to submit its comments to the specific questions raised. In the meantime, Mongolia continues to import wheat flour from the Russian Federation. For example, by the end of 2020, approximately 500 tonnes of wheat flour had been imported from Russia.

21.6. The Committee took note of the statements made.

## **22 RUSSIAN FEDERATION – EXPORT PROHIBITION ON TIMBER PRODUCTS - STATEMENT BY THE EUROPEAN UNION**

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

22.2. The representative of the European Union indicated the following:

22.3. The European Union would like to reiterate its concerns over the Russian Federation's recurrent practice of applying export-restricting measures. The European Union would like in particular to express its concerns about the announced introduction of an export ban on timber, starting from 1 January 2022. It would seem that Russia also plans to reduce from four to one the number of railway border crossing points with the EU for the export of round wood. Moreover, the chosen crossing point has practically no infrastructure to handle wood trade, which would make exports of wood to the EU *de facto* impossible. The European Union regrets that Russia has adopted another measure that deviates from the prohibition of QRs set out in Article XI of the GATT. The EU looks forward to Russia's explanations as to how such an export ban and related measures may be compatible with WTO rules. Moreover, as part of its accession to the WTO, Russia committed to a schedule of concessions on goods, including tariff-rate quotas for the export of certain conifers. In this regard, the European Union and Russia signed an Agreement in the form of an Exchange of Letters on the administration of tariff-rate quotas applying to exports of wood from the Russian Federation to the European Union, and a Protocol on technical modalities pursuant to that agreement. The European Union would appreciate receiving detailed explanations in response to the questions that follow regarding this restriction, which the EU will also circulate in writing to Russia. Is Russia going to notify this new measure to the WTO? According to the latest available information, the reduction in the number of border crossing points shall only concern the export of conifers. Could Russia confirm this information? The export restriction seems to be incompatible with WTO commitments under Article XI:1 of the GATT; how could Russia justify the measure in this regard? Is the measure compatible with Russia's Schedule of Concessions and Commitments on Goods in the WTO, and, in particular, with the Annex to part V, which specifies Tariff-Rate Quotas for certain conifers? How is Russia planning to respect the obligations of the EU-Russia agreement for the administration of those Tariff-Rate Quotas for exports of wood to the EU? As mentioned, the EU will circulate these questions in writing and thanks Russia in advance for its responses to these questions.

22.4. The representative of the United States indicated the following:

22.5. The United States echoes the EU's concerns about Russia's proposal to ban exports of certain unprocessed coniferous round-wood. While the United States supports efforts to fight illegal logging, it is concerned that this measure may have trade-distorting effects. Moreover, based on the history of Russia's "temporary" measures with regard to raw hides and birch logs, the United States will closely monitor both the measure itself, if it is enacted, as well as any renewals. The United States encourages Russia to be mindful of its WTO obligations with respect to this proposal.

22.6. The representative of the Russian Federation indicated the following:

22.7. The Russian Federation has carefully studied the practice of WTO Members in this area. Russia notes that a number of WTO Members, including certain Members of the EU, apply different restrictions related to export of timber for different reasons. The final design of Russia's future measure is still under development. Taking into account the current practices of WTO Members, the Russian Federation believes that it will be able to ensure the compliance of its measure with the WTO rules.

22.8. The Committee took note of the statements made.

### **23 RUSSIAN FEDERATION – TRACK AND TRACE REGIME – STATEMENT BY THE UNITED STATES**

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

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

23.3. The United States would like to thank the government of Russia for its responses to its questions on the track and trace regime. The United States remains concerned about the potential scope of the measure, which may cover products for which there is not a counterfeiting or tax evasion concern. In addition, the United States is particularly concerned about the technical matter of obtaining the required enhanced qualified electronic digital signature. As the United States understands it, obtaining this digital signature is required to register on the Chestnyznak Track and Trace System. Furthermore, a company must be registered with the Chestnyznak System in order to obtain the required labels. In response to US written questions, Russia has confirmed that "foreign participants can obtain an Enhanced Electronic Digital Signature only through its representative in Russia which will operate in its territory in accordance with the legislation of the Russian Federation." The United States continues to review the requirement that foreign participants use local representatives and will monitor whether this requirement limits the ability of legal persons, and particularly individual entrepreneurs, to import or export goods to Russia.

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

23.5. The European Union shares the concerns of the United States with regard to the negative trade impact of this measure, which the EU has consistently raised at the TBT Committee. The EU indeed considers that the measure falls within the scope of the TBT Agreement and its notification requirements. The EU appreciates the necessity to fight counterfeit and illegal imports. However, individual tracking and tracing is a particularly demanding requirement. It may be justified for those goods of higher value where evidence of counterfeit or tax avoidance is clear. The measure may thus be justified for tobacco or furs, and the EU recalls that it also has a system of individual tracking for tobacco products and for medicinal products. However, the scope of the Russian measure also includes tyres, bed and kitchen linen, footwear, and other products. The EU considers that the measure is not proportionate for these and therefore constitutes a non-justified trade barrier as far as they are concerned. Moreover, Russia has announced plans to extend the scope to all goods placed on the Russian market by 2024. The EU thus calls upon Russia to revise the current scope of the measure. The European Union also calls upon Russia to reconsider the plans to extend the measure so that the labelling and tracking scheme be applied in a highly selective, targeted manner.

23.6. The representative of the Russian Federation indicated the following:

23.7. The Russian Federation emphasizes that the track and trace system is fully compliant with WTO rules and applies to both national and imported products. The measure is intended to protect against counterfeiting and smuggling as well as tax evasion. Russia notes that before the system enters into force the relevant sufficient transition periods in respect of each particular product are always provided. In addition, the Operator of the System, and responsible authority, conduct pilot projects in respect of each category of products subject to Track and Trace. As for application of the system in respect of inexpensive products, Russia stresses that textiles, tyres, cameras, among other goods, are subject to illegal trade, which has a negative impact both on consumers and faithful suppliers. Russia believes that this measure is proportional and notes that the Government of the Russian Federation is in constant contact with suppliers of the covered products.

23.8. The Committee took note of the statements made.

**24 KINGDOM OF SAUDI ARABIA, KINGDOM OF BAHRAIN, THE UNITED ARAB EMIRATES, THE STATE OF KUWAIT, OMAN, AND QATAR - SELECTIVE TAX ON CERTAIN IMPORTED PRODUCTS (G/MA/W/169) - STATEMENTS BY THE EUROPEAN UNION, JAPAN, SWITZERLAND, AND THE UNITED STATES**

24.1. 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. He drew Members' attention to document G/MA/W/169, which included questions from these Members to the Gulf Cooperation Council (GCC) countries.

24.2. The representative of Switzerland indicated the following:

24.3. Unfortunately, since the Committee's last meeting, Switzerland cannot report any progress concerning the selective tax. Switzerland recalls that, about two weeks in advance of the March 2021 CTG meeting, it submitted, together with the European Union, Japan, and the United States, written questions to the GCC member States (G/C/W/792), where Switzerland sought clarifications about the state of play of the planned reform regarding the selective tax. Although the representative of the Kingdom of Bahrain provided a partial oral explanation, Switzerland still expects to get detailed written answers to the questions raised before any decision on the tax reform is taken. In this regard, Bahrain said that a formal communication will be made to the WTO once the decision is taken at the GCC level. In Switzerland's view, this will not allow interested partners to provide comments and suggestions, if needed. In addition, Bahrain indicated that "the objective was to switch to a graduated tax base as soon as the GCC member States complete the review." As there are very different tax models available, Switzerland would be keen to receive more details on the future graduated tax structure. Referring to the Bahrain statement, Switzerland notes that fruit juices and dairy products will be subject to the selective tax. Switzerland would appreciate to know when this will be the case, and if before or at the same time as the reform implementation? In the absence of detailed answers from the GCC member States, it is hard to find accurate information and Switzerland has submitted some additional questions in document G/MA/W/169 with a view to better understanding the situation. As the release of the study on the tax reform has been postponed, partly due to COVID-19, Switzerland would be interested to know about the new timeline for the review in the GCC member States. Switzerland also requests to receive a copy of the study. In addition, Switzerland would like to know what are the opportunities foreseen by the GCC member States to hold discussions with the interested governments before any final decision is taken? To exchange only at the WTO or through our embassies does not allow us to make sufficient progress. In its questions, Switzerland also raised the issue of consistent implementation of the future tax model, as there are currently differences in the implementation of the ad valorem selective tax. Switzerland expects that the GCC member States will announce their respective timeline for domestic implementation in a coordinated manner. More importantly, Switzerland seeks to receive clarifications on the future treatment of the different beverages that will be subject to the tax in order to ensure that there will not be any more discrimination. For example, Switzerland is looking for information on the scope of the beverages covered, on how the different categories will be defined, and on the same treatment, including the same tax rate for beverages containing similar amounts of sugar. The definition of the different categories will play a central role and Switzerland needs to get clarifications enough in advance to be ready. The absence of an answer to our longstanding request for a harmonization of the tax rate at 50% for all sweetened beverages means that the current discrimination between energy drinks and other sweetened beverages will remain in place at least until the new tax model is implemented, which is a source of concern. Switzerland

looks forward to receiving written answers to its questions contained in document G/MA/W/169 and stands ready to hold a future meeting with the competent authorities.

24.4. The representative of the United States indicated the following:

24.5. The delegation of the United States, as well as those from the European Union, Japan, and Switzerland, circulated questions on 12 April regarding the GCC Selective Tax on Certain Imported Products. The United States looks forward to receiving written responses to those questions from each of the member State governments of the Cooperation Council for the Arab States of the Gulf (GCC) regarding their implementation of the selective tax on carbonated soft drinks, malt beverages, energy drinks, sports drinks, and other sweetened beverages. As noted in the questions, the European Union, Japan, Switzerland, and the United States have raised concerns with GCC Member States regarding the transparency and application of this tax since it was introduced in 2016, including in this Committee, as well as other WTO and bilateral fora. The United States understands that the GCC member State governments are currently conducting a study on a new excise tax model and its implementation plan under the GCC Unified Excise Tax Agreement. The United States looks forward to hearing from the GCC member State governments on the following: the timeline for that study; the point in that process at which private industry, trading partner governments, and other interested parties will have an opportunity to provide input on possible outcomes and suggested revisions in advance of any final decisions; and how any amendments to the Unified Excise Tax Agreement will address differences among the GCC member State governments in their implementation of the selective tax. The United States also looks forward to hearing from the GCC member State governments on the possible scope of coverage of a new excise tax model, including confirmation that the tax: will be applied to all beverages in which the total sugar content – from either naturally occurring or added sugars – exceeds a minimum threshold, including fruit juices and milk-based products; will be exempt from the selective tax for those beverages with no added sugar and low caloric beverages; and will harmonize and apply the same tax rate to all beverages subject to the tax. Furthermore, the United States considers that active engagement with private industry, trading partner governments, and other interested parties in advance of any final decisions on amendments to the Unified Excise Tax Agreement is critical to addressing the concerns that have been raised regarding the transparency and application of this tax.

24.6. The representative of Japan indicated the following:

24.7. In spite of the concerns that Japan has been expressing thus far, this issue of the selective tax on carbonated soft drinks taken by certain GCC members has not yet been resolved, and Japan remains concerned. Especially in the United Arab Emirates, a high tax rate is imposed on some Japanese carbonated soft drinks due to their classification as energy drinks based not only on the drinks' ingredients but also on the marketing and merchandizing methods used for them. Japan has no objection to the imposition of a tax for achieving health policy objectives. At the same time, Japan also believes that such imposition should consist of a volume-based tax in accordance with the ratio of ingredients that could cause health problems. Otherwise, the tax system will not function as an incentive to control the intake of these kinds of ingredients. Japan requests that such tax be administrated in a transparent and reasonable manner based on objective evidence. At this Committee last year, on behalf of the GCC, the United Arab Emirates explained that the selective tax was undergoing a review. However, no information on the review was provided in the relevant meetings, and the businesses concerned have not been given any information about it either. Japan therefore requests that the GCC provide those concerned with an update on the current status of the review. In addition, the details of the schedule should be shared as soon as possible after the selective tax system has been amended as a result of the review.

24.8. The representative of the European Union indicated the following:

24.9. The European Union maintains its serious concerns voiced in the Council for Trade in Goods, the Market Access Committee, and in bilateral contacts with the GCC countries, in relation to the GCC "Treaty on Excise Tax" of December 2016. The EU would like to reiterate the importance of harmonizing the implementation of the Excise Tax law and the need for a close engagement with private industry stakeholders on the process for revising the tax. The EU would also like to underline the call for providing immediate relief for industry until the ongoing GCC excise taxation revision takes effect, by exempting all zero sugar beverages from the tax and harmonizing the tax rate at 50% for energy drinks and all other categories of sugar-sweetened beverages subject to the tax. The EU would like to thank the GCC countries for the reply received to the written questions from



the United States, Switzerland, and the European Union following previous discussions. The European Union looks forward to receiving further clarifications from GCC countries in response to the additional written questions from the United States, Switzerland, and the European Union, preferably in writing, as well as the results of the study concerning the revision of the Excise Tax as soon as it is available.

24.10. The representative of the Kingdom of Bahrain indicated the following:

24.11. On behalf of the Kingdom of Bahrain, the State of Kuwait, the Oman, the State of Qatar, the Kingdom of Saudi Arabia, and the United Arab Emirates, the Kingdom of Bahrain would like to thank the delegations of the European Union, Japan, Switzerland, and the United States for their interest in the application of the excise tax on beverages in the GCC member States and for the questions reflected in document G/MA/W/169. In this regard, the Kingdom of Bahrain would like to refer to its statement delivered before the Council for Trade in Goods during its meeting of 31 March 2021, in which it addressed the questions raised by its partners and gave all the clarifications available at this moment on the issue of the excise tax in the GCC member States. As for the timeline and the other questions posed, the Kingdom of Bahrain recalls its last statement to the Council for Trade in Goods in which it stated that the change in the current tax regime is a standing process of the "GCC Tax Working Group" to regularly review different aspects and issues with respect to taxation, including excise tax on beverages. On the issue of consultations, the Kingdom of Bahrain wishes to stress that the GCC member States remain committed to working closely with industry leaders; to that end, they welcome their comments and suggestions on regulatory and legislative issues that affect the industry and take them into consideration as they develop and improve legislative frameworks. The Kingdom of Bahrain continues to remain open for bilateral discussions on this matter.

24.12. The Committee took note of the statements made.

## **25 SRI LANKA – IMPORT BAN ON VARIOUS PRODUCTS – STATEMENTS BY AUSTRALIA AND THE EUROPEAN UNION**

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

25.2. The representative of Australia indicated the following:

25.3. Australia welcomes the update provided by Sri Lanka on the series of import restrictions ahead of, and at, the Council for Trade in Goods in March, as well as its recent bilateral engagement. Australia remains interested in engaging further with Sri Lanka on this matter, including in Geneva. Despite the March update, Australia continues to share the concerns of the European Union with respect to these measures implemented by Sri Lanka. These measures appear to be overly trade-restrictive, do not appear to have a clear end-date, and have not been notified to the WTO. Australia appreciates the difficult circumstances that Sri Lanka is under as a result of the impact of COVID-19 on its economy and trade. Nevertheless, a well-functioning, transparent, predictable, and stable global trading system is and will remain fundamental to global economic stability during the pandemic and the economic recovery post-pandemic. This is true for Sri Lanka and all other WTO Members. Australia reiterates its request for Sri Lanka to notify the WTO of these measures as soon as possible and to provide an explanation of their WTO basis. Australia also requests Sri Lanka to update Members on when these measures will be lifted. The lack of certainty has been trade disruptive and has impacted upon the ability of Australian exporters to provide staple food stuffs to Sri Lankan consumers. Finally, Australia requests that Sri Lanka reassure Members that the measures will only be implemented to address the immediate impact of the COVID-19 pandemic, that they will not be maintained longer than necessary, and that Sri Lanka will ensure that they are being implemented in a manner consistent with its WTO obligations.

25.4. The representative of the European Union indicated the following:

25.5. The European Union also continues to have serious concerns over the broad import restrictions imposed by Sri Lanka, in various forms, since April last year. In terms of trade, over 2020, EU exports to Sri Lanka decreased by 27%, which is way beyond the average decline in exports of 9% that we have noted in total EU exports. These figures show that these measures are causing

real damage to our commercial and economic interests. The EU does not dispute that Members can take import restrictions in the case of a critical balance-of-payments situation. However, when doing so, a WTO Member must comply with its main WTO obligations under the GATT, specifically the "Understanding on the Balance-of-Payments Provisions of the GATT 1994", and also the GATS, and in particular the following: the obligation to notify the import restriction to the General Council and to enter into consultations with other WTO Members; the need for the measures to be temporary in nature, given that the measures in this case have no expiration date and apply "until further notice"; the obligation to present timetables for progressive relaxation and phasing out until final elimination of the measures; and the need to administer the import restrictions in a transparent manner. The EU notes that, since the initial measure of April 2020, Sri Lanka has repeatedly modified the regulations and has gradually moved products from the banned category into the category where imports are subject to a 90 or 180-day credit facility. However, despite this relaxation, the measures remain heavy, complex, and non-transparent. Also, on a select number of tariff lines, such as cars and tyres, or the import of some textiles, a full import ban remains in place. This seems clearly targeted to protect a particular domestic industry. According to the EU's information, imports on 510 product lines remain banned, while 1,300 product lines can enter, but only under credit provisions. The EU acknowledges that Sri Lanka has recently taken some positive steps to ensure more transparency. The EU welcomes Sri Lanka's announcement at the last meeting of the Council for Trade in Goods that its Geneva Mission had contacted the WTO Secretariat in order to notify the measures. The EU would also welcome an update by Sri Lanka in this regard. The EU stands ready to continue working together with Sri Lanka, in a constructive manner, to get a clearer picture of the measures currently in force, with the objective of further liberalizing and eventually removing the measures.

25.6. The representative of the United States indicated the following:

25.7. The United States shares the concerns of the European Union and Australia. The United States continues to monitor the issue and is interested to hear Sri Lanka's response to the issues raised.

25.8. The representative of Japan indicated the following:

25.9. Japan shares the concern expressed by Australia and the European Union regarding the possibility of an inconsistency in Sri Lanka's measures with Article XI:1 of the GATT. Japan understands that Sri Lanka advocates the need for this measure because of difficulties with its balance of payments (BOP). At the same time, such import restriction due to BOP should not be introduced unless it is carried out with utmost caution and due consideration for the substantive and procedural requirements set out in the WTO Agreement. Japan requests Sri Lanka to explain how this measure meets these requirements and why Sri Lanka considered the measure to be justified. Also, considering Sri Lanka's explanation that this measure is to be applied temporarily, Japan calls upon Sri Lanka to proceed to its early withdrawal.

25.10. The representative of Sri Lanka indicated the following:

25.11. Sri Lanka appreciates the interest shown by the delegations of Australia, the European Union, the United States, and Japan, on Sri Lanka's trade policies in general, and for directing their specific concerns on the current trade measures taken by Sri Lanka to curb the COVID-19 pandemic in the island in particular. Many delegations have urged Sri Lanka to share the rationale behind these measures. Again, Sri Lanka wishes to reiterate its statements made at the previous CTG and Market Access Committee sessions when this matter was raised, and the texts of its delegation's interventions will again be shared with interested delegations that had not previously received them. From the statements which interested delegations made in this Committee and the meetings of the CTG, it is evident that the major concerns raised by these delegations evolve around Sri Lanka's transparency obligations and the duration of the temporary measures. Having considered their concerns in a pragmatic manner, Sri Lanka has already taken the initial steps towards ensuring Sri Lanka's transparency obligations. In this regard, Sri Lanka is pleased to inform the Committee that its delegation has already contacted the WTO Secretariat and shared an overview of the measures currently in force for the purposes of seeking its guidance and for further information on notification formats and technical assistance to enable Sri Lanka to notify the existing measures to the appropriate council or committee in the very near future by way of fulfilling its transparency obligations. In response to this, the WTO Secretariat has shared with us an initial draft, which has already been shared with our Capital-based officials for their concurrence. Sri Lanka's Capital-based officials are carefully reviewing the initial notification and a final decision on it, with their

amendments, is expected soon. However, due to the third wave of the COVID-19 pandemic that Sri Lanka is also experiencing, access to stakeholder quarters by officials, and their attendance on daily basis, have been severely restricted. In view of this, Sri Lanka is not certain whether its Geneva Mission will be able to receive them soon, although best efforts are being made to secure the final draft notification as expeditiously as possible so that an initial draft may be shared with interested delegations. For the benefit of delegations, Sri Lanka's notification will be submitted to the Council for Trade in Goods.

25.12. With respect to the second matter, on the duration of the temporary measures, which were targeted for an intended purpose, and their progressive liberalization at regular intervals, Sri Lanka wishes to share the following development that has taken place since August 2020. The EU delegation alluded earlier to some of these developments in its statements. First, the requirement to obtain import licences was removed in relation 451 products, and for those products no prior approval is required as the temporary suspension is no longer applied. Second, close to around 1,300 items were made available to be imported on a credit basis, which includes certain motor vehicles, ceramic articles, garments, and rubber items. In addition to the payment terms under this credit basis, Sri Lanka here makes reference to the specific regulation that governs the payments for imports, whereby instructions are given to the commercial banks as to how the foreign exchange can be released. These measures have already been notified to the WTO by Sri Lanka in 2014, and under this particular regulation there are an array of payment terms, including a letter of credit, documents against acceptance, documents against payment, open account payments, advance payments, on a consignment basis, and combinations thereof. On certain items, importation can take place either on a 90 day or a 180-day credit basis. In addition, because the measures have been regularly liberalized, the Government has now permitted two other types of payment methods, namely advance payments and open account payments, enabling importers to benefit from those additional payment terms as well. Finally, the import of telecommunication items has been allowed subject to price-based measures, such as customs duty. While noting the concerns of many delegations that the importation of motor vehicles has been hampered by these measures, Sri Lanka allows certain types of motor vehicles to fall under HS8705, relaxing their importation as part of its COVID-19 economic revival plan. In addition, special attention is being paid to the importation of eco-friendly vehicles, as the flood of motor vehicles over the past decade has been identified as one of the main causes for Sri Lanka's poor air quality. The Government will lift existing restrictions as and when the country's foreign exchange situation improves. This is why Sri Lanka is liberalizing these measures at regular intervals. Sri Lanka stands ready to engage constructively with interested delegations with a view to presenting a clear picture of the measures currently in force. However, the virtual format is the only means for Sri Lanka to hold such further consultations. The intention of this interaction is to inform interested delegations of the remaining measures, as most of the measures have either been removed or eased by Sri Lanka over the past few months given Sri Lanka's belief in the gradual liberalization of its measures.

25.13. The Committee took note of the statements made.

## **26 SRI LANKA - IMPORT BAN ON PALM OIL - STATEMENT BY INDONESIA**

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

26.2. The representative of Indonesia indicated the following:

26.3. In the coming months, during the ongoing COVID-19 pandemic, all economic activities around the globe are likely to remain low-key. As such, the devastating impact of the pandemic on the economic activities and livelihoods of millions of people across the world will continue to prevail, including in Indonesia. Sri Lanka's policy of prohibiting the importation of palm oil further harms the welfare of palm oil farmers, including small and medium-scale producers in Indonesia, who are relying heavily on trade activities in order to sustain their lives. Indonesia regrets the unilateral steps taken by Sri Lanka in imposing a temporary suspension on imports of palm oil products, without prior notification and consultation with the relevant stakeholders, and especially during the present difficult times. Sri Lanka should also note that this import ban is inconsistent with WTO rules, in particular Article XI:1 of the GATT regarding the obligation to eliminate QRs. Therefore, Indonesia requests Sri Lanka to conduct a reassessment or review of this import suspension in the near future, by accommodating and responding to the objections on the said policy, as advocated by several stakeholders. On this occasion, Indonesia seeks information and clarification from Sri Lanka in relation to the following points: (i) the rationale behind the imposition of the temporary suspension

of palm oil imports; (ii) how the import prohibitions are administered; and (iii) the expected implementation period for such prohibitions. In conclusion, Indonesia looks forward to Sri Lanka abiding by its commitments under the WTO rules and addressing this issue accordingly.

26.4. The representative of Malaysia indicated the following:

26.5. Malaysia would like to raise its concerns regarding the palm oil import ban imposed by Sri Lanka. Malaysia also seeks clarification from Sri Lanka on the notification and the timeline for the measures imposed. Malaysia is of the view that Sri Lanka should have informed WTO Members in advance before imposing import restrictions on palm oil, in line with the WTO's principles of international trade openness and transparency. On 5 April 2021, the Controller General, Imports and Exports Control Department, Sri Lanka, issued Operating Instruction 08/2021 for a Temporary Suspension of Imports of Palm Oil. The Operating Instruction instructed all commercial banks not to affect advance payments or establish Letters of Credit effective from 5 April 2021. It also stated that the Sri Lanka Customs shall not clear items under HS Codes 1511.10.00 to 1511.90.90, shipped on or after 5 April 2021 until further notice. On 6 April 2021, the Import and Exports (Control) Regulation No. 04 of 2021 was issued by the Ministry of Finance, which banned the imports of items under HS 1511.10.00, 1511.90.00, 1511.90.20, and 1511.90.90 while imposing licensing requirements for importing other palm oil products under HS 1511.90.00, 1511.90.10, 1511.90.30, and 1511.90.90. Based on Article XI of the GATT, the General Elimination of Quantitative Restrictions, a WTO Member should not impose a ban or restriction other than duties or other charges on any product imported or exported from or to other countries. Article XI:1 of the GATT states the following: "No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party." Although the Article does allow prohibition or temporary restriction, it must be based on preventing critical shortages of foodstuffs, applying standards or regulations, and others allowable under this provision. Malaysia is also concerned about the notification process. Based on Article X of the GATT, any new measures affecting trade shall be published promptly and in such a manner as to enable governments and traders to become acquainted with them. Article 1 of the Trade Facilitation Agreement (TFA) also states that a Member shall promptly publish such information in a non-discriminatory and easily accessible manner. Therefore, Malaysia wishes to raise its concern over such trade measures, which must be based on reasons provided under the said provisions to ensure that they are aligned with the WTO's principles of international trade openness and transparency.

26.6. The representative of Colombia indicated the following:

26.7. Colombia expresses its interest in this issue and its concern regarding Sri Lanka's measures to restrict palm oil imports. Colombia is a producer and exporter of palm oil, palm oil products, and palm oil biofuels. Global market dynamics in these products directly affect Colombia's exporters. Colombia is especially concerned by the so-called "Operating Instructions" issued by the Sri Lankan government, whereby imports of palm oil and derived products have been suspended or restricted. Colombia observes that Sri Lanka has not submitted any notifications to the WTO on these measures, which limit Members' knowledge of them. In this regard, Colombia seeks clarification regarding the reason for the import suspension, its policy objectives, the period of its application, the justification for these measures, and the authorities responsible for their administration.

26.8. The representative of Sri Lanka indicated the following:

26.9. First, Sri Lanka wishes to thank the delegations of Indonesia, Malaysia, and Colombia. At the same time, Sri Lanka notes that Colombia is not exporting these products to Sri Lanka; nevertheless, Sri Lanka understands that Colombia may have a systemic concern on this issue. These products, as Malaysia and Indonesia indicated, fall, broadly speaking, into two categories under the HS at 6-digit level, namely for palm oil and refined palm oil. Delegations that have intervened have misunderstood the measures; they refer to a particular notification, but if they look carefully at that, they will understand that the kind of measures that we have imposed differ from one to another. When it comes to Sri Lanka's imports, particularly from Indonesia and Malaysia, and the rest of the world, except Colombia, they have significantly increased over the period 2019-2020. Therefore, it is not true to say that Sri Lanka has reduced its imports; rather, during 2019-2020, imports have increased by 83%, and Sri Lanka, despite having its own domestic production of palm oil and other

substitutes, has nevertheless been importing these items during this time. There is no evidence to cite that imports have been hampered, because these measures were only introduced in April; therefore, it is not true to say that small farmers are being affected. Coming to the two countries that have a significant interest in this issue, that is, Malaysia and Indonesia, compared to the two product categories, that is, crude palm oil and refined oil, Sri Lanka is importing significantly less quantities of crude palm oil from these two countries, and the majority of Sri Lanka's imports are actually of refined oil; this must also be flagged because, as just mentioned, the measures differ between crude palm oil and refined oil. Coming to the other measures, and the reasons for their introduction, Sri Lanka wishes to draw Members' attention to two notifications that Sri Lanka has made to the TBT and SPS Committees. With reference to document G/TBT/N/LKA/36, of 28 May 2018, Sri Lanka notes that these items have been made subject to special import licences because, under the requirements of the TBT Agreement, these products can contain certain mycotoxins. The reference here is to an SPS measure, so Sri Lanka is not adopting arbitrary standards, but rather the Codex standards that relate to aflatoxin (a carcinogenic material). Sri Lanka has adopted this particular standard and converted it into a national standard, as notified to the WTO in full transparency. When Members read carefully the list of products covered under that particular notification, they will see that it includes palm oil, but the notification and the relevant regulation that is attached to that notification must be read carefully. So here Sri Lanka's obligations have been met. The item is subject to licence and the importer must obtain a certificate; a sample will then be taken by the Sri Lanka Standard institution, and if the quality meets the standard then importation is permitted. With regard to the Import Licensing Agreement, Sri Lanka notes that these are not automatic licences; rather, they fall under the category of a non-automatic licence regime, and this regime has already been notified to the WTO. Turning to the SPS notification, Sri Lanka submitted a notification in 2009 (document G/SPS/N/LKA/18) where it again included this item as there are certain SPS requirements to be met according to the CODEX requirement on aflatoxin levels. Sri Lanka also shared another draft regulation via an SPS notification to Members on 12 September 2019, seeking any observations from interested parties in this regard. Sri Lanka then submitted a further and supplementary notification by way of a reminder to Members. By way of response, Sri Lanka only received comments from India; in contrast, Sri Lanka did not receive any responses from any of its principal suppliers. Therefore, Sri Lanka is not at fault in a context where its principal suppliers did not provide any comments; indeed, they failed to do so, and the notification will now soon be introduced. In short, Sri Lanka has followed due process by submitting the notification to the WTO and seeking comments on it from other Members. In addition, Members should recall that this item has never really been freely importable; it was subject to import licensing requirements and trade has been carried out under those requirements. Turning to the measure that Sri Lanka recently introduced, Sri Lanka notes that crude palm oil is not actually intended for human consumption because it contains heavy metals and all types of mycotoxins. The only product in this context intended for human consumption is refined oil, which is subject to maximum residual levels of aflatoxin, as expressed in particles per billion, and if there are more than five particles per billion the product is rejected and cannot be imported because it is a health concern. Sri Lanka has been quite relaxed about this requirement with the result that the market became flooded with various types of oil coming from different countries. Sri Lanka noted that this oil was adulterated or contaminated and also that importers were engaging in such unethical practices as claiming that crude oil was in fact refined oil. For this reason, Sri Lanka had to adopt severe measures to stop this practice and restore consumer confidence. This is why crude oil was placed under highly restrictive measures and refined palm oil was made subject to licensing requirements. Sri Lanka is pleased that Malaysia indicated that the operating instructions run up to 2021, and that there has been a further operating instruction, of 9/2021, issued on 12 April 2021, which clearly spells out that crude oil is under a list of banned products because Sri Lanka does not know how to address the situation of crude oil, which is carcinogenic and not intended for human consumption, and which, in addition, is contaminated, and refined oil, which is placed under non-automatic licensing requirements. In other words, any importer, any interested party, can go to the import controller/export controller and obtain an import licence to import into Sri Lanka. Indeed, this has been the practice and there is no significant difference between the measure as it was applied either before or after this date. Therefore, Sri Lanka wishes to reassure those principal suppliers that they may continue to export refined palm oils that are categorized under the HS codes in question by obtaining the relevant import licences. However, on crude oil, the Sri Lankan authorities must check every consignment to avoid adulteration; for this reason, importation is permitted only after each and every consignment has been inspected. As a small country, and because of the COVID-19 situation, the engagement of Sri Lanka's officials at this time is limited, meaning that it is not possible at this time to check each and every consignment that is coming into the country; for this reason, Sri Lanka considered it best to address the issue of adulterated crude oil coming into its market is by imposing a very severe

form of restrictions, thus the measures Sri Lanka has adopted under Article XX of the GATT. Some Members consider that Sri Lanka's measures fall under Article XI of the GATT, the Agreement on Agriculture; in this regard, Sri Lanka draws their attention to the Agreement on Agriculture, which comes above all of these other provisions in terms of the legal hierarchy of the GATT and WTO Agreements. For example, footnote 1 says that you cannot have any QRs except under any provision under the GATT 1994. Therefore, this measure has been imposed in response to Article XX of the GATT and it has been duly notified to the WTO. For this reason, one cannot say that Sri Lanka is in violation of its WTO commitments. Sri Lanka wishes to assure other Members that it will be engaging constructively with delegations on these measures. Sri Lanka wishes especially to thank the delegation of Malaysia, which has approached Sri Lanka bilaterally; this led to a very constructive meeting immediately prior to this Committee meeting, where many aspects of these measures could be clarified. In any case, Sri Lanka's intervention here will be shared with interested parties.

26.10. The Committee took note of the statements made.

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

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

27.2. The representative of the Russian Federation indicated the following:

27.3. The Russian Federation continues to have significant concerns regarding the United Kingdom's approach to its TRQ renegotiations. The Russian Federation stresses the impossibility of concluding negotiations without an agreement on compensation from the United Kingdom. The Russian Federation urges the United Kingdom to provide its compensatory proposal.

27.4. The representative of Australia indicated the following:

27.5. Australia has consistently raised its concerns with the EU and UK's approach to splitting the previous EU-28 TRQs as a result of Brexit since it was first proposed in 2017. It is clear that the proposed modifications to TRQs will diminish the commercial value of Australia's existing market access, not only by removing flexibility in where product is sent year-to-year, but also by rendering some TRQ allocations too small to be commercially viable. That said, Australia appreciates the constructive and pragmatic engagement from the UK on these issues before the end of the transition period in late 2020. Australia has reached in-principle agreement with the UK on revised TRQ splits and is working with the UK to finalize the overall agreement. Australia is seeking to ensure the implementation of the agreed arrangements in a timely manner. This will provide certainty to Australian exporters within the new post-Brexit trading environment.

27.6. The representative of New Zealand indicated the following:

27.7. New Zealand's intervention will cover agenda items 27 and 28 on the UK renegotiations. As noted at the recent meeting of the Goods Council, New Zealand was pleased to see that "Article GOODS 18: Use of Existing WTO Tariff Rate Quotas" of the EU-UK Trade and Cooperation Agreement makes clear that each Party is precluded from using the other's WTO MFN tariff rate quotas. This also needs to be reflected in the respective Member's WTO Goods Schedules in due course, so New Zealand would appreciate receiving an update from the UK and the EU on when the necessary notification of modification to this effect is going to be submitted. On the treatment of tariff rate quotas, New Zealand first raised its concerns over the UK's proposed reductions in its tariff rate quota commitments nearly four years ago. It is very disappointing that, despite the active efforts it has made over this period to engage with the UK on practical ways to resolve this matter, New Zealand still needs to register the very real concerns it continues to have about the outstanding aspects of this issue that are yet to be addressed. The UK's proposed changes are substantial. They include doing away completely with access to the UK market (that is, zero quotas) for 55 of the 142 existing WTO quotas and offering such small volumes for a number of other quotas as to render them commercially unmeaningful. Unfortunately, New Zealand's ongoing efforts to seek practical solutions notwithstanding, there has been little discernible progress in resolving these matters with the UK to date. Rather, New Zealand continues to experience direct, negative, commercial impacts, with exporters being denied access to even the reduced quotas the UK put in place unilaterally at

the start of this year for exports into Northern Ireland. This is a clear and present example of the kind of disadvantage the UK's actions to modify its WTO quota commitments in this way have caused for other WTO Members. New Zealand, for its part, remains committed to continuing to work with the UK to arrive at practical solutions to address these important concerns, and New Zealand urges the UK to redouble its efforts to engage constructively with concerned WTO Members to this end.

27.8. As it has previously indicated, New Zealand also continues to have concerns about some aspects of the UK's draft WTO goods schedule. The UK's Aggregate Measurement of Support (AMS) claim is quite extraordinary. At EUR 5.914 billion, the UK's 2017 claim amounts to some 20% of the total value of UK agricultural production. If fully utilized, this would see the UK become one of the world's largest agricultural subsidizers and put the UK on a course that is at odds with one of the fundamental objectives WTO Members have set themselves of working to reduce trade-distorting agricultural support. The UK is also seeking the right to apply the agricultural special safeguard on up to 680 products, covering 31% of agricultural goods, including goods not produced in the UK; as well as to apply 'minimum entry price' and "Measuring Table" market management systems that do not form part of the UK's new global tariff regime. Given the broader systemic concerns several of these issues raise, they cannot be resolved through bilateral engagement alone, but will need to be addressed instead as part of a multilateral process. New Zealand strongly encourages the UK to engage in discussions in Geneva with other WTO Members to resolve these issues.

27.9. The representative of Uruguay indicated the following:

27.10. Uruguay wishes to thank the United Kingdom for having launched this process under Article XXVIII of the GATT. Uruguay stresses the importance of concluding this process as a result of substantive negotiations between interested Members and the UK so that the UK can have an independent schedule of concessions established within the WTO, and that, at the same time, the rights of other WTO Members are preserved. Uruguay hopes to continue its discussion with the UK with a view to ensuring market access commitments adapted to the reality of its bilateral trade with the UK rather than detracting from current market access opportunities.

27.11. The representative of Canada indicated the following:

27.12. Canada's intervention also applies to item 28. Canada's negotiations with the United Kingdom on its draft WTO goods schedule and proposed TRQ commitments are still ongoing. Canada looks forward to continuing a positive discussion with the United Kingdom.

27.13. The representative of China indicated the following:

27.14. China's consistent concern over this issue remains unchanged. It is our view that the UK's approach simply to split the EU existing TRQs will diminish the commercial value of China's existing market access and does not reflect the reality of its bilateral trade with the United Kingdom. China urges the United Kingdom to give full consideration to Members' requests and to redouble its efforts to conclude these negotiations at an early date. China stands ready to continue its engagement with the United Kingdom on this issue.

27.15. The representative of Brazil indicated the following:

27.16. Brazil recalls that it has been demonstrating, over the past few years, dissatisfaction with the fact that little has been done to prevent "Brexit" from negatively affecting UK and EU obligations vis-à-vis other WTO Members. Brazil's concerns comprise both specific and systemic issues. Among systemic issues relating to the United Kingdom, such as relaxations in border controls for agricultural goods from the EU, the self-allocation of an FBTAMS, followed by the conversion of it using an arbitrary exchange rate despite there not being any legal basis for this in the GATT or in the Agreement on Agriculture, is one of Brazil's major concerns. When invoking its right to an FBTAMS based on being an original WTO Member as part of the EC-15, the UK should also be linked to the full range of obligations that was negotiated for agricultural goods during the Uruguay Round. At that moment, a delicate balance was reached in terms both of domestic support, through reductions commitments, and market access, which involved consolidation and reduction of customs rights; the elimination of QRs; and the creation of agricultural TRQs. Brazil's attention has been especially drawn to the fact that, in the current consolidation of its "schedule", under the argument that it is only replicating obligations contracted when it was part of the European Union, the United Kingdom has

chosen to use different base periods to define the exchange rate used in the conversion of its schedule and the basis for establishing the apportionment of the TRQs, which, in both cases, seem conducive to less liberalization in terms of domestic support and market access than before. Brazil's concerns regarding the FBTAMS intensify as, even after the end of the transition period, it seems that there is some resistance from the EU in adjusting its own FBTAMS accordingly.

27.17. The representative of Paraguay indicated the following:

27.18. Paraguay will address items 27 and 28 together and wishes simply to reiterate its concerns expressed on previous occasions and to emphasize that AMS rights have been included without equivalent reductions in EU rights. Paraguay requests that its past interventions be reflected in the meeting's minutes, as follows: Paraguay's reiterates its concern with regard to the market access conditions which could be negatively affected by these processes. The uncertainty surrounding Brexit is a matter of concern to the EU and UK trading partners, which continue 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 calls on both parties to ensure that they have fulfilled the commitments they had undertaken and that market access opportunities would remain unaltered after this process. In addition, Paraguay notes that her delegation shares the concerns that have been mentioned by other delegations regarding the exchange rate, the AMS, and special safeguards. Paraguay has discussed the issues at length bilaterally with the UK. Paraguay hopes for a satisfactory outcome in answering these concerns, and notes that we have not seen a proposal by the European Union to reduce its AMS entitlement in the same proportion as that the United Kingdom has proposed to establish in its new Schedule.<sup>14</sup>

27.19. The representative of the United Kingdom indicated the following:

27.20. The United Kingdom thanks Members for their statements on the UK's Article XXVIII negotiations on its bound tariff rate quota commitments. The United Kingdom would like to refer Members to document WT/GC/226, circulated to Members at the beginning of the year, in which the United Kingdom confirmed that, with effect from 11pm GMT on 31 December 2020, the UK fully respects the concessions and commitments laid out in its independent Goods Schedule. As the UK has expressed on numerous occasions before, its objective has always been, and remains, to maintain the existing balance of rights and obligations between the UK and its trading partners upon its withdrawal from the European Union. The United Kingdom has set out its Goods Schedule (document G/MA/TAR/RS/570, together with subsequent addenda), on that basis. The United Kingdom has engaged extensively with Members on that Schedule since its circulation in 2018, and remains open to further discussions to resolve outstanding concerns. As part of the process of certifying its schedule, the United Kingdom is currently undertaking negotiations and consultations under the Article XXVIII process to seek agreement with relevant WTO Members on the extraction of the United Kingdom's TRQ commitments from those of the EU-28. The United Kingdom has undertaken several negotiation rounds and would like to thank the relevant Members for their continued engagement in this matter, and the UK is pleased that it is close to completing negotiations with multiple trading partners. This engagement has continued through the COVID-19 pandemic, through virtual negotiation rounds, and the United Kingdom thanks all those Members involved in this process for their flexibility and understanding during these challenging times. The United Kingdom is committed to continuing its engagement with Members in its Article XXVIII negotiations to resolve matters as soon as possible. Negotiations within the process under Article XXVIII have been positive and productive, and the United Kingdom would like to remind Members that, as set out in document G/L/1386 and referenced at the March Council for Trade in Goods, the United Kingdom has extended the timelines envisaged under Article XXVIII:3 of the GATT by six months, until 1 January 2022. The United Kingdom believes that this extension will enable it to continue constructive engagement with Members towards the resolution of their outstanding concerns.

27.21. Regarding the United Kingdom's AMS entitlement, the United Kingdom set out its intention to apportion the pre-existing EU-28 level of commitment on domestic support between the UK and EU in October 2017, using an objective methodology based on previous cases at the WTO. This is not a new AMS entitlement and the UK is continuing dialogue with Members to address their relevant questions and concerns. On special safeguards, the United Kingdom would note to Members that the UK's Schedule replicates the concessions and commitments applicable to the UK as expressed in the EU-28 Schedule. On the statements relating to Northern Ireland, the United Kingdom has made

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<sup>14</sup> G/MA/M/73, paragraphs 14.7 and 16.5.



numerous efforts to support traders following the end of the transition with respect to moving goods into Northern Ireland. The UK Trader Scheme was established to enable authorized businesses to undertake that the goods they are bringing into Northern Ireland are "not at risk" of onward movement to the EU and therefore not liable to EU tariffs. Additionally, the UK government's GBP 200 million Trader Support Service provides education and guidance for all traders moving goods into Northern Ireland. The United Kingdom has been clear that it wants to address the specific TRQ issue raised today by working constructively with traders and international partners, including particularly with the European Union as part of ongoing dialogues on the implementation of the UK-EU Withdrawal Agreement. The United Kingdom will continue to engage bilaterally with WTO Members on this.

27.22. The Committee took note of the statements made.

## **28 UNITED KINGDOM - RECTIFICATIONS AND MODIFICATION OF SCHEDULE XIX - UNITED KINGDOM - STATEMENT BY THE RUSSIAN FEDERATION**

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

28.2. The representative of the Russian Federation indicated the following:

28.3. The Russian Federation would like to reiterate its concern in respect of the UK's approach to establishing its schedule of tariff concessions. In spite of its bilateral consultations with the UK, the Russian Federation is still worried about the methodology of apportionment of aggregate measurement of support and the proposed currency conversion. The Russian Federation notes that Article XXVIII of the GATT, as well as the Agreement on Agriculture, do not provide the possibility to amend Members' AMS commitments. As for the currency conversions, the Russian Federation is troubled by their potential impact on the general level of concessions, which may result in substantive changes to the UK's current WTO concessions. Following the discussion that took place at the most recent meeting of the ITA Committee, and a recent bilateral meeting, the Russian Federation considers that the United Kingdom should provide a detailed list of its tariff commitments under the Information Technology Agreement in due course to be included in its schedule of tariff commitments. The Russian Federation looks forward to further consultations with the United Kingdom to resolve these issues.

28.4. The representative of the United States indicated the following:

28.5. The United States has made significant progress in its Article XXVIII negotiations on TRQs with the United Kingdom. The United States looks forward to finalizing an agreement. The United States has also had productive conversations with the UK regarding its draft Schedule XIX. The United States remains concerned about the UK's copy and paste approach to the Special Agricultural Safeguard (SSG) in its post-Brexit goods schedule. The United States would like to hear the rationale for keeping the SSG for products that are not sensitive, and in some cases not even produced, in the UK. The United States will continue to engage with the United Kingdom to ensure its trading interests are not adversely affected.

28.6. The representative of Uruguay indicated the following:

28.7. Uruguay wishes to reiterate its position on the following points. The UK's request to have a total consolidated AMS needs to be analysed and discussed by the Membership. It would not seem appropriate for the UK to just replicate the right to invoke the SSG under Article 5 of the Agreement on Agriculture for all of its products and under the same criteria and conditions established in the EU schedule. In addition, the proposal to introduce a currency conversion in the draft schedule on the basis of an average of daily exchange rates for the period 2015-2019 also gives rise to certain concerns, for the following reasons: first, this is due to the impact that it might have on generating particularly high bound tariffs and authorized levels of AMS, and at levels higher, especially, than would result if other comparative periods were used, for example, the period 1986-1988, which was the period used as a basis for the Uruguay Round negotiations; and second, because of the link to the ongoing process under Article XXVIII of the GATT. In this respect, Uruguay hopes to continue a constructive dialogue with the UK on this issue.

28.8. The representative of Australia indicated the following:

28.9. Australia has consistently raised its concerns with the EU and UK's approach to splitting the previous EU-28 TRQs as a result of Brexit. Beyond the TRQ splits, Australia continues to be concerned that the issues it has raised with the UK's initial rectification remain unaddressed. Australia considers that the UK's draft goods schedule, circulated on 24 July 2018, contains substantive changes to the UK's current WTO concessions, including the UK's FBTAMS entitlement, and Special Safeguard (SSG) entitlements. Australia does not believe that the UK should have automatic rights to an AMS entitlement without some scrutiny from the Membership and potential changes. Australia is concerned with the UK's inclusion of AMS entitlement of GBP 4.95 billion, and it is worth noting that the EU still has not formally proposed any corresponding reductions to its AMS entitlement. The UK needs to find a multilateral solution to this issue and demonstrate to other Members that its expected future domestic support programmes will not unduly distort global agricultural trade. Australia calls upon the United Kingdom to reassure Members that the UK is a strong advocate for domestic support reform, and to help show that it will be part of the solution, even if it has such a large initial AMS entitlement. Australia also does not think that the UK should be able simply to "copy and paste" SSG rights from the EU's WTO goods schedule, which have 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 does not produce. Australia requests the UK to engage in a plurilateral meeting with interested Members in the coming weeks to seek to resolve Members' concerns relating to the UK's proposed AMS and SSG entitlements. Australia stands ready to have constructive discussions with the UK to help resolve these matters and to move towards the certification of the UK's goods schedule.

28.10. The representative of the United Kingdom indicated the following:

28.11. The United Kingdom would like to thank the Russian Federation and other Members for their statements under this item. The United Kingdom has set out its position regarding the rectification to redenominate its goods schedule at previous meetings of this Committee. To avoid repetition, the United Kingdom would refer Members to those statements. The United Kingdom remains open to engaging with Members to explain its methodologically rigorous approach to the redenomination of its goods schedule, which builds on previous examples at the WTO, as well as providing relevant data and answering any remaining questions that Members may have. Regarding the Russian Federation's comments on the United Kingdom's ITA commitments, the United Kingdom would refer Members to its statement made at the recent ITA Committee meeting. The United Kingdom thanks the Russian Federation for its bilateral engagement on this issue and looks forward to further discussion. On AMS and SSG, the United Kingdom refers Members to its recent statement on this matter and stands ready to continue its engagement on this.

28.12. The Committee took note of the statements made.

## **29 EGYPT - MANUFACTURER REGISTRATION SYSTEM (DECREE N° 43/2016)- STATEMENT BY THE RUSSIAN FEDERATION**

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

29.2. The representative of the Russian Federation indicated the following:

29.3. The Russian Federation wishes to express its very deep concern in respect of the Decree of the Ministry of Trade and Industry of Egypt No. 43/2016 on registration of foreign companies in order to be eligible to export into the territory of Egypt. Russia reiterates the statements made during previous meeting of the TBT Committee and the Council for Trade in Goods. However, this measure also has certain elements that are covered by the GATT 1994. The mechanism for registration of foreign companies applied by Egypt implies the submission of an application and other documents to the General Organization for Export and Import Control. The approval of the application by the Minister of Industry and Trade of Egypt is a condition for the importation of certain products into the customs territory of Egypt. Without such approval the import of certain products is not allowed. This measure appears to be non-automatic licensing, which falls within the provisions of Article XI of the GATT. Russian steel manufacturers have been trying to successfully complete the registration procedures since 2016. According to the information available, the documents of Russian

exporters have been under the consideration of the Minister for a long time now without any explanation. The Russian Federation considers Egypt's measure to be a quantitative restriction incompatible with Article XI of the GATT. Russia notes that its exporters faced challenges only in respect of products with low tariff rates applied by Egypt. This system seems to work in order to handle trade flows and to ensure the protection of domestic industries, keeping them profitable. The Russian Federation urges Egypt to reconsider its' registration system and to bring it into line with the WTO rules.

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

29.5. The European Union would like to reiterate its concerns with regard to the registration of companies exporting to Egypt under Decrees No. 991/2015, No. 43/2016, and No. 44/2019. This registration procedure constitutes a considerable obstacle to trade. It imposes an unnecessary administrative burden and blocks or substantially delays EU exports. The European Union therefore continues to question Egypt's justification for this mandatory registration of EU companies. The EU notes with concern that most of the known pending registration cases have still not been successfully processed, and that some sectors, like ceramic tiles, continue being disproportionately affected by the discretionary application of Decree No. 43. Moreover, the European Union wishes to highlight the structural problems relating to Decree No. 43/2016, such as the lack of transparency in the registration process, the lack of clear deadlines for processing requests, the lack of a clear appeals procedure, and the high level of discretion in granting registrations. Therefore, the European Union considers that this measure should either be terminated or substantially improved. The European Union stands ready to work with Egypt in order to finalize the registrations of pending applications and to work on solutions that would prevent delays in future registrations.

29.6. The representative of Turkey indicated the following:

29.7. Turkey will refrain from repeating the points it has raised previously in different WTO platforms on this item and suffice with stating that Turkey's concerns are still ongoing regarding Egypt's manufacturer registration system. Rather than problems faced by individual companies, there are structural problems relating to this Decree and its implementation that lead to unpredictability and arbitrariness. In this sense, it is still unclear how applications to the GOEIC are evaluated, whether the completion of the process is subject to any time-limits, and which steps should be followed to complete a registration process. In addition, companies are not regularly informed of the status of their application. As is to be expected, companies are facing long delays and must bear additional costs in the registration process. As a result, Turkey wishes to request Egypt to review its measures considering its obligations under the WTO Agreements and to ensure their implementation in full transparency. Turkey believes this hindrance will be overcome given the continued dialogue among our countries and Turkey stands ready to engage with Egypt on all trade-related measures.

29.8. The representative of Egypt indicated the following:

29.9. Egypt thanks the Russian Federation for including this item on the agenda and for their constructive bilateral consultations. Egypt also thanks the delegations of the European Union and Turkey for their interventions. Egypt wishes to refer to its statements delivered at previous meetings of the TBT Committee and the CTG, in which it highlighted that the sole purpose of the above-mentioned decree is market surveillance and combatting deceptive trade practices further to massive import surges of counterfeited products that were detected entering Egypt, and, furthermore, that by no means does the decree aim at restricting access to the Egyptian market or constitute a quantitative restriction. Egypt has also highlighted to Members the measures undertaken by the Egyptian Organization of Export and Import Control to enhance transparency in the administration of the registration system. Having said that, observing the evolution of Egyptian imports from the Russian Federation, it is noteworthy that, despite an initial decrease of 13% in the value of imports in 2016, the year of entry into force of Decree No. 43, compared to 2015, in 2017, imports witnessed a 25% increase, followed by another 39% increase in 2018. Therefore, Egypt is not of the view that Decree No. 43/2016 restricted the access of Russian imports into the Egyptian market. Nonetheless, Egypt has already conveyed to Capital the call from several Members to enhance transparency in the administration of the registration system, and while Egypt fully subscribes to the essential principle of transparency, it is worth highlighting that transparency enhancement efforts have been slowed and hindered by the COVID-19 pandemic and the subsequent containment measures that have further complicated the coordination process among

the governmental authorities concerned. Egypt takes note of the comments and concerns raised and we will shortly convey these to Capital; Egypt will revert to the concerned Members in due course.

29.10. The Committee took note of the statements made.

## **30 OTHER BUSINESS**

### **30.1 Nepal - Import Ban on Energy Drinks – Statement by Thailand**

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

30.2. The representative of Thailand indicated the following:

30.3. Thailand acknowledges Nepal's statement delivered at the Committee's November meeting regarding Nepal's import prohibition on energy drinks, in which Nepal justified its action on balance-of-payment grounds. Thailand notes that Nepal has notified the import prohibition to the WTO Secretariat via email; however, the notification has not yet been circulated to WTO Members. Thailand requests Nepal to provide official notification of its measure to the relevant WTO committees in order to further clarify the precise legal basis under the WTO covered agreements justifying Nepal's adoption of an import prohibition on energy drinks.

30.4. The representative of Nepal indicated the following:

30.5. Nepal refers to its statements delivered at the meetings of this Committee held in June and November 2020. The statements have indicated that Nepal's export-import ratio of trade in goods reached to 1:15.3 in 2017/2018 from 1:2.5 in 2004/2005 after its accession to the WTO, resulting in a huge trade gap. Such import surges posed severe challenges to the entire economic development process of the country. The main legal basis of this measure is Section 3(1) of the Export and Import Act 1957, which allows the Government of Nepal to take necessary measures, if conditions require, such as to safeguard the external financial position and balance of payments and to stop a serious decline in foreign currency reserves. This Act was under implementation during the accession period of Nepal and had been notified to the WTO at that time. This measure is neither concentrated on any specific area and issue nor focused on only trade restriction for a few products; rather, it broadly covers trade regulation and facilitation aspects of Nepal's international trade to make it standardized and smoother. This measure has been applied on a temporary basis as part of the Export and Import Act 1957. Furthermore, it fully complies with WTO law and is applied on an MFN basis to all WTO Members. The Government of Nepal is in consultation with the agencies concerned and is assessing this regulation via a detailed study. It may be reviewed periodically and revised based on the study findings. Any necessary and appropriate steps will be taken once this consultation and assessment process has been completed. However, the process of assessment and consultation may take some time given that the entire state mechanism is currently fully engaged in the fight against the COVID-19 pandemic. Regarding the notification, the Permanent Mission of Nepal in Geneva sent an official note and notification to the WTO Secretariat on 21 January 2020 and followed up on that official note and notification in June and November 2020 via email. After having consulted with the Secretariat, the Secretariat extended its support by rearranging the document notified by Nepal in the proper format. The reformatted draft document has been shared with Capital for its final verification, and Capital is working on it. The notification will be made public by the Secretariat once consent to do so has been received from Capital. Nepal extends its sincere appreciation to the Secretariat in this regard.

30.6. The Committee took note of the statements made.

### **30.2 E-Agenda**

30.7. The Chairperson recalled that this was the first time in which the Committee had used an e-Agenda for the preparation of its formal meeting, following the mock session where several Members had provided inputs that had helped the Secretariat to refine the system. He hoped that delegates in Geneva and in Capitals had found the e-Agenda to be a useful tool through which to submit items and other issues for consideration by the Committee. As the system was still at an initial stage in the context of the Market Access Committee, he informed Members that they would have another opportunity to provide feedback aimed at improving the system at the next informal

meeting of the Committee, which was scheduled to take place in June. At that meeting, Members could provide their views on how the system worked and whether adjustments or other actions would be required.

30.8. The Committee took note of the statement.

### **30.3 Dates of the Next Meetings**

30.9. The Chairperson asked the Committee to take note of the following arrangements. The next informal meetings would take place on 26 May and 16 June 2021. The next formal meeting of the Committee had been scheduled for 11-12 October 2021. The specific arrangements for holding these meetings would be communicated closer to the date of each meeting.

30.10. The Committee took note of the statement.

### **31 ELECTION OF THE CHAIRPERSON**

31.1. The Chairperson recalled that the rules of procedure for the Committee stated that a Chairperson shall be elected at the end of the first meeting of the Committee every year. However, as Members were aware, the Chairperson of the Goods Council had been holding consultations with Members on a slate of names to chair the CTG's subsidiary bodies, and a list would be considered at a subsequent CTG meeting. Consequently, the appointment of a chairperson for the Committee had been delayed. He therefore suggested to proceed as in 2020, namely that, as soon as there was consensus on a slate of names, the Secretariat would circulate an email with the name of the proposed Chairperson for the CMA for 2021. If no objection was received within the time-frame indicated in that email, the candidate would be deemed to have been elected by the Committee by acclamation. The Secretariat would send a second email by way of confirmation.

31.2. The Committee took note of the statement.

31.3. The meeting was adjourned.

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