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MINUTES OF THE COMMITTEE ON MARKET ACCESS
11 OCTOBER 2021

CHAIRPERSON: MR CHAKARIN KOMOLSIRI (THAILAND)

The Committee on Market Access (CMA, or the Committee) adopted the agenda as reproduced in documents WTO/AIR/MA/15/Rev.1. An annotated agenda had been circulated in document JOB/MA/150.

1 INTRODUCTION OF HARMONIZED SYSTEM CHANGES TO SCHEDULES OF CONCESSIONS – STATUS REPORT (G/MA/W/158/REV.3)

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.[1]

1.2. The Secretariat (Mrs Alya Belkhodja) informed Members that a revised version of the report with the overall "Status of HS Transpositions", document G/MA/W/158/Rev.3, had been prepared by the Secretariat. The report sought to provide an overview of the overall state of play of the different HS transposition exercises, as of 27 September 2021, and had taken into account the results of the last HS multilateral review, which had been held on 21 September 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.[2]

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 21 September 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.27, dated 13 September 2021. The status of the HS2007 transposition files after the multilateral review of 21 September 2021 was as follows: 111 files had been certified or were in the process of certification; one file had been released for multilateral review and had received comments from other Members; 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.13, dated 13 September 2021. The status of the HS2012 transposition files after the multilateral review of 21 September 2021 was as follows: 102 files had been certified or were in the process of certification; three files had been released for multilateral review and had received comments from other Members; six draft files had been completed and sent to Members for their first review; and 22 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.

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[1] Document RD/MA/91.
[2] Ongoing separate procedures, GATT document L/6905.

– 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.4, dated 14 September 2021. The status of the HS2017 transposition files after the multilateral review of 21 September 2021 was as follows: 54 files had been certified or were in the process of certification; eleven files had been released for multilateral review and had received comments from other Members; nineteen draft files had been completed and sent to Members for their first review and 51 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 presentation.[3]

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

2 EXTENSION OF THE HS-RELATED WAIVERS

2.1. The Chairperson recalled that the General Council had agreed to extend the relevant waivers for the introduction of the HS changes into WTO Schedules of concessions for a number of Members on the basis of a "collective decision". The most recent waivers were: HS2002 (WT/L/1104); HS2007 (WT/L/1105); HS2012 (WT/L/1106); and HS2017 (WT/L/1107). He noted that these waivers would expire on 31 December 2021 and that the Members concerned had yet to complete their relevant transposition procedures. Therefore, the Chairperson proposed that the Committee extend all of these collective waivers until 31 December 2022. He proposed to the Committee to forward the draft collective waiver decisions granting such an extension, as contained in documents G/C/W/796, G/C/W/797, G/C/W/798, and G/C/W/799, to the General Council, through the Council for Trade in Goods (CTG), for appropriate action.[4]

2.2. The Committee so agreed.

3 PROCEDURE FOR THE INTRODUCTION OF HARMONIZED SYSTEM 2022 CHANGES TO SCHEDULES OF CONCESSIONS – DRAFT DECISION (JOB/MA/147/REV.2)

3.1. The Chairperson recalled that, at its formal meeting of 12 November 2020, the Committee had requested the Secretariat to prepare a draft procedure for the introduction of the HS2022 changes to Schedules of concessions using the CTS database. A first draft of the decision, which was based on the previously agreed HS2017 transposition procedures (WT/L/995), had been circulated on 10 December 2020 (JOB/MA/147) and discussed at the informal meeting of 28 January 2021. Based on Members' comments, the Secretariat had included the examples of tariff line conversions in the annex to the document and the revised version had been discussed again at the informal meeting on 26 May 2021. At that meeting, Members had requested additional time to review the document and had been able to provide comments in writing to the Secretariat until 31 August 2021. As had been reported at the informal meeting of the Committee on 21 September, the Secretariat had reflected the comments received by Members in the second revision of the document, and no further comments or changes had been raised at that meeting. Therefore, he proposed to the Committee to forward the draft decision on the HS2022 transposition procedure, as contained in document JOB/MA/147/Rev.2, to the General Council, through the CTG, for appropriate action.[5]

3.2. The Committee so agreed.

3.3. The Chairperson also drew Members' attention to paragraph 2 of the draft decision, which stated that: "The Secretariat shall transpose the schedules of Members, except for those who undertake to prepare their own transposition and submit a notification to this effect no later than 31 December 2021". In this regard, he invited Members wishing to prepare the transposition of their WTO Schedule of concessions into HS2022 to contact the Secretariat in writing (Alya.Belkhodja@wto.org and Roberta.Lascari@wto.org) before 31 December 2021.

[3] Document RD/MA/92.

[4] The General Council Decisions were circulated in documents WT/L/1124 (HS2002), WT/L/1125 (HS2007), WT/L/1126 (HS2012) and WT/L/1127 (HS2017).

[5] The General Council Decision was circulated in document WT/L/1123.

3.4. The Committee took note of the statements made.

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

4.1. The Chairperson welcomed Ms Gael Grooby, Deputy Director of Tariff and Trade Affairs at the World Customs Organization (WCO), who provided an update on the WCO's Harmonized System Committee work on the HS2022 implementation, and Mr Roy Santana, from the Market Access Division of the WTO, who presented the document entitled "Joint Indicative List of Critical COVID-19 Vaccine Inputs".[6]

4.2. The representative of the World Customs Organization (Ms Gael Grooby) reported as follows:

4.3. The WCO appreciates the opportunity to share with the Committee some of the work that it has been doing in this regard. With regard to the Strategic Review, this is on track for acceptance and achieved approval of the finances at the June WCO Council. However, as over the course of consideration of the proposal some of the focus has shifted, there is a need to update the business case to reflect this before final approval at the June 2022 Council. One of the matters updated is actually the name. The name "Strategic Review" was inherited from the study done by the Harmonized System Committee (HSC) a decade ago, but the understanding of what is meant by "review" has changed oved the years. So it has been renamed as an "Exploratory Study on Feasible Options for a Possible Strategic Review". This better reflects that it is intended to explore the current situation of the HS and its use, and that, where there are issues of concern identified, it is also intended to generate information on feasible options for addressing such concerns. This would allow the HSC and its members to consider both the concerns identified by the study and potential ways forward. At this stage, if it is approved by the June 2022 Council, we would be looking at its starting in the second half of 2022.

4.4. Regarding the publication and timing of the HS2022 publications, the HS2022 itself is now published, as is the brochure on the Amendments to the HS. We have had some delays, unfortunately, with the Explanatory Notes, which we expected to be out last month, but we are now looking at November or December for the Explanatory Notes. As for the Compendium of Classification Opinions, we have received the publication proofs, which have been checked and sent back for finalization, so it looks like it is on course to be finalized. The HS2022 Nomenclature itself has been uploaded and is available in the WCO Trade Tools platform, and the Explanatory Notes and Classification Opinions would be uploaded as soon as they are published, and would also be available for those who have a subscription. The other issues for publications, such as the Alphabetical Index and the Chemical, would be out in the first quarter of 2022, the Customs Laboratory Guide in December 2021, and the Classification Handbook, that we are in the process of preparing, will need more time as we have realized that the changes are extensive enough that we need to put it through the HSC. So the expected deadline is in December of this year, or next year, depending on whether it needs to go back to the HSC at its March meeting.

4.5. The Secretariat (Mr Roy Santana) reported that:

4.6. Today I would like to report on a statement that I delivered on 22 September 2021 on behalf of the WTO Secretariat at a meeting of the Harmonized System Committee[7], where one of the items was a discussion on the joint indicative list of critical inputs for COVID-19 vaccines that was published on 7 July 2021. As you are probably aware, the Joint Indicative List includes very detailed product and tariff classification information in four areas of interest: (i) the inputs needed for vaccine manufacturing; (ii) products needed for vaccine storage and distribution; (iii) vaccine administration; and (iv) other vaccine-related supplies and equipment. My statement to the HSC focused on four questions, and I thought that three of them were also relevant to this Committee, so I will proceed to provide a brief overview of the following: (i) why was the Joint Indicative List produced in the first place; (ii) how was the list developed; and (iii) what is its current status?

4.7. The need for a joint effort in identifying the critical inputs for vaccine manufacturing became apparent earlier this year as a result of different factors. First, the WTO Secretariat had been invited to participate in different initiatives relating to the pandemic, including a subgroup of the COVAX Manufacturing Task Force. There, we received many questions on the exact inputs needed

[6] https://www.wto.org/english/tratop_e/covid19_e/vaccine_inputs_report_e.pdf
[7] The full statement was circulated in document RD/MA/90.

to produce COVID-19 vaccines and the type of trade barriers their import was facing. We knew from the outset that vaccines were manufactured through global supply chains, meaning that inputs from different countries were required. Thus, it appeared obvious that scaling-up production of vaccines increasingly depended on international trade. And this dependency would increase as COVID vaccines would start being manufactured in new countries. Then, the question was: how can we ensure that trade policy supports the scaling-up of COVID-19 vaccines and does not slow down their production? Because of the way in which the information is captured in the different databases on tariff and non-tariff measures, including those that the WTO maintains, we had to find out not only the specific inputs, but also their tariff classification in the HS. But where do we start? We are neither vaccine nor tariff classification experts in the WTO Secretariat and there was very little information available at the time. To make things worse, the demand for this type of information kept rising as other international organizations, which were also undertaking work in this area, turned to the WTO Secretariat for information. Second, some WTO Members and other stakeholders were interested in identifying the specific products with a view to either eliminating or reducing tariffs on the relevant products, or facilitating their importation, in order to reduce the cost and time needed to manufacture COVID vaccines. To do this, very specific products had to be identified.

4.8. For example, the production of most vaccines requires special large-capacity plastic bags used to manufacture batches in bioreactors. While it would not make sense to include the importation of all plastic bags in the green channel for facilitated import procedures, this could be possible if the specific bags used for vaccine manufacturing are identified. Without the identification of these specific products, it is very likely that the import, export or transit of these inputs gets delayed or disrupted as a result of the business-as-usual procedures, without the customs officers ever knowing the critical importance that these bags had. And since vaccines cannot be produced without them and inventories are so tight at the moment, any delay would directly affect the manufacturing process.

4.9. Dayong Yu and Eric Ng Shing, two colleagues from the Economic Research and Statistics Division, who are also with us today, tried to devise different ways to find this information very early on in the year. They found publicly available information on some of the specific inputs for the vaccines produced by Pfizer-BioNTech, Moderna, Janssen (J&J), and AstraZeneca, but we struggled to determine the HS classification for many of them.

4.10. Finally, at some point, several researchers and organizations began publishing what they considered to be the vaccine inputs and their HS classification, but we noticed that they were all including different products in their lists and the information on the HS classification was sometimes incomplete or even contradictory. Everybody seemed to have different pieces of the puzzle and it was not useful to have yet another incomplete list by the WTO in the midst of a pandemic.

4.11. What were we to do? After reflecting on the different options, we thought that the most useful solution would be to work together with the relevant actors in order to share information and try to find solutions together.

4.12. How was the list developed? We began approaching others in preparation for the WTO COVID-19 Vaccine Supply Chain and Regulatory Transparency Symposium that took place on 29 June 2021, and which included researchers, vaccine manufacturers, and organizations like the Coalition for Epidemic Preparedness Innovations (CEPI), the Organisation for Economic Cooperation and Development (OECD), the Asian Development Bank, and the WCO. Once the exchange began, we realized that we were all facing similar challenges and immediately saw the value of working together.

4.13. In this regard, I would like to highlight the critical role that some vaccine manufacturers played in opening up and providing very detailed information on the inputs used to produce their vaccines, many of which change from company to company. The involvement of the WCO Secretariat was also crucial: it carefully reviewed this information and tried to determine an indicative classification of the relevant products in the Harmonized System. I put the emphasis on the word "indicative" because we all know very well that it is the governments, the classification experts of each country represented in this meeting, who have the ultimate legal responsibility of determining the classification of these products when they are presented for importation. The list has prominent disclaimers in this respect. I would like to take advantage of this opportunity to express our most sincere thanks to the WCO Secretariat for the technical work they did in 2020 providing similar

indicative information for other critical products to combat the pandemic, such as personal protective equipment (PPEs), and other products.

4.14. What is the current status of the list? Since the first version of the Joint Indicative List of vaccine inputs was published before the summer break, the Secretariat has been trying to confirm the information contained in this list. In another development, the heads of the WTO, the International Monetary Fund, the World Bank, and the World Health Organization, formed a Multilateral Leaders Taskforce for COVID-19 vaccines, therapeutics, and diagnostics, which seeks to increase vaccine manufacturing and promote vaccine equity. As part of these efforts, the WTO Secretariat has been in contact with ten of the major vaccine manufacturers. When asked if the list includes all the relevant inputs to manufacture their vaccine, the representatives confirmed that it did. We are therefore confident that we have identified the right products in a comprehensive manner. On 8 October 2021, the Secretariat issued an information note on the tariffs applied on the vaccine inputs as defined in the Joint Indicative List. This document is to be presented during a session open to all Members on 12 October 2021. The Secretariat stands ready to provide more information on these information notes as required by the Committee.

4.15. The representative of the World Customs Organization (Ms Gael Grooby) reported as follows:

4.16. First, we would like to thank the WTO for collaborating with the WCO. We could not have done this on our own because we would not have had the same level of access to information from the manufacturers. This shows how important it is for the WTO/WCO collaboration on such projects. It is understandable that multinational classification is not always without concerns. Sharing information with customs is different form sharing information with the WTO. In terms of the way forward, one thing that we are very clear on is that we need to be better prepared for future international health emergencies. When we looked at the classification of many of these goods, they are very much in basket categories, so they are mixed in with a lot of goods that have no relevance to health, pandemics, or international emergencies. Ideally, we would have a great level of granularity for goods that may need emergency facilitation, so this is the role of the HSC, including looking at how we might develop for HS2027 a better level of granularity. But what I would say in this forum is that the development of the HS is a whole of government issue. Customs will of course put forward proposals of interest to it, but it is really important for Members to look at the development of proposals for the HSC across its agencies and administrations to ensure that issues of importance to health and other agencies within the government are actually reflected. For this reason, I would encourage everyone to talk to their customs administrations as they have proposals to better reflect the needs of the international community to be able to quickly identify goods that may need facilitation. One example that I mentioned to the Harmonized System Committee relates indeed to those plastic bags that Mr Santana discussed earlier. There is a lot of equipment within the pharmaceutical manufacturing industry that used to be of glass or metal that is now made of plastics. These are often classified with general articles, often "other plastics" articles. There may be room for HS2027 to identify plastic articles for pharmaceutical use. This is just one example of a possible change. For this to happen, of course, we would need proposals from an interested member. Our thanks to the WTO for inviting the WCO to collaborate on this. It is an excellent tool and encourages everyone to think in terms of a whole of government exercise regarding what might be needed for HS2027.

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

4.18. The European Union will not comment on the substance but would like to note the relevance and the value of this technical work. It supports the joint efforts to fight the pandemic and to prepare for any future crisis, as noted. The EU therefore very much encourages the Secretariat to bring that work forward. The EU also very much appreciates being regularly informed as to how this work develops. The EU very much appreciate the update on this occasion, and the more detailed explanations to follow. The EU has also taken careful note of the issue of a whole-of-government approach, the issue of intergovernmental coordination, and the EU shall give this issue its further consideration.

4.19. The Chairperson acknowledged Members' interest in the information notes prepared by the Secretariat in the context of the COVID-19 pandemic and recalled that, on 5 October 2021, the Secretariat had sent out a communication to all delegations inviting them to a "Virtual Information Session on Access to COVID-19 Vaccines", which was scheduled to take place on 12 October,

from 13:30 to 14:45, on Zoom. All delegates were invited to participate in the information session and could contact the Secretariat for additional information.

4.20. In addition, the Chairperson also informed the Committee that, on 7 October 2021, the Secretariat had officially launched the HS Tracker[8], an application which had been developed in collaboration with the WCO. The main goal of the tracker was to allow users to track the changes in headings or subheadings across different versions of the Harmonized System, including the upcoming HS2022. He recalled that the Secretariat had presented the beta version of this tool to the Committee in January and June 2021, and thanked the Secretariat, in particular the Market Access Intelligence Section, for its impressive work, as well as the WCO for its support.

4.21. The Committee took note of the reports and statements made.

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

5.1. 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)

5.2. The Chairperson recalled that a full version of the Secretariat's report and the presentation had been made available as a room document[9] and would be incorporated into the minutes of the meeting.

5.3. 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. A consultant is currently engaged in developing the interfaces for the new dissemination portal that would deliver a much better user experience and user interface (UX/UI) to the application;

b. As reported at the last formal meeting of the Committee, a module that would facilitate processing and integration of preferential tariff data which could be in a different HS version and/or national nomenclature from the MFN has been developed. The data would be extremely useful for alignment to MFN tariffs and imports at the HS 6-digit level and would add to the usefulness of the IDB for analytical purposes;

c. In relation to paragraph 8 of the 2019 IDB Decision on the automatic submission of data, the Secretariat has engaged in exchange of information and the organization of virtual meetings at the request of delegations to explain in more detail how the process would work. The "Call to Notify" email also includes a reminder of the possible automatic data transmission. Meanwhile, the other concurrent project related to the automatic notification of IDB data is being implemented in partnership with UNCTAD and involves customs offices of Members using ASYCUDA. Madagascar was the first Member to sign a Memorandum of Understanding (MoU) with the Secretariat and the automatic transmission is already being implemented. The data extraction and submission module are already in place and the data is being verified to ensure accuracy and reliability. Another MoU was recently signed with Côte d'Ivoire and the implementation of the project has started;

d. Additional processes related to the automatic transmission of data, like the automated recording in the IDB Information Management System, email notification to the designated contact person/s in the capital and WTO Geneva mission, and full data integration, are planned for development soon;

[8] https://hstracker.wto.org/
[9] Documents RD/MA/91 and RD/MA/92.

e. The Asian Development Bank (ADB) requested and was granted authorized user access to the IDB and CTS databases after it sent formal agreement to the new provisions on the dissemination policy described in Annex 4. Thus, currently, there are twelve intergovernmental organizations[10] authorized by the CMA that have already communicated in writing their conformance to the new dissemination policy. The Secretariat is still awaiting the response on this subject from the other authorized users listed in paragraph 2.3(d) of Annex 4. The Secretariat has received positive replies from nine of these organizations and is still awaiting replies from the rest.

5.4. The representative of Uruguay indicated the following:

5.5. Uruguay is in the process of finalizing a voluntary agreement with the WTO Secretariat for the automatic transmission of its tariff and import data to the IDB, as provided in paragraph 8 of the IDB Decision. Uruguay wishes to highlight the importance of the role of the WTO Integrated Database as the official source of tariff and other trade-related information. It's important in ensuring transparency in the trade policy regime of Members, and is a fantastic tool to improve access for MSMEs to reliable official market access information. Uruguay recommends that all Members explore the feasibility of entering such a voluntary agreement.

5.6. The representative of Canada indicated the following:

5.7. Canada wishes to note that the updated decision on the Integrated Database in 2019 opened up new pathways for Members to voluntarily enhance the comprehensiveness and completeness of the information the IDB contains. As mentioned by Uruguay, one element of the December 2020 Declaration from the Informal Working Group on MSMEs highlighted the important role of the IDB and recommended that Members consider taking advantage of these new pathways going forward. Canada also wishes to underline this recommendation and to encourage all WTO Members to examine how the updated IDB Decision could help them to provide their applied tariff and trade data to the WTO.

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

5.9. The United States agrees that submitting IDB notifications on time is a very important commitment. It provides transparency to ensure Members are adhering to their tariff commitments. For example, the United States has noticed that the Russian Federation has not submitted *ad valorem* equivalent (AVE) data to the IDB. Submitting that AVE data was an important commitment that Russia undertook as part of its accession to provide transparency into how it applies its compound duties, such as "5%, but no less than 2 €/kg".

5.10. The representative of India indicated the following:

5.11. In the last few days, India has made two submissions to the IDB. The first submission is the utilization of its Duty-Free Tariff Preference (DFTP) scheme for LDCs. This is currently under review by the Secretariat. The second submission is on the IDB notifications for import statistics and tariff notification. This is also under review by the Secretariat. With these submissions, and once India has agreed the process with the Secretariat, it will be fully compliant with all of its notification obligations. India wishes to thank the Secretariat for its ongoing help in this process.

5.12. The Chairperson recalled that Annex 4 of the IDB decision spelled out the terms and conditions of the dissemination policy of the IDB and CTS databases that must be accepted by all users of this data. According to paragraph 10 of Annex 4, the Secretariat would inform the Committee of the users that receive authorization to re-disseminate IDB data. In this respect, he informed the Committee that the Secretariat had received a request by HIS Markit, a private company offering services and solutions to businesses and governments, including on international trade research and analysis. HIS Markit had requested access to the IDB data, pursuant to paragraphs 7 and 8 of Annex 4 of the IDB Decision, with the objective to use such data, in particular on tariffs, to enhance global compliance with trade rules and support international trade businesses make informed decisions with additional trade intelligence. After accepting the terms and conditions

[10] In addition to the ADB, the other eleven intergovernmental organizations that have positively replied to the communication on the new dissemination policy are: the Andean Community; EBRD; EFTA; FAO; IGC; ITC; OECD; South Center; UN ESCAP; UNCTAD; and the World Bank Group.

of the dissemination policy in Annex 4, HIS Markit had received authorization to re-disseminate IDB data only with respect to approved and unrestricted data, as specified in Annex 4.

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

– STATUS OF IDB NOTIFICATIONS (G/MA/IDB/2/REV.54)

5.14. The Chairperson recalled that a full version of the Secretariat's report and presentation had been made available as a room document[11] and would be incorporated into the minutes of the meeting.

5.15. 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.54. The data cut-off date was 17 September 2021, which was almost a month and a half ahead of the deadline for 2020 imports notifications, due by 31 October 2021. Thus, the latest dataset due from Members remained the 2021 applied tariffs. An electronic copy for all years from 1996 was also available for download from the site https://IDBFileExchange.wto.org. A call to notify had been sent to concerned Members in early September for outstanding 2020 import notifications, which were due by 31 October 2021, and other data yet to be notified. For the statistics cited below, the cut-off date was 4 October 2021.

5.16. In 2021, the IDB tariff notifications due by the 30 March deadline improved significantly and was the highest as compared to previous years. By the deadline, 34% of expected notifications (46 of 136 expected datasets) had already been received, as compared to 21% in 2020, and 11% in 2019. Import data for 2019 received by the 31 October 2020 deadline was at 31%, the highest since 2014, but lower than the 2013 rate of 36% by the regular imports deadline.

5.17. On the 2021 applied tariffs, the IDB currently included data for 83 Members, as of the cut-off date of 4 October, which accounts for 61% (or 83 notifications) of the 136 expected notifications. Of those 83 files, 64 were official submissions, while the remaining 19 were collected by the Secretariat from approved "framework sources". As to the inclusion of other applied tariffs, there were also 61 submissions (or 74% of received notifications), which included non-MFN duty schemes. Furthermore, there were seven notifications that contained the optional additional import taxes. Overall, 50 Members, representing 37% of notifying Members, have complete notification on MFN applied tariffs. However, there remain 40 Members (29%) with six or more years of outstanding applied tariff data.

5.18. The 2019 import data, due in October 2020, was used as the basis for the statistics presented in this report. There were 66 available notifications, which represented 49% of the 135 expected notifications. Of those, 63 notifications (47%) had been submitted by the 31 October 2020 deadline and three datasets had been collected by the Secretariat from framework sources. Data on imports for 2018 stood at 59% complete. For all import data due from 1996 to 2019, 42 Members, representing 31% of the Membership, have complete data. The number of Members with outstanding data for six or more years is 48, representing 36% of the Membership. There were already 24 Members that have notified 2020 import data ahead of the October deadline.

5.19. The number of "recomposed" data, as provided in paragraph 22 of document G/MA/367, remained at thirty-five country periods, with the latest recomposed year as 2015. The Secretariat would continue to examine previous years' notifications to see if additional notified imports could be integrated with recomposed applied MFN tariffs.

5.20. Overall, as of the same data cut-off date, IDB disseminated data consisted of 2,804 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 83% complete for the data expected until 2021, and 76% complete for imports until 2019. All other Members, except for Afghanistan and six acceding Members (Algeria, Bahamas, Belarus, Comoros, Iran, and Serbia), had notified their data to the IDB, as also disseminated in Tariff Analysis Online (TAO), TDF, and WTODATA.

[11] Documents RD/MA/91 and RD/MA/92.

5.21. Ms Mendoza 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[12], seven had not yet notified their applied tariffs for 2021 (see Table 1). Of the 17 Members that had notified 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.

Table 1. Status of Notifications of Required PTA-TM data

	Number			Percent (%)		
	Applied MFN Tariff + PTA Preferences					
Data Notified	**2019**	**2020**	**2021**[a]	**2019**	**2020**	**2021**
MFN Only	1	1	1	*4*	*4*	*4*
MFN + GSP/LDC (incl. Other PTAs) + Other Duty Schemes	20	20	16	*87*	*87*	*67*
No Notification	2	2	7	*9*	*9*	*29*
	Imports by PTA Duty Scheme					
	2017	**2018**	**2019**	**2017**	**2018**	**2019**
Regular Imports with No Breakdown by PTA Duty Scheme	7	5	4	*30*	*22*	*17*
With PTA-TM Breakdown	14	15	13	*61*	*65*	*57*
No Notification	2	3	6	*9*	*13*	*26*
PTA Members[a]	23	23	23	*100*	*100*	*100*

[a] EU tariff notifications until 2020 include its 27 member States and the UK. In 2021, UK tariffs were notified separately.

5.22. The following additional notifications had been received between 17 September and 4 October 2021:

- Argentina 2020 imports;
- Cuba 2020 imports;
- Israel 2018 and 2020 imports;
- Mongolia 2021 applied MFN and preferential tariffs, and 2019 imports;
- Panama 2019 imports;
- Senegal 2020 imports;
- Ukraine 2020 imports;
- Uruguay 2021 applied MFN tariffs and 2020 imports.

5.23. Since the Committee's previous meeting, in April 2021, the Secretariat had participated in the following online technical assistance activities concerning the IDB/CTS data and related tools:

- Virtual workshop on Agriculture and WTO Accession for Iraq (with ITC), 4 July;
- Virtual workshop on bilateral market access negotiations for Timor-Leste, 16 July;
- Virtual workshop on Article 28 renegotiation for Mali, 17 August;

[12] The European Union and the United Kingdom are counted separately starting from 2021 for tariffs. Switzerland are Liechtenstein count as one.

- E-RTPC Latin America (Mexico), 31 August;
- Virtual technical workshop for the Accession of the Union of the Comoros, 21 September.

5.24. Finally, Ms Mendoza informed the Committee that the 2021 edition of the World Tariff Profiles (WTP) had been electronically launched in June 2021 and paper copies of the publication had been made available. The WTP was among the most downloaded publications of the WTO. The number of downloads of the 2020 edition was around 134,000 from July 2020 to June 2021.

5.25. 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.5)

5.26. The Chairperson recalled that the 2019 IDB Decision required the Secretariat to prepare a list of Members' official websites containing tariff information and import statistics. A fifth revision of this document had been prepared by the Secretariat. In this regard, the Secretariat had consulted with Members informally prior to circulating this fifth revision in document G/MA/IDB/W/13/Rev.5.

5.27. The Secretariat (Mr Simon Neumueller) reminded Members of the procedure for each revision of the document. The Secretariat checked that all weblinks were working and if a weblink was broken it was replaced with a working link. The Secretariat would then share the draft revised document with Members for verification of the replaced links. For this revision, the draft document had been sent to Members for verification on 14 September 2021. He invited Members to proactively inform the Secretariat in case any new websites with respect to tariff information or import statistics became available.

5.28. The Chairperson urged delegations to test the links in the document and to inform the Secretariat as soon as possible of any change so that the document could be kept up to date. In addition, he informed the Committee that the Secretariat was exploring the possibility of making this information available online so that Members, and other users, could have easy and direct access to it.

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

– STATUS OF THE CTS DATABASE

5.30. 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.[13]

5.31. The Secretariat (Ms Alya Belkhodja) reported that the Secretariat had made CTS files available to all Members on the TAO.[14] Out of the 135 CTS files: 54 had been made available in HS2017, 47 in HS2012, 18 in HS2007, 14 in HS2002, and two remained in HS96. All legal instruments were available through the Goods Schedule e-Library.[15]

5.32. In addition, at the end of June 2021, the Secretariat had published on TAO the complete CTS database in MS Excel. Each Member's file reflected the latest information on bound commitments as included in the CTS MS Access files. However, the format of CTS files in Excel followed the presentation used in the legal instruments as, for example, the Uruguay Round Schedule of concessions. An updated version of the CTS Excel files would be posted to TAO by end-October.

5.33. The Chairperson thanked the Secretariat for facilitating access to the information on Schedules of concessions through the CTS files in Excel, which was of great help to Members.

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

[13] Documents RD/MA/91 and RD/MA/92.
[14] https://tao.wto.org
[15] https://goods-schedules.wto.org

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

6.1. The Chairperson drew Members' attention to the notifications of quantitative restrictions (QRs) from 19 Members, of which three were notifying 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 7. 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 18 October 2021 to inform the Secretariat accordingly.

A. NOTIFICATIONS

– *Argentina (G/MA/QR/N/ARG/2)*

6.2. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notification by Argentina that had been circulated in document G/MA/QR/N/ARG/2. Questions remained pending from the United States.

6.3. The representative of Argentina indicated the following:

6.4. The non-automatic import licensing regime applied by Argentina, established by virtue of Resolution of the former Secretariat of Commerce No. 523/2017, and its complementary and amending rules, is not intended to administer import quotas nor to establish QRs on imports. In this regard, as long as the importer complies with the requirements established in the aforementioned regulations, non-automatic licences are granted without QRs. The purpose of the non-automatic licensing regime implemented by Argentina is to verify compliance with the requirements imposed by the applicable underlying technical standard, and the respective procedures are related, in terms of scope and duration, to the measure for which they are intended and do not entail any administrative burden other than that absolutely necessary to administer the measure. In view of the above, and in response to the United States' question, it is Argentina's understanding that the notification of the non-automatic licensing regime under the WTO Decision on the Procedure for Notifications of Quantitative Restrictions is not appropriate.

6.5. The Committee took note of this notification.

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

6.6. The Chairperson drew Members' attention to two new notifications from Australia that had been circulated in documents G/MA/QR/N/AUS/5/Addendum 1 and Addendum 2, including one corrigendum.

6.7. The Committee took note of this notification.

– *Kingdom of Bahrain (G/MA/QR/N/BHR/1/Rev.1/Corr.1, G/MA/QR/N/BHR/1/Rev.1/Add.2)*

6.8. The Chairperson drew Members' attention to two new notifications from the Kingdom of Bahrain. The first notification was a correction to document G/MA/QR/N/BHR/1/Rev.1. The second notification, which had been circulated in document G/MA/QR/N/BHR/1/Rev.1/Addendum 2, related to the elimination of temporary measures introduced by Bahrain in response to COVID-19.

6.9. The representative of Switzerland indicated the following:

6.10. Switzerland thanks the Kingdom of Bahrain for its new notification and has no additional question.

6.11. The Committee took note of these notifications.

– *Cambodia (G/MA/QR/N/KHM/1)*

6.12. The Chairperson drew Members' attention to a new notification by Cambodia that had been circulated in document G/MA/QR/N/KHM/1, and which related to measures introduced in response to COVID-19. On behalf of the Committee, he thanked Cambodia for complying with this important transparency obligation.

6.13. The Committee took note of this notification.

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

6.14. 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 pending from the United States.

6.15. The representative of China indicated the following:

6.16. China has provided its responses to this concern several times in various WTO bodies. To save everyone's time, China wishes to refer to its previous statements made at this Committee and other WTO bodies. China wishes to reiterate that, as the most populated economy in the world, prohibiting the import of solid waste is an inevitable choice for it effectively to safeguard public health and ecosystem safety. Also, the relevant measures taken by China are fully in line with its circular economy policy. These measures not only support environmental protection in developing the circular economy, but also promote the utilization of domestic and transborder recycling materials. Furthermore, in accordance with the general principles recognized all around the world, no one can be exempted from the obligation to dispose of the solid waste it generates. China once again urges those major solid waste exporting Members to reduce the solid waste at source and to shoulder their responsibilities in handling their own solid waste.

6.17. The Committee took note of these notifications.

– *Ecuador (G/MA/QR/N/ECU/1/Add.1)*

6.18. The Chairperson drew Members' attention to a new notification by Ecuador that related to the elimination of temporary measures introduced by Ecuador in response to COVID-19.

6.19. The representative of Switzerland indicated the following:

6.20. Switzerland thanks Ecuador for the answers provided and the revised notification that addresses its concern and its questions.

6.21. The Committee took note of the notification.

– *El Salvador (G/MA/QR/N/SLV/1)*

6.22. The Chairperson drew Members' attention to a new notification by El Salvador, which related to measures introduced in response to COVID-19. On behalf of the Committee, he thanked El Salvador for complying with this important transparency obligation, in particular because the notified measure had already been terminated prior to the notification.

6.23. The Committee took note of this notification.

– *The Gambia (G/MA/QR/N/GMB/1)*

6.24. The Chairperson drew Members' attention to a new notification by the Gambia, which related to measures introduced in response to COVID-19. On behalf of the Committee, he thanked the Gambia for complying with this important transparency obligation, in particular because the notified measure had already been terminated prior to the notification.

6.25. The Committee took note of this notification.

– *European Union (G/MA/QR/N/EU/5/Add.4, G/MA/QR/N/EU/5/Add.5, G/MA/QR/N/EU/5/Add.6)*

6.26. 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. He also informed the Committee that the European Union had submitted another notification, on 7 October, which was also related to COVID-19. However, this notification would be on the agenda of the next formal meeting of the Committee.

6.27. The representative of Switzerland indicated the following:

6.28. Switzerland thanks the European Union for its notification. Regarding notification G/MA/QR/N/EU/5/Add.5, Switzerland wishes to know the expected duration of the temporary measures implemented by some EU member States, namely QR n.1 to QR n.4.

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

6.30. The European Union has taken note of the questions received from Switzerland a few days previously. The EU is currently in the process of internal consultations. The EU can already clarify that Hungary's measures have been terminated, in June 2021. As stated bilaterally, the EU will revert to Switzerland as soon as possible in response to the questions raised about the expiration dates of other measures.

6.31. The Chairperson asked Switzerland whether the Committee could take note of these notifications or whether it would need to revert to them at the next meeting.

6.32. The representative of Switzerland replied that the Committee could take note of the notifications and they would wait for the answer from the EU.

6.33. The Committee took note of these notifications.

– *India (G/MA/QR/N/IND/2, G/MA/QR/N/IND/2/Add.1, G/MA/QR/N/IND/3)*

6.34. 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 remained pending from the United States. Since then, a new complete notification had been submitted by India that had been circulated in document G/MA/QR/N/IND/3, and which contained measures introduced in response to COVID-19.

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

6.36. The United States is disappointed that India's latest notification, issued on 29 September 2021, once again did not include the import restrictions India applies on certain pulses—a long-standing issue that will be addressed later in the agenda. In the past, India has implied that it did not need to notify this restriction because it was "temporary". However, the QR Decision of 2012 does not differentiate between temporary or more permanent quantitative restrictions. Members are required to "make complete notifications of all quantitative restrictions in force." Furthermore, a measure in place for more than three years can hardly be considered "temporary".

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

6.38. The European Union notes that it has been almost three years since India submitted its biennial QR notification. Several of the topics on the agenda today, such as India's import restrictions on pulses, as well as trade restricting measures taken by Members in response to the COVID-19 crisis, should be notified. The EU therefore urges India to bring its notification record up to date as soon as possible.

6.39. The representative of India indicated the following:

6.40. The last 18 months have been difficult for all of us around the world. Unprecedented measures had to be taken to ensure a strong response to the pandemic. India has submitted its notification on QRs imposed in the pandemic period. On the specific issue of pulses, India will cover it under the appropriate agenda item.

6.41. 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, G/MA/QR/N/KAZ/3/Rev.2)*

6.42. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to two notifications by Kazakhstan that had been circulated in documents G/MA/QR/N/KAZ/3 and G/MA/QR/N/KAZ/3/Rev.1. Questions remained pending from Switzerland. Since then, Kazakhstan had submitted a second revision of its notification, in document G/MA/QR/N/KAZ/3/Rev.2.

6.43. The representative of Switzerland indicated the following:

6.44. Switzerland thanks Kazakhstan for its revised notification, which clarifies and answers the questions that Switzerland had raised at the Committee's previous meeting.

6.45. The Committee took note of these notifications.

– *Kyrgyz Republic (G/MA/QR/N/KGZ/1/Add.7, G/MA/QR/N/KGZ/1/Add.8, G/MA/QR/N/KGZ/1/Add.9 and G/MA/QR/N/KGZ/1/Add.10)*

6.46. The Chairperson drew Members' attention to four new notifications by the Kyrgyz Republic in documents G/MA/QR/N/KGZ/1/Add.7 to G/MA/QR/N/KGZ/1/Add.10. Addenda 7 and 9 contained measures introduced in response to COVID-19.

6.47. The Committee took note of these notifications.

– *Malaysia (G/MA/QR/N/MYS/1/Add.1)*

6.48. The Chairperson drew Members' attention to a new notification by Malaysia, which had been circulated in G/MA/QR/N/MYS/1/Add.1, and which related to the introduction of a temporary measure in response to COVID-19.

6.49. The Committee took note of this notification.

– *Norway (G/MA/QR/N/NOR/2, G/MA/QR/N/NOR/2/Add.1)*

6.50. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notification by Norway that had been circulated in G/MA/QR/N/NOR/2. Questions remained pending from Switzerland. Since then, Norway had submitted an addendum to its notification that had been circulated in document G/MA/QR/N/NOR/2/Add.1.

6.51. The representative of Switzerland indicated the following:

6.52. Switzerland thanks Norway for its revised notification, and has no additional questions or comments.

6.53. The Committee took note of these notifications.

– *Philippines (G/MA/QR/N/PHL/2, G/MA/QR/N/PHL/2/Corr.1)*

6.54. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notification by the Philippines that had been circulated in document G/MA/QR/N/PHL/2. Questions remained pending from Switzerland. Since then, the Philippines had submitted a corrigendum to its notification in document G/MA/QR/N/PHL/2/Corr.1.

6.55. The representative of Switzerland indicated the following:

6.56. Switzerland thanks the Philippines for its revised notification, which answers its questions. Switzerland has no additional questions.

6.57. The Committee took note of these notifications.

– *Thailand (G/MA/QR/N/THA/2, G/MA/QR/N/THA/2/Add.1, G/MA/QR/N/THA/2/Add.2, G/MA/QR/N/THA/2/Add.3, G/MA/QR/N/THA/2/Add.4)*

6.58. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by Thailand that had been circulated in document G/MA/QR/N/THA/2 and its addenda 1, 2, and 3. Questions remained pending from the European Union. Since then, Thailand had submitted a fourth addendum, which had been circulated in document G/MA/QR/N/THA/2/Add.4. Addenda 2, 3, and 4 contained measures introduced in response to COVID-19.

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

6.60. As noted in previous meetings, 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 European Union 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 urge Thailand to provide written replies to its questions submitted in the WTO Committee on Import Licensing in 2017 and 2018. 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 strongly concerned about the WTO compatibility of Thailand's import licensing regime for feed wheat. Further, given market and policy developments relating to corn, the EU sees no economic reasons to keep the measure in place. The EU would also like to understand whether, pending the removal of the licensing regime, Thailand intends to notify the scheme in accordance with Articles 1.4 and 5 of the Import Licensing Agreement, and add the measures to its notification on QRs. The EU notes that the price support programme for corn has been extended until October 2021, with a likely further extension until October 2022, in parallel to additional measures to support corn farmers. The EU 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.

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

– *Tonga (G/MA/QR/N/TON/1/Add.1)*

6.62. The Chairperson drew Members' attention to a notification by Tonga that had been circulated in document G/MA/QR/N/TON/1/Add.1.

6.63. The Committee took note of the notification.

– *Ukraine (G/MA/QR/N/UKR/5/Add.1)*

6.64. The Chairperson drew Members' attention to a new notification by Ukraine that had been circulated in document G/MA/QR/N/UKR/5/Add.1.

6.65. 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)*

6.66. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by the United States as there remained questions pending from the European Union, which had been circulated in documents G/MA/W/116 and G/MA/W/127, and China. Since then, the United States had submitted one new notification, which had been circulated in document G/MA/QR/N/USA/5/Add.2, on the termination of measures introduced in response to the COVID-19 pandemic.

6.67. The representative of China indicated the following:

6.68. China has concerns about US import quotas on steel and aluminium products under Section 232, as reflected in the US notification circulated as documents G/MA/QR/N/USA/4 and G/MA/QR/N/USA/5. As this Committee is aware, China has raised this issue at several of its previous meetings, requesting the United States to provide detailed information on, and clarification of, its measures. Unfortunately, the United States has yet to provide detailed information about its measures sufficient to alleviate China's concerns. China reiterates its prior request that the United States provide the details of its import quota measures, such as the specific quantities and requirements of the quotas, and that it clarify how these measures are consistent with WTO rules and regulations, in particular, Article XI of the GATT, on the "General Elimination of Quantitative Restrictions", and Article XXI of the GATT, on "Security Exceptions".

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

6.70. The European Union has been raising its concerns regarding US trade prohibitions on sturgeon products in this Committee since 2015. In the latest US biannual notification (document G/MA/QR/N/USA/5), the restrictions pursuant to the Endangered Species Act are listed in measures No. 11 and No. 12. As previously explained, the EU's main concern is that the US does not consider wild and farmed sturgeons and their products as separate categories. Consequently, the US applies the same conservation measures to both, in a more restrictive way than the international environmental legislation (CITES) recommends. Any updates on this issue would be very much appreciated. At a bilateral meeting between the relevant authorities in Brussels and Washington, at the end of April, the EU was able to explain its concerns in more detail. The EU also appreciated receiving updates about the ongoing review being carried out by the US Fish and Wildlife Service on the listing of sturgeon species as endangered. The EU will continue its dialogue with the US on this matter and engage on the findings of the review, as appropriate. For this purpose, continuous updates on the roadmap and calendar for the whole review process would be very useful. The EU would also appreciate receiving further information in this Committee. The EU would like to confirm with the United States whether it would be possible, in the case of endangered farmed species, to obtain an Endangered Species Act (ESA) permit to avoid the ban. If so, an explanation of the procedure to get such a permit would be welcome.

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

6.72. The United States takes note of the comments and questions raised by China regarding the WTO consistency of its 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.

6.73. The United States appreciates the EU's continued interest in sturgeon and also appreciates the recent opportunity that the US and the EU had in April 2021 to bring its respective experts together to discuss this issue. As of May 2021, there are now six foreign species of sturgeon listed as endangered under the US ESA. The ESA applies to not only wild animals, but those in captivity as well. When a species is listed under the ESA, the listed entity includes both captive animals and wild animals. In April 2021, the US Fish and Wildlife Service (USFWS) published a final rule announcing the determination of endangered species status of the Yangtze River sturgeon under the ESA, which became effective on 26 May 2021. There are nine additional species of sturgeon under

review by the USFWS. In August 2021, the USFWS determined that the Amur sturgeon warrants listing under the ESA and proposed to list it as an endangered species. A notice reflecting this proposal and a request for comments was published in the *Federal Register* on 25 August. The Service will accept comments on the proposed listing received or postmarked on or before 25 October 2021. With respect to the current status of the eight 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 Caspian and Siberian sturgeon. The Caspian sturgeon review includes Russian, Persian, ship, and stellate sturgeon. At any time during the Service's review, the EU may provide additional information to help us 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 EU another opportunity to provide the Service with information. The United States is happy to facilitate a continued discussion among the relevant authorities, as appropriate.

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

B. REPORT FROM THE SECRETARIAT (G/MA/QR/11)

6.75. The Chairperson drew Members' attention to document G/MA/QR/11, entitled "Status of Notifications under the Decision on Notification Procedures for Quantitative Restrictions". In this document, the Secretariat summarized the status of QR notifications as of 4 October 2021. He observed that, according to this document, the situation had slightly improved with respect to previous years, in particular for the biennial periods 2018-2020 and 2020-2022. The submission of notifications relating to COVID-19 restrictions partly explained this increase. However, the overall compliance with the QR notification requirement remained relatively low.

6.76. He reminded Members that the Decision on Notification Procedures for Quantitative Restrictions, in document G/L/59/Rev.1, provided that: "*Members shall make complete notifications of all quantitative restrictions in force by 30 September 2012 and at two-yearly intervals thereafter.*" Even though the number and quality of notifications had improved over past years, the vast majority of Members had not yet provided any 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 had indicated that they would submit a complete notification with all measures at a later date, but had not yet done so. He encouraged Members to contact the Secretariat in case they needed technical assistance to comply with this important transparency provision. In his view, additional tools and resources, such as the QR database[16], or the organization of training sessions like the session organized in September 2021 (see item C, below), also played an important role in improving notification compliance.

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

C. REPORT BY THE CHAIRPERSON ON THE INFORMATION SESSION ON QUANTITATIVE RESTRICTIONS AND THEIR RELATION TO MULTILATERAL ENVIRONMENTAL AGREEMENTS

6.78. The Chairperson reported on the information session on QRs and their relation to the multilateral environmental agreements, which had taken place on 21 September 2021.[17] He recalled that, at the formal meeting of the Committee in April 2021, some delegations had expressed their interest in a capacity-building workshop on QRs, building on the positive experience of a previous workshop that had taken place in 2018. This idea had been further discussed at the Committee's informal meeting in May 2021, where some Members had reiterated their support and noted that the notification of trade measures taken pursuant to other international conventions, such as the multilateral environmental agreements, could provide a good starting point for those Members that had not yet submitted a QR notification to the Committee. However, it was also recognized that, due to the COVID-19 pandemic and ongoing travel restrictions, as well as the preparations for the Ministerial Conference, it was not possible to organize an in-person event like that held in 2018. As

[16] https://qr.wto.org/en#/home
[17] https://www.wto.org/english/tratop_e/markacc_e/qr_sept21_e.htm

a result, it had been proposed to organize a half-day information session in hybrid mode, and capital-based officials responsible for the notification of QRs were invited to participate through the Zoom platform. The programme of the information session had been emailed by the Secretariat to delegations on 5 July 2021 and, given that the topic of the information session was the link between QRs and trade-related environmental measures, capital-based officials working on issues relating to the environment had also been also invited. More than 80 participants had joined the information session via Zoom, representing a variety of institutions dealing with trade.

6.79. The information session had revolved around five sessions. Session 1 had provided an introduction of the main rules and procedures relating to QRs, in particular Article XI of the GATT 1994 and the notification requirements under the 2012 Decision. Information collected from these notifications and disseminated through the QR database had been shown to help Members better understand what needed to be notified and how other Members had done so. Session 2 was about two additional tools that were available from the WTO Secretariat, with information on QRs and trade-related environmental measures. These were the WTO Environmental Database[18] and the document entitled "Multilateral Environmental Agreements Matrix".[19] These two tools were managed by the WTO's Trade and Environment Division but provided relevant information that could be of help for Members when preparing their QR notifications. In Session 3, the speaker from the United Nations Environmental Programme had talked about the Basel, Rotterdam, and Stockholm Conventions, including what these conventions covered, what their latest amendments contained, and how they linked to trade. In Session 4, the speaker from the WCO had explained how products covered by these environmental agreements were classified according to the Harmonized System, and what changes would be implemented in the HS2022 nomenclature to take account of latest developments in environmental conventions. Finally, in Session 5, the representatives of Canada, Colombia, Georgia, and Mauritius, had shared their experience of preparing their QR notifications, and had provided concrete examples of how they had overcome some of the main hurdles in doing so. All of them pointed out that inputs by the Secretariat on their draft notifications had been very helpful.

6.80. In the Chairperson's view, the information session had been very informative. It had been evident from the presentations and information shared by participants that WTO Members implemented trade restrictions or prohibitions to pursue a number of different policy objectives, such as the protection of the environment. Therefore, it was key that Members were able to ensure transparency about these measures by notifying them to the WTO. The information session had provided a number of instruments and elements that could help Members to notify. First and foremost, the existing information in the QR database, which was based on notifications by WTO Members, could be of great help to other Members. He encouraged Members to use this tool and to inform the Secretariat of any possible improvements that could be made to the website. However, it was also recognized that the information in the QR database was not complete, and that this was a consequence of Members' low compliance with their notification obligations, as well as the quality of notifications. Where possible, information in the QR database should be complemented by measures notified to other WTO Committees or WTO bodies. For example, as discussed at the session, information collected in the WTO Environmental Database constituted an important source of information, among others. In this respect, the Secretariat was exploring the possibility of linking the relevant information in the Environmental Database to include it in the QR database. This would allow Members to have a broader understanding of the measures that qualified as QRs, and hence which must be notified to the Committee.

6.81. Similarly, many Members had observed that it was difficult to obtain information on HS codes related to QRs, and reported that this represented one of the main hurdles in the preparation of QR notifications. In this respect, the WCO "interconnection tables", with information on HS codes covered by various international conventions, could be an invaluable tool for Members wishing to notify QRs in relation to these conventions, and these could also be linked in the QR database. This would allow Members to search directly the products and tariff codes that were covered under each convention, and include them in the QR notification format. The Secretariat was also exploring the possibility of including this function in the QR database.

[18] https://edb.wto.org/
[19] https://www.wto.org/english/tratop_e/envir_e/envir_matrix_e.htm

6.82. In conclusion, the Chairperson expressed his appreciation to the speakers and panellists for their valuable contributions to making the information session a successful event, and to the colleagues in the Market Access Division for having organized it.

6.83. The representative of Canada indicated the following:

6.84. Canada wishes to take this opportunity to provide three reflections on this agenda item. First, Canada wishes to thank all the Members that had provided notifications, especially those that had provided their first notification under the QR Decision. Canada considers that providing additional information to this Committee is something important because it allows Members to discuss the trade policy measures that they are taking. As the Chairperson had previously mentioned, this is one of the most important WTO notification obligations. Second, Canada wishes to express its disappointment that the percentage of Members that have submitted at least one QR notification remains low, although Canada is heartened that the situation is getting better. One proposal that Canada is a co-sponsor of is about the procedures to enhance transparency and improve compliance notification requirements, and it actually provides the means to help Members to come forward and make their notifications to this Committee. Members have introduced improvements in the past, such as the QR notification decision of ten years ago, to help Members to provide that information - and Canada considers that Members need to make another and stronger effort to make their notifications, and to make them every two years, as is required under that Decision. The third reflection that Canada wishes to make is to thank the Secretariat for putting together the Workshop concerning which the Secretariat has just provided its report. It contained much great information, and Canada hopes that Members can harness that information going forward and that Members will refer to the different tools that are available, have access to them, and continue to be supported through such interactive workshops, seminars, or webinars, all enabling Members to submit their first notifications. And once a first notification has been submitted, it becomes much easier to submit others because a Member then has something to build upon, and is simply updating something as opposed to creating something new. The first time is the hardest, although I know that the Secretariat is also very capable at helping all Members to get across that first finish line.

6.85. The representative of Colombia indicated the following:

6.86. Colombia wishes to thank the Secretariat for having prepared and organized the QR information session, which in its view was productive and addressed topics of interest to Colombia. Regarding the Chairperson's report, Colombia wishes to highlight two aspects. First, Colombia thinks that linking the measures with the Environmental Database is a positive development, as these measures could feed into the QR database and improve the information that is available in it. Second, something important for Colombia is that the Secretariat prepare a document listing the main agreements or international conventions that are notified in the QR notifications, providing also the list of HS codes and tariff lines, with the description, that are covered by each of them. This would be a guiding document for Members, with extremely useful information, which could facilitate the process of putting together a notification. This document could be based on common factors that are found in QR notifications, but also take into account the work that has already been carried out by other international organizations, such as the WCO and its interconnection tables. Colombia considers that this is a tool that the Secretariat could have at its disposal, either as a document or as information available in the QR database itself, and to which all Members could have access.

6.87. The Committee took note of the report and the statements made.

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

7.1. 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 the Committee as of 4 October 2021, and as contained in document G/MA/W/157/Rev.3. The second item concerned the 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 which had been updated with information compiled in the context of the WTO Trade Monitoring Exercise, as circulated in document G/MA/W/168/Rev.1. The third item related to communications submitted by Australia and India concerning unilateral measures aimed at facilitating trade for

essential products to combat the COVID-19 pandemic (document G/MA/W/165/Add.1 and document G/MA/W/171). He thanked the Members that had informed the Committee of these measures despite the fact that no obligation existed in the WTO Agreements in this respect, as well as those Members that had submitted QR notifications on trade measures relating to COVID-19 since the Committee's previous formal meeting, all of which provided the Committee with a more accurate picture of the situation.

7.2. The Secretariat (Mr Simon Neumueller) reported the following[20]:

7.3. Since the beginning of the COVID-19 crisis, trade has played a major role in the response to the pandemic, both on the side of facilitating imports and, at the same time, restricting exports of essential goods. This is a revision to the document and includes an additional 160 measures when compared to the first version that was presented at the Committee's previous formal meeting, on 29-30 April 2021. At the Committee's request, the revision of the note now contains not only notified measures, but also measures from the WTO Trade Monitoring Exercise, which led to the large increase in reported measures. In order to have a more complete picture, in particular with respect to export restrictions, the Secretariat reached out this summer to 15 delegations to notify measures that were already part of the list of trade monitoring measures. As a result, four Members notified COVID-19-related export restrictions.

7.4. Let us begin by considering export restrictions. These restrictions come in many forms, ranging from full prohibitions to licensing requirements for statistical purposes, and cover a wide range of products, from PPEs to vaccines and food products. To date, 34 Members have notified export restrictions in relation to COVID-19, across 60 measures. That is, many Members wished to provide additional transparency by notifying all modifications to a measure over time, and also by notifying the termination of a given measure. Moreover, according to document G/L/59/Rev.1, Members are required to notify all QRs, as well as changes to QRs. Nonetheless, according to the WTO's Trade Monitoring Report, there are an additional 11 Members with 17 measures that have not yet been notified. All the measures in question are summarized in Appendix Table 1 of the report.

7.5. When considering all measures, both notified and not notified, we see that the most popular measure seems to be full prohibition, followed by non-automatic export licences and prohibitions, except under certain defined conditions. 21% of measures have not been notified and hence do not contain standardized information on the type of measure. Some measures also changed type over time; for example, a full prohibition on all face masks that evolved into a non-automatic licensing scheme for N95 masks only. There was one very brief export quota for food products that remained in place for under a month. When looking at when the measures have been introduced, we clearly see that in March 2020 many Members considered it necessary to introduce export restrictions. Over the northern hemisphere's summer months, almost no additional measures had been notified, and new measures only began again to be introduced in the beginning of 2021. In five cases, it cannot easily be determined when a given measure had entered into force. Almost all export restrictions that entered into force in relation to COVID-19 mentioned that they were "temporary". Given the lack of a precise definition of what "temporary" means, we can at least see what the actual duration of the notified measures is. For these categories, we consider the total duration of a measure, meaning that if a measure was first introduced for 90 days and then extended by a further 90 days, it would be counted as a 180-day measure. We see that 16 measures were in place for under three months, an additional ten measures were in place for under six months, and 18 additional measures for under one year, while two measures remained in place for over one year. However, 29 measures do not have a clearly indicated duration, despite being notified as "temporary" in many cases, as often occurs when they have not been notified as QRs, but rather form part of a trade monitoring exercise. When the current status of measures is considered, we see that at end-April, during the first big wave of the COVID-19 pandemic, the highest number of export restrictions were in force, namely around 55 measures. Since then, the number of measures has dropped and then plateaued in recent months. Currently there seem to be 29 measures still in force.

7.6. In order to make the measures comparable, product categories have been defined according to Annex Table 4. The majority of the export restrictions relate to face masks and protective garments, such as medical gowns and gloves, or what is commonly referred to as PPEs. Other important categories are sanitizers, pharmaceuticals, other medical supplies, such as syringes, medical equipment, such as ventilators, and foodstuffs. Only four export restrictions relate directly

[20] Document RD/MA/93.

to vaccines, but other measures might cover vaccine inputs. The vast majority of the measures refer to Article XI:2(a), which states 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, many of the export restrictions refer to Article XX(b), that is, measures that are necessary to protect human, animal or plant life or health. A considerable number of measures do not make explicit reference to a WTO provision or do not contain any information, in the case of measures that have not been notified as quantitative restrictions. To date, more than 40% of the measures remain in force, whereas the rest either expired or their termination has been explicitly notified.

7.7. In addition to the export prohibitions and restrictions, the Secretariat also summarized and prepared a short description of other measures that could be characterized as facilitating trade. Before I begin describing the contents, there are a few things that I would like to stress, namely: these are communications where 12 Members voluntarily provided, for transparency, 23 communications, with 36 trade-related measures that were implemented in response to COVID-19. What is peculiar about these communications is that there is no notification requirement to provide this information; nevertheless, Members still considered important to share this information. 58 Members provided similar information to the Trade Monitoring Report, on 129 additional measures. 19 of these additional measures have been notified to other WTO Committees, in particular to the TF Committee, and to a lesser extent to the Committee on Anti-Dumping Practices, the Committee on Import Licensing, and the Committee on Agriculture. In the report we talk about "trade facilitating" measures because the measures in question seek to make it easier to import, export, or transit through another Member's territory. However, this <u>does not</u> mean that these measures are covered by the Agreement on Trade Facilitation. For the handful of measures that seemed to be covered by the TFA, we aggregated them under a single succinct measure in the summary of measures to avoid duplicating ongoing work in the Committee on Trade Facilitation. The summary of these measures can be found in Annex 2 of document G/MA/W/168/Rev.1. As we only have notified information from 12 Members in this case, compared to the information presented earlier, from 58 Members, the analysis that I will be presenting now is somewhat less representative than that on export prohibitions and restrictions, where there is a much higher share of notifying Members.

7.8. Finally, I would like to note that we tried to follow the same approach in each case, using variables and categories to describe the information on export prohibitions and restrictions. And while there are many similarities, you will notice that there are also certain differences in the results. The tree map here presents the composition of the types of measures. The first thing that became apparent from the analysis is that the majority of measures are tax-related measures (green area in the chart), which seems to be explained by two different types of motivation. A first motivation was to try to reduce the price of products that were considered to be essential to combat the COVID-19 pandemic. But some of the measures applied rather to all the products, not only to those used to combat the pandemic. This suggests that a second motivation was a desire to provide liquidity and improve the cash flow of traders, who were disproportionately impacted in the early phase of the pandemic. These tax-related measures were mostly related to the elimination, suspension, or waiver of tariffs (that is, import duties), amounting to more than 50% of all these measures, followed by the elimination, suspension, or waiver of other internal taxes, fees, and other duties and charges. In most cases, these tariff or tax eliminations were 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 that allowed importers to extend the period in which they had to pay the import duties or other taxes due. The second major category of measures relates to different types of customs procedures (blue area of the chart), including expedited or simplified clearance procedures, as well as the simplification of other customs procedures. It is here that many measures, although not all, seem to relate to provisions covered by the TFA. Finally, there is a third category of measures that we included in a residual category (area in grey in the chart). These include, for example, the establishment of procedures for donated goods in a state of emergency (relief goods). Most of these measures were qualified by the Members as "temporary" in nature.

7.9. In terms of their duration, there was no information on 80 of the measures because the Member may have indicated either the date on which the measured entered into force, or when it ended, but not both. For those measures for which there is such information, the majority were put in place for a period of between six months and one year. It is also worth noting that five of the measures were described as permanent changes. In terms of the types of products, the majority of Members seem to have focused on facilitating the imports of PPE, which includes face and eye protection, protective

garments, and protective gloves. What is most interesting in this chart is that the PPEs are also the products with the highest number of export prohibitions or restrictions, which shows the importance that Members attached to sourcing these products from the international market, and particularly during the first phase of the pandemic. We can also see that 14 Members facilitated trade in vaccines, showing the importance of vaccines as a solution to ending the pandemic, especially in its current phase. For the remaining products, there are other similarities between the export restrictions, such as the importance given to sanitizers and disinfectants, as well as to medical devices and equipment. Looking at the measures that have been notified as part of the WTO Trade Monitoring Report, we see that only 16% seem still to be in force, while 40% expired, and we have insufficient information on 44% of the measures to know whether or not they are in force or expired. This is in contrast to our knowledge of export restrictions, where we have a much better understanding of how many measures remain in force.

7.10. Before concluding, I would like to note that we have done our best to summarize the information in a factual way, and to provide a brief statistical overview based on the most evident dimensions of the data. Given the importance of the issue, we would encourage those Members that submitted QR notifications or information on trade facilitating measures to carefully review the summary of their information, and to let us know in case of any error. We will be happy to correct any inaccuracy and to include the adjustments in the revision that we are planning to issue. Finally, I would like to reiterate that the Secretariat stands ready to adjust or update the report as necessary in order to respond to Members needs in this respect. The CMA Team is happy to answer any question you may have on the report.

7.11. The representative of Turkey indicated the following:

7.12. As a general remark, Turkey notes that ensuring transparency is one of the most important tasks that the WTO is undertaking in the scope of its response to the COVID-19 pandemic. Turkey believes that the WTO provides to Members a valuable toolbox for keeping track of trade-related measures taken as a response to the pandemic, and this report prepared by the Secretariat fulfilled a significant mission, not only to show where we stand, but also to steer the way forward. Turkey wishes to inform Members of the termination, as of 6 August 2021, of all its temporary export authorization measures introduced in response to the COVID-19 pandemic. Turkey notified the Committee to that effect on 6 October 2021, in document G/MA/QR/N/TUR/2/Add.3. Turkey understands that this notification will be included on the agenda of the Committee's next meeting, it having been circulated too late to be included on this occasion, and likewise that the amendment will be reflected in the relevant report prepared by the Secretariat.

7.13. The representative of Canada indicated the following:

7.14. Canada wishes to begin by supporting the initial comments from Turkey around the importance of transparency, and appreciates the work that has been put into this report. In relation to Article XI of the GATT, the Secretariat indicated that most of the notifications concerning COVID-related measures were QRs under Article XI:2(a) of the GATT.

7.15. As Canada has argued since the beginning of the year, this GATT rule on export restrictions and prohibitions was originally designed to give individual contracting parties the right to restrict the export of their scarce domestic raw materials and commodities. The COVID-19 global crisis has exposed a gap that was first recognized in the late 1970s, when a Contracting Party described the application of this GATT provision in this area as "minimal and ineffective". That same Contracting Party also noted that the export restrictions and prohibition rules were "less complete as compared to import restrictions" and "subject to major exceptions". In that same time-period, certain delegations acknowledged that "the absence of established guidelines and procedures for taking export control actions permitted under GATT provisions has, at times, contributed to instability and uncertainty in international trading conditions and could do so in the future." As Canada has observed during the Trade and Health Facilitator process, not much has changed since the 1970s, save for some additional transparency obligations in the Agreement on Agriculture and the updated decision, here in this Committee, on the notification procedures for these measures. As was foreshadowed forty years ago, the Article XI rules on export restrictions were not well-suited to the situation the world faced over the past year. This is why Canada believes that the current rules on export restrictions and prohibitions do not provide appropriate guidance to Members when facing a global health emergency.

7.16. It is not enough for each Member's individual actions to be consistent with WTO rules. The impact of the COVID-19 pandemic was not restricted to any one or group of Members, and the trade policy reactions stemming from the pandemic were neither coordinated nor guided by a multilateral agreement. In that regard, Canada sees the Declaration on Trade and Health, set out in document WT/GC/W/823, as providing a good base for Members to work from to consider how best to improve these rules. The current rules did not support a coordinated response to the pandemic precisely because they were not drafted nor designed for a global emergency. A future crisis like this one will demand more coordination between Members; not one of individual action, but one that considers the global situation and provides the means for Members to act collectively, in support of a global response. Canada looks forward to substantive, problem-solving engagement as a result of a multilateral Ministerial statement at MC12 on Trade and Health. WTO Members need to reflect on the lessons learnt during the COVID-19 crisis, prepare guidelines or codes of best practices on the use of export restrictions or prohibitions, and consider if additional commitments can help Members collectively enhance their preparedness and crisis resilience.

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

7.18. The European Union thanks the Secretariat for its report. This analysis of Members' notifications and communications, as well as the link with the WTO Trade Monitoring Exercise, effectively increases transparency concerning COVID-19-related trade measures. It also allows Members to get a better sense of how transparency could be further improved. The EU would like to share a few observations in this regard.

7.19. The report presents important findings. As of 4 October 2021, a total of 77 measures that prohibit or restrict exports as a result of the COVID-19 pandemic have been adopted by Members. Of these, 60 measures have been notified by 34 Members to the Committee. According to the WTO Trade Monitoring Exercise, 17 additional measures have been introduced by 11 Members. To the date of this report, these measures have not been notified under the QR Decision. The previous report, discussed in April, also noted that 10 Members have not notified their measures. Considering how Members, but also stakeholders, have emphasized how transparency matters to foster resilience, the European Union believes that Members would all collectively benefit from an effort by all to promptly notify the relevant measures to the WTO.

7.20. The European Union also notes that a large proportion of the export restricting measures (29) give no indication of their planned duration, or information about the expiry date. On top of this, "as of October 2021, one and a half years after the peak was reached, 29 export restricting measures by 19 WTO Members appear to continue to be in force". This means that more than half of the measures introduced during the peak in April 2020 (55 according to the report) are still in place. Moreover, for 22% of the measures introduced since the beginning of the pandemic, no justification has been provided. The fact that a large share of them (38%) are export bans and prohibitions, and that the majority of measures concern PPE products, begs the question whether, one year and a half since the beginning of the pandemic, and with increased global production of such products, such measures are justified. As the EU has stated on numerous occasions, while such measures may be justified and necessary in a situation of a critical shortage of essential products, they should always be proportionate, targeted, and time-bound. If a Member considers that a situation of critical shortage exists, and provides explanations, as a community we should consider how we can assist that Member in reducing that critical shortage. The findings of the report suggest that, in terms of transparency, there is still a significant margin for improvement. The EU invites the entire Membership to engage further on this issue by and beyond MC12. The European Union expects that the upcoming MC12 will provide additional impetus for such work to take place in this Committee.

7.21. The representative of Colombia indicated the following:

7.22. Colombia thanks the Secretariat for its report and the updates to documents G/MA/W/157/Rev.3 and G/MA/W/168/Rev.1, which list the notifications and communications presented to the Committee relating to measures adopted to address the COVID-19 pandemic. Colombia wishes to take this opportunity to consider the elements presented in both documents, and to make a series of comments on the restrictions, prohibitions, and limitations on exports of vaccines and different medical technologies to treat COVID-19. Colombia wishes to express its serious concern about the trends registered with the restrictions on exports of these goods. In spite of the calls that Colombia has made, together with a group of six Latin American countries, from its perspective, as of now, there is no solution to the current situation in

the global trade of vaccines. Members have discussed the problem of vaccine production, and this is very important; therefore, Colombia congratulates the Secretariat on its work in the reports just presented. However, Colombia cannot overlook the fact that, once produced, vaccines are not being adequately traded under basic free market conditions. Several Members have put in place multiple export restrictions and there is little effort made to be transparent about these restrictions.

7.23. As Members saw in the Secretariat's report, there are only four notifications of export restrictions on vaccines. Proof of this is that vaccines have remained to an enormous degree in the countries where they are produced. To some this seems intuitive, but in reality it represents a frustration of the promise of free trade. This Organization, and the agreements on which it is based, is based on the fundamental understanding that it is not necessary to produce all goods, since some countries may be more effective or competitive in their production than others, in which case we all stand to gain. Some of these restrictive measures and bans have at least been notified, which is positive. However, many others have not been notified and are hidden among rules, requirements, and regulations that we are not aware of and cannot feasibly understand. Colombia sees, however, that some producing countries have not exported a single vaccine commercially. Article XI:2 of the GATT, used to justify these measures, effectively gives Members the possibility to impose temporary restrictions in case of critical shortages. However, this provision is just an exception; it is a flexibility. The general rule indicates that restrictions of this type should not be maintained or applied. Exceptions and flexibilities should be used in critical circumstances, and at critical times, and before resorting to them, the comprehensiveness of the objectives pursued, and the consequences that these measures may have on all Members, should be reviewed.

7.24. The exception in Article XI:2 of the GATT should not be used without giving due consideration to other elements that are unrelated to it. In addition to the principles of non-discrimination and transparency, before resorting to flexibilities, it is necessary to analyse how they impact upon other Members, and how they correspond to the central objectives of the trading system. It is worth questioning whether several of these measures currently respect the founding principles of the GATT and the Marrakesh Agreement, one of them being precisely that Members participating in multilateral agreements do so with a desire for reciprocity, and with the objective of achieving mutual advantages through the elimination of trade barriers. Colombia reiterates the call to strengthen world trade as part of the solution 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. As Colombia has stated from the beginning of the pandemic, the global health crisis requires a coordinated multilateral solution. The Market Access Committee is certainly a suitable body for frank discussions on these issues. In this regard, Colombia also supports the comments made by Canada on the need to have a discussion on what the elements and conditions are under which a Member could use Article XI of the GATT. In this context, Colombia also requests the Secretariat to continue its work of analysing trade-related measures introduced to address the pandemic. In particular, Colombia requests that future versions of the analysed documents include figures on exports and imports of goods critical to addressing the pandemic. This would also help Members to get a much clearer picture of the impact that these restrictive and facilitating measures are having on global trade in goods.

7.25. The representative of India indicated the following:

7.26. India considers that it is not just a matter of the QRs but also of the several trade facilitating measures that were undertaken to ensure that lives and livelihoods could be protected during the pandemic. Often the focus on these positive steps is not high, so India wishes to speak about that aspect first. Indeed, the Government of India has undertaken a series of substantial, proactive, and impactful measures through the COVID-19 pandemic to facilitate trade. These measures are documented in the unilateral submission contained in document G/MA/W/171, along with the hyperlinks to the relevant official government notifications and documents. In the interests of time, India will not reiterate the list. However, India welcomes Australia's unilateral submission and urges all Members likewise to proactively communicate their facilitation measures.

7.27. The representative of Australia indicated the following:

7.28. Australia greatly welcomes the Secretariat's analysis and ongoing work. The WTO's transparency function has proven to be invaluable throughout the COVID-19 pandemic. A strong, shared, transparent information base is critical in underpinning sound national policy responses and the international cooperation necessary to keep trade flowing. Ensuring that there is transparency in trade-related measures introduced by Members in response to the pandemic must be a priority,

either through the fulfilment of notification obligations, or through timely contributions to the Secretariat's monitoring work. It is important that Members are able to share their experiences and to learn from one another in order to develop best practices and facilitate trade. Greater transparency helps all of us to understand and learn from one another's' successful initiatives to facilitate access and trade in essential COVID-19 products. Unfortunately, the reports highlight that a large number of measures introduced by Members due to COVID-19 that prohibit or restrict exports remain in place. It has become evident over the course of the COVID-19 pandemic that export restrictions can lead to negative impacts on global markets, food security, and health. Members need to avoid making this health crisis worse, through unnecessary export restrictions and other trade barriers. COVID-19 is a global health crisis that needs a global solution and international cooperation is essential to keeping trade flowing. While the motivation to implement export restrictions is understandable, such an approach is ultimately likely to be self-defeating. For these reasons, Australia calls for all trade restricting measures implemented as a result of the COVID-19 pandemic to be transparent, proportionate, and temporary.

7.29. The representative of Ecuador indicated the following:

7.30. Ecuador thanks the Secretariat for the submission of its report and echoes the points made by the delegation of Colombia. Ecuador has, on several occasions, joined the calls of others for restrictions on the export of vaccines and other inputs against COVID-19 to be avoided. Ecuador is in favour of consolidating universal access to vaccines and, therefore, to removing any obstacles that limit it. Ecuador is certain that this approach, in accordance with the rules governing international trade, is the most reasonable and humane under current conditions. Ecuador insists that global problems require global solutions. However, Ecuador again notes with dismay the concentration of vaccine supply in a few Members, which remains a challenge for the entire international community. Therefore, once again, Ecuador encourages the WTO to promote a spirit of transparency, cooperation, and international solidarity, not only from Members themselves but also from pharmaceutical companies and vaccine distributors, so that access to vaccines is universal and guaranteed by collective action. For the sake of transparency, Ecuador notes that it has reported the lifting of all measures adopted in the framework of the pandemic, by notifications of 14 April and 19 July 2021.

7.31. The Committee took note of the report by the Secretariat, the four documents, and the statements made.

8 PROPOSAL ON TRANSPARENCY IN APPLIED TARIFF RATE CHANGES – STATEMENT BY CANADA

8.1. The Chairperson recalled that this agenda item had been included at the request of Canada.

8.2. The representative of Canada indicated the following:

8.3. Canada, on behalf of the co-sponsors of document JOB/AG/212/Rev.1, which was circulated earlier that day, wishes to provide the Committee with an update on work related to MFN applied tariffs in the Committee on Agriculture, Special Session. Canada and co-sponsors provided a similar update a little over a year ago, at the Committee's meeting in the spring of 2020, and wishes to do so again on this occasion. Canada also takes the opportunity to welcome the European Union as a new co-sponsor.

8.4. The issue of MFN applied tariff transparency and the treatment of shipments *en route* is an area where there is a growing interest across the Membership. Unexpected increases in MFN applied tariffs by Members can create uncertainty for exporters, importers, farmers, and consumers. Members expressed interest in exploring ways to enhance predictability and transparency in international agricultural trade. Starting in November 2019, Members, in the context of the WTO Committee on Agriculture, Special Session, started discussing their current practices on how MFN applied tariff changes occur within their own domestic regulatory frameworks. Canada, Australia, Brazil, and Ukraine compiled these practices from across a range of Members into a discussion document (document JOB/AG/185/Rev.2), which was subsequently put forward as a proposal for MC12 (document JOB/AG/212, and its revision circulated earlier that day). This proposal takes steps to increase transparency and predictability in international trade and is not making new rules. In addition, itdoes not employ a one size fits all approach to increasing transparency in applied

tariffs. The proposal has been incorporated as a Draft Ministerial Decision into the Chairperson of the CoA Special Session's draft text on potential agriculture outcomes at the 12th WTO Ministerial Conference.

8.5. The Guidelines to Enhance Transparency in Applied Tariff Rate Changes, as previously mentioned, reflects current practices of Members and encourages Members to notify their practice to the Committee to improve predictability and transparency in market access. Current practices include the following: an approach for shipments *en route* to be eligible for tariff treatment pre-change; provide guidance on tariff changes resulting from defined factors; ability to pre-pay customs duties consistent with domestic laws; and to provide advance public notice of a change in a tariff. The proposal recognizes that there may be additional practices other than those identified, and encourages Members to provide the relevant information. As the Committee on Agriculture in Special Session continues to meet and review the Chairperson's draft text, there may be some small changes to the text, but the substance will remain the same. Just to note again, in this context, that Members are being encouraged to notify their current/existing practices related to MFN applied tariffs. Canada encourages Members to reflect on the proposal and to support the proposed improvements in predictability and transparency.

8.6. The representative of Brazil indicated the following:

8.7. Brazil has decided to engage in negotiations for document JOB/AG/185 and, later, to sponsor document JOB/AG/212, currently in its first revision, and did so thanks to the very constructive work dynamic proposed by Canada and Australia when they first raised the initiative in the Committee on Agriculture. On the one hand, the document had a clearly defined goal: to increase transparency and predictability for the private sector as to applied tariffs. But on the other hand, as Canada mentioned, instead of defining an exclusive way of achieving that goal, the proposal offers a range of options, without prescribing that every one of them needs to be incorporated internally by Members. Brazil believes that this open, evolving, approach is what made it possible for the proposal to gather support from Ukraine, as a sponsor, and now for the European Union to also join the initiative. Brazil remains open to learn about Members' practices and policies regarding transparency and predictability, and supports including more examples of best practices in the proposal. Finally, Members must bear in mind that the proposal's goal is one that benefits all Members, by fostering business activity. In this way Brazil believes that there is, in this sense, an opportunity for systemic gains.

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

8.9. The European Union wishes to thank Canada for the update and situation report. The EU is pleased to inform Members that it has joined this proposal as co-sponsor. The EU hopes that an outcome can be achieved at MC12 on the basis of this proposal so as to improve transparency in changes to applied tariffs. The EU stands ready and keen to continue work in that direction. One key feature of the proposal, and which convinced the EU to join as a co-sponsor, is that it stays away from a one size fits all approach. On the contrary, according to the proposal, Members are free to choose one practice that corresponds to their customs systems and procedures. Such an approach is constructive and flexible, in the EU's view, and should facilitate further support for this proposal.

8.10. The representative of Australia indicated the following:

8.11. Australia thanks Canada for its statement updating Members on the Draft Ministerial Decision on Transparency in Applied Tariff Rate Changes. Australia is a co-sponsor of the Draft Ministerial Decision because it considers greater certainty and transparency to be important elements of a stable international trading system. Unexpected increases in MFN applied tariff rates foster unpredictability for traders, as well as additional costs, and can be a significant disincentive to trade, particularly for SMEs. The Draft Ministerial Decision attempts to resolve some of these issues by setting out best practices in the notification and application of changes to MFN applied tariffs. Importantly, the proposal does not restrict Members' ability to adjust MFN applied tariffs. In addition, as Canada outlined, the draft Decision does not set out a single, prescriptive approach. This means that there is in-built flexibility to cater for different domestic frameworks and customs administration practices. Australia considers this proposed Decision to be a viable and achievable outcome for MC12, noting that it will have a tangible benefit for all traders. Australia encourages all Members to seriously consider the proposed Ministerial Decision.

8.12. The representative of Ukraine indicated the following:

8.13. Ukraine wishes to thank Canada for its presentation and welcomes the European Union's decision to join the proposal. As a co-sponsor of the document, Ukraine believes that improving predictability for businesses is very important. Many Members have stressed the importance of taking action to ensure that international trade remains open and predictable, especially in an attempt to mitigate the economic costs of the COVID-19 pandemic. Therefore, Ukraine considers that the proposal on transparency in applied tariff rate changes has a role to play in this regard. The best practices offered as options will contribute to Members' common goal of creating a predictable trading system. The proposal has the potential to significantly improve Members' awareness about existing domestic frameworks and the situation regarding the customs administration practices of any Member. The choice of options available to Members will not prevent them from further exercising their right to adjust their current tariffs within their WTO bindings. Ukraine wishes to stress that the list of such best practices is not exhaustive and was based on the information on current practices received in the course of consultations. If adopted, the proposal would provide for a review mechanism and the possibility to add new best practices.

8.14. The representative of India indicated the following:

8.15. India places all of its notifications affecting tariff changes into the public domain immediately, on the same day, and the details of the same can be obtained from the websites notified under the Trade Facilitation Agreement.

8.16. India also annually notifies changes in its applied MFN tariff to the IDB database. Such changes are also reflected in the WTO Trade Monitoring Report on a regular basis. India finds that, despite such information being already available, proponents still consider that additional notification obligations relating to the 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. Transparency must also permeate the entire functioning of the WTO. Often, India sees that this is not the case. For example, in the area of Agriculture, developed Members, as they have Final Bound Aggregate Measurement of Support entitlements, should submit their notifications within three months after the end of the year (calendar, marketing, or fiscal year). Many Members have taken up to two years or more to do so. In the area of Services, Article III.3 of the GATS requires Members to promptly, and at least annually, to inform the Council for Trade in Services of the introduction of any new law, or any changes to existing laws, regulations, or administrative guidelines which significantly affect trade in services covered by its specific commitments under this Agreement. Some Members have not been implementing this. Developed Members themselves should lead by example in submitting comprehensive, timely, and accurate notifications. India notes with disappointment that they have not always done so. Let transparency in notifications be a collective responsibility across various parts of the WTO.

8.17. The representative of Canada indicated the following:

8.18. Canada wishes to close this conversation by reiterating that there actually are no new obligations being created by this proposed declaration, it is entirely open and an evolving approach, as Brazil previously mentioned. As a number of the co-sponsors said, it is open to additions with regard to how Members approach changing the tariffs in their domestic systems. The proposal is really about ensuring that Members, the private sector, and the traders of the world, know what they are getting into, and that they are made aware of potential tariff changes, or that they are able to mitigate the risks of a potential tariff change, by taking different steps to finalize their contracts. For example, one of the examples set out in the proposal is that of traders paying their tariffs upfront before their shipment arrives at port. Canada wishes to really encourage Members to look again at this proposal. In addition, Canada and the co-sponsors will continue to keep the Committee updated to the extent possible given that it is only a couple of months until MC12.

8.19. 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 United States indicated the following:

9.3. As it has expressed previously, in this and other WTO committees, the United States 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 WTO 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. In particular, US 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 US concerns, and to ensure that its measures with respect to imports are in compliance with WTO rules.

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

9.5. The Russian Federation remains concerned over Angola's import restrictions on certain agricultural and industrial products introduced under the Presidential Decree No. 23/19 to protect domestic industries. This measure seems not to be in conformity with WTO rules. Russia's concern has been raised multiple times in this Committee as well as in the CTG. Russia wishes to thank Angola for the fruitful consultations held earlier in the year. Nevertheless, Russia does not see any developments relating to the elimination of the trade-restricting measures in question. Therefore, Russia urges Angola to bring its measures into conformity with WTO rules. In this regard, the Russian Federation remains open to further bilateral discussions with Angola.

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

9.7. The European Union maintains its deep concern over Presidential Decree No. 23/19, which aims to protect domestic industries in a manner that is, in the EU's view, incompatible with WTO rules. This Presidential Decree could prove detrimental to foreign investments in Angola. The EU recalls that, since 2019, these concerns have already been raised in various WTO bodies, notably the CTG, the Committee on Agriculture, and the Import Licensing Committee. To date, Angola has not provided any substantive reply or explanations on how it intends to bring this Decree into conformity with WTO law. The EU remains supportive of Angola's intention to diversify its economy and to develop its domestic industry. Nonetheless, the EU once more urges Angola to review the relevant measures in order to ensure their compliance with WTO rules. The Decree is also unclear because it does not provide information on how the relevant restrictions are implemented. Notably, it is unclear if licences are to be used to manage these restrictions. The EU asks Angola to clarify this question. The EU also reminds Angola of its obligation under the Agreement on Import Licensing Procedures to notify the measure, should licences be involved in the implementation of this Presidential Decree. Irrespective of the issue of conformity with WTO rules, the EU reiterates its request for Angola to provide clarification of its process regarding this decree, including any changes it wishes to introduce, and in which areas. The European Union looks forward to Angola's replies to these various issues, as previously raised in various WTO bodies.

9.8. The representative of Angola indicated the following:

9.9. Angola considers its previous statements made in this and other WTO committees [still to be] valid; however, since Angola has received excellent contributions from interested Members, it has begun, and continues, to work towards adjusting and making the decree more comprehensive, to which end Angola will certainly be counting on the technical assistance of interested Members. It should be noted that imports into Angola continue to develop normally. In this sense, Angola accepts that certain terminologies in the provisions are out of order. For this reason, the diploma is under review in order to harmonize it with the rules and regulations of the WTO. To this end, all inconsistencies are being analysed, and revised, and will be duly notified. Furthermore, Angola informs Members that the decree in question does not in any way prohibit the importation of any product similar to the national product originating from any other country or Member. The decree

also indicates that the application of any temporary QR measure will depend on the validation, by the Executive, of the effective existence, in 2022, of internal capacity to replace the imports in question, as well as the ongoing stability and regularity in the supply of the respective goods to final consumers. Therefore, in 2022, an analysis of the internal market will be carried out to substantiate the existence of real internal capacity at the level of national production.

9.10. The Committee took note of the statements made.

10 CANADA – RESTRICTIONS ON THE COMMERCIAL IMPORTATION OF CANNABIS AND CANNABIS PRODUCTS FOR MEDICAL USE – STATEMENT BY COLOMBIA

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

10.2. The representative of Colombia indicated the following:

10.3. Colombia wishes to raise its concerns about the restrictions that Canada has adopted on the importation of cannabis and cannabis products for medical use. Colombia appreciates the willingness of the Canadian authorities to address its doubts and concerns in bilateral dialogues in Bogota, Ottawa, and Geneva. Canada is a leader in progressive regulations for the use of cannabis for medicinal purposes. Canadian companies globally stand out as the most promising to serve this growing and evolving market. Indeed, Canada has one of the most developed and largest medical cannabis markets in the world; furthermore, it is a recognized exporter of medical cannabis products. For example, in 2019, Canada exported an estimated 5,300 litres of cannabis oil to at least 17 countries. On the other hand, Canada is also an important investor in this sector, with Colombia being one of the countries where important investments have been registered for the development of this medical industry. Indeed, an important and growing part of Canada's Foreign Direct Investment in Colombia is linked to projects for the cultivation and processing of cannabis for medicinal use. In this regard, Canada and Colombia have generally shared a good business model.

10.4. However, Colombian companies exporting to Canada have for several months been experiencing difficulties in exporting cannabis and cannabis-containing products for medical, non-recreational, use. Colombia recognizes and respects the policies adopted by WTO Members to protect human life and health. However, such policies should be adopted in a non-discriminatory manner, and without limiting trade beyond what is necessary. It is important to note that, under Canada's domestic rules, the import and export of medical cannabis is permitted; specifically, it is in accordance with Section 62 of the Cannabis Act of Canada, and in accordance with Section 139 of the Regulations. These rules are accompanied by a strict regulatory framework to control the production, distribution, and sale of cannabis for medical and scientific purposes. These rules have allowed for massive exports of medical cannabis from Canada, as well as its controlled use on Canada's territory. Despite this, the Canadian authorities have restricted or prohibited commercial imports of medical cannabis from Colombia, allowing imports, in small quantities, of raw materials used for scientific and analytical purposes only. In this context, applications for permits to import medical cannabis for commercial purposes are not considered. In addition, the Canadian authorities have indicated that exports from Colombia do not comply with their own "Good Manufacturing Practices", which are only enforceable in Canada; furthermore, Colombian exporters have been denied access to any information on these practices.

10.5. To date, the Canadian authorities have not presented their reasons for not allowing imports of cannabis and cannabidiol products for medical purposes, while domestic production and exports of the same products are allowed. In this regard, Colombia requests Canada to allow the commercial importation of cannabis and cannabis products for medical purposes, in accordance with domestic law and multilateral trade rules. In addition, Canada reiterates the importance of avoiding any unjustified trade restrictions and the need for non-discriminatory treatment between domestic producers and imported products.

10.6. The representative of Canada indicated the following:

10.7. The Cannabis Act and its regulations set out the restrictions pertaining to the import and export of cannabis. Only holders of licences issued by Health Canada under the Cannabis Regulations may import or export cannabis, and only for medical or scientific purposes. Under the Cannabis Act and its regulations, the import and export of cannabis for any other purpose (such as distribution or

sale for non-medical purposes) is strictly prohibited. As outlined in Canada's Cannabis Import/Export Bulletin, authorization of the import or export of cannabis for medical or scientific purposes is only granted in very limited circumstances, in a manner that is consistent with the public health and public safety objectives of the Cannabis Act, and Canada's obligations under international drug control treaties to which Canada is a party. Before issuing an import permit, Health Canada considers whether there are risks to public health and public safety. More information on importation of cannabis and cannabis products for medical use is available on Health Canada's website. Canada will continue to engage with Colombia on this issue.

10.8. 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 trading relationship, built over decades, which has created mutual economic benefits. However, Members will recall that Australia has raised China's implementation of trade disruptive and restrictive measures at recent meetings of this Committee and the CTG. Australia remains deeply concerned that China continues to apply trade disruptive and restrictive measures on a range of Australian products that have directly affected its market access into China. Australia is further concerned by official Chinese statements and articles in state media linking China's trade actions to unrelated issues in Australia and China's bilateral relationship. In this Committee, Australia again wishes to raise its concerns about a series of QRs, or *de facto* import bans, which appear to be inconsistent with China's WTO commitments. In 2020 and 2021, Australia received multiple credible reports, including from Chinese industry, that Chinese authorities have informally instructed importers not to purchase Australian barley, coal, copper ores and concentrates, cotton, lobster, logs, sugar, and wine. These actions are in addition to China's formal actions against Australian barley, lobsters, logs, and wine, which Australia has raised in other relevant committees, and which have effectively stopped trade in these products. Australia further notes that Chinese trade data shows virtually no Chinese imports of Australian coal and copper ores and concentrates since December 2020, despite no formal measures being implemented by China on these goods. However, imports of these products from other countries appear to have continued and, in some cases, increased.

11.4. Australia considers any instruction by Chinese authorities, whether formal or informal, not to purchase Australian products to be inconsistent with China's WTO obligations, including under Article XI of the GATT (General Elimination of Quantitative Restrictions) and Article XIII of the GATT (Non-discriminatory Administration of Quantitative Restrictions), and the fundamental WTO principle of non-discrimination. Australia further notes that China has not notified these measures to the WTO, and requests China to do so promptly. Australia has made a number of requests for advice and assurances from China in this and other committees, but has received no substantive or satisfactory response. Australia is ready and willing to meet bilaterally with China – in Geneva, Beijing, or Canberra – to discuss these issues. In conclusion, Australia underlines its expectation that all WTO Members, including China, will conduct their trade in accordance with their WTO commitments and the fundamental WTO principle of non-discrimination.

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

11.6. The European Union is not directly involved in the issues that Australia is currently raising in this Committee, after having already raised similar matters in the July meeting of the CTG, where the EU delivered a statement. As in July, the EU wishes to raise questions of principle and law, not of facts. The EU is concerned, first, by the sheer number of different measures and the cumulative trade value affected. Second, the EU is concerned by the form that these measures apparently take. The EU agrees with Australia that the GATT rules cover also informal measures, and it would point out, in addition, that informal, unpublicized, and non-transparent trade regulations are at odds with the WTO's rules and spirit. The EU agrees that Members' compliance with WTO obligations is key for the security and predictability of the international trading system. It is also key for the reliability of trading opportunities in the interests of growth, efficiency, and welfare. And it reflects on a Member's

reputation. The EU trusts that all Members share the commitment to safeguard and nurture this Organization. Third, the EU is concerned by the apparent purpose of the measures in question. If the true underlying reason for the resort to these measures is an intention to punish, put pressure on, or coerce another Member because of a policy choice that lies within its rights, then these measures reach beyond the field of trade and become a problem also under general international law. Within the European Union, growing concern is being expressed as to the practices of certain Members seeking to coerce other Members to take or withdraw particular policy measures.

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

11.8. The United States wishes again to register its systemic concern over the information provided by Australia. China appears to have implemented a broad range of restrictive measures against certain Australian goods, and official Chinese statements have linked these actions to unrelated bilateral matters. China's restrictive measures include suspension of imports, increased inspection and testing at the border, delays in granting import permits, delays in registration of export establishments, and imposition of anti-dumping and countervailing duties. The United States also registers its systemic concern over reports that Chinese authorities have informally instructed importers not to purchase certain Australian goods. The United States is concerned that, more broadly, China's actions are not isolated to Australia. In fact, there are many instances of China using these non-market policies and practices against WTO Members in apparent retaliation for unconnected bilateral issues. For several years, China has asserted that it firmly upholds the "rules-based multilateral trading system". But this claim seems inconsistent with China's actions. China's failure to adhere to global trade norms and WTO principles challenges the prosperity, security, and values not just of the United States, but also of many other Members of this institution.

11.9. The representative of United Kingdom indicated the following:

11.10. The United Kingdom would like to express its support for Australia's concern about trade restrictive measures taken by China against Australian products. The UK urges China to ensure that its trade measures are applied in a non-discriminatory, predictable manner, and with the necessary transparency around decision-making and administrative procedures, as required by the relevant WTO Agreements. This is important to ensure that, as Members, we are adhering to the fundamental principles and objectives of free and fair trade underpinning the rules-based multilateral trading system. Unfair and market-distorting trade practices risk undermining the integrity of, and trust in, the multilateral trading system, and lead to direct consequences for business and citizens worldwide. The United Kingdom would welcome China's clarifications of the points raised by Australia, and encourages China to engage in good faith and in a timely and responsive manner.

11.11. The representative of Japan indicated the following:

11.12. Japan shares the view, expressed by Australia, that anti-dumping measures should be implemented within the framework of the WTO Agreements, and that China should comply with the Anti-dumping Agreement not only for the investigation procedures themselves, but also for fact-finding and analysis in conducting an investigation. Japan also shares the concerns expressed by Australia that every necessary measure should be transparent and secured.

11.13. The representative of Canada indicated the following:

11.14. Canada shares the systemic concerns raised by Australia. Canada encourages all WTO Members, including China, to abide by their WTO commitments.

11.15. The representative of New Zealand indicated the following:

11.16. New Zealand shares a systemic interest in the concerns expressed on this topic. As New Zealand has repeatedly noted in a number of fora, the multilateral rules-based trading system provides that all Members, regardless of their size or trading capacity, are subject to the same rights and obligations. This provides the predictability and certainty necessary to ensure that trade can take place efficiently and with the least friction possible. Given the challenges all Members are facing as a result of the COVID-19 pandemic, the certainty provided by the multilateral trading system is more important than ever. If Members step away from their commitments, or adopt remedies provided for under the WTO Agreements for other purposes, this will undermine the predictability

and certainty on which the system rests. New Zealand encourages Members to comply fully with their WTO obligations, including in the application of trade remedies.

11.17. The representative of China indicated the following:

11.18. China takes note of the concerns raised once again by Australia, and also thanks the European Union, the United States, the United Kingdom, Japan, Canada, and New Zealand. Since China has provided responses to this issue several times before, it would like to refer to its previous statements made at this Committee and other WTO bodies.[21] On this occasion, China wishes to emphasize that these measures are consistent with WTO rules, Chinese laws and regulations, international practices, and the provisions of the China-Australia Free Trade Agreement.

11.19. The Committee took note of the statements made.

12 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM – STATEMENTS BY CHINA AND THE RUSSIAN FEDERATION

12.1. The Chairperson recalled that this agenda item had been included at the request of China and the Russian Federation. On 7 October 2021, at the request of the Russian Federation, the Secretariat had circulated written questions in document G/MA/W/172.

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

12.3. On 14 July 2021, the European Union published its draft proposal on the Carbon Boarder Adjustment Mechanism (CBAM). This mechanism will be applied in respect of imports of iron and steel, cement, fertilizers and chemical products, aluminium and electricity. The Russian Federation continues to analyse this proposal. Many of its elements have not yet been developed and will be presented in separate acts. However, Russia already has many questions regarding certain elements of the proposed mechanism and its relationship to international agreements, including the WTO Agreements. For example, according to this proposal, starting from 2023, the products concerned shall only be imported into the customs territory of the European Union by a declarant that is authorized by the competent authority. Russia also has certain questions with respect to the methods to be used for calculating embedded emissions, and the price of the CBAM certificates, and in particular, their relationship and consistency with the relevant methods applied under the EU Emission Trading System (ETS). Russia cannot avoid questioning the exclusions and exemptions of goods originating in certain WTO Members from the CBAM, as well as the adaptations of default value based on various factors, including natural resources, and specific market conditions. These and other questions were circulated in documents G/MA/W/172 and G/C/W/800. The Russian Federation urges the European Union to consider these questions and provide its responses.

12.4. The representative of China indicated the following:

12.5. China has closely followed the development of the proposed CBAM. We would like to reiterate that the UN Framework Convention on Climate Change (UNFCCC) is the most important international treaty tackling global climate change. The UNFCCC has confirmed the "Common but Differentiated Responsibilities" as one of the core principles for international cooperation on climate change. This principle should be fully respected. We encourage EU to enhance transparency and ensure the proposed CBAM is compatible with WTO rules and regulations. We are willing to strengthen communication and coordination with all parties include EU, promote the liberalization and facilitation of green related trade and investment, and jointly address the challenges of climate change. China will continue to follow this issue.

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

12.7. The Republic of Korea appreciates the European Union's efforts to tackle ongoing climate change. With a view to achieving carbon neutrality by 2050, the EU revealed, in July of this year, a framework of its CBAM to address the issue of possible carbon leakage. In this regard, Korea wishes to reiterate that trade-related measures, such as the CBAM, should be consistent with WTO rules and not constitute a disguised or unnecessary barrier to trade. At the same time, companies affected

[21] See, for example, document G/MA/M/74, paragraphs 11.8-11.9.

by the CBAM should be taken into due consideration, including through the possibility to submit their opinions, and by receiving sufficient information about the scheme. Korea hopes that the CBAM will be implemented in a way that fulfils the WTO's objectives of ensuring sustainable development and facilitating free trade. Korea will continue to look closely at the process of introducing the CBAM, and suggests having further discussions among WTO Members to ensure its transparency and predictability.

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

12.9. The Kingdom of Bahrain shares similar concerns to those raised by the Russian Federation, China, and other proponents that have raised this subject matter, and wishes to recall, in this regard, its statements made at previous Committee meetings.[22]

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

12.11. The Kingdom of Saudi Arabia thanks the proponents for raising the subject of the European Union's CBAM. From Saudi Arabia's perspective, while the EU stated that the proposed mechanism would conform to WTO rules and its other international obligations, the EU has yet to provide any explanations of how it will do so. While the EU's intention is to address the risk of investment leakage from the EU to other countries, in reality its main objective is to maintain the competitiveness of EU industries. Saudi Arabia's preliminary review indicates that the proposed mechanism raises a very serious concern due to its potential long-term negative implications on global trade, and that it will distort the full value chain of trade, including goods, services, and jobs. Saudi Arabia urges the EU to further engage in consultations with Members in order to ensure the full compliance of its CBAM with the WTO rules and the WTO Agreements, and to ensure that the proposed mechanism will not create any unnecessary barriers to trade or be applied in a manner that constitutes protection to the EU domestic industry. The Kingdom of Saudi Arabia looks forward to receiving further details and reflections from the EU on this proposed mechanism, and stands ready to engage on this subject with the European Union and other interested Members.

12.12. The representative of Paraguay indicated the following:

12.13. Paraguay notes that, since the Committee's previous meeting, the European Union has published its proposal regarding a CBAM, which seeks to avoid carbon leakage as part of the EU's ambitious implementation of the Paris Agreement. However, the EU's justification seems to be problematical because it assumes that all Members have the same ambition, although the Paris Agreement itself is based on the principle of "common but differentiated responsibilities". Paraguay, for example, does not have the same national objectives as other Members because it is not responsible for current or historical damage to the environment. Therefore, Paraguay believes that this "level playing field" approach, which does not take into account the existing differences in terms of economic development or fiscal policies among Members, and which assumes that there exists one single approach for all Members, is a major problem. Finally, Paraguay requests the European Union to provide information on the compensation programme for third countries so that Members can be sure that the system is fair.

12.14. The representative of India indicated the following:

12.15. India echoes the concerns raised by several Members on this issue. India believes that a thorough legal examination will be required of various elements of the European Green Deal, including the CBAM, to ascertain their conformity with the relevant WTO rules. India would reiterate that any such mechanism as the CBAM must take into consideration the principle of "common but differentiated responsibilities" and respective capabilities of different Members, in light of different national circumstances, fiscal conditions, and development levels. India also believes that the Multilateral Environment Agreements are the right forum to discuss and solve issues pertaining to the environment and the climate.

12.16. The representative of Canada indicated the following:

[22] See, for example, document G/MA/M/74, paragraph 12.14.

12.17. Canada is carefully reviewing the European Commission's draft legislation and will continue its discussions with the EU to ensure that the design of the CBAM fully accounts for Canada's carbon pricing policies. Canada expects that the CBAM and its administration will respect the EU's international trade obligations, including under the Canada-EU Comprehensive Economic and Trade Agreement (CETA). More broadly, Canada looks forward to collaborating with the EU on how border carbon adjustments could fit into a broader strategy that meets climate targets while addressing potential carbon leakage risks.

12.18. The representative of Chinese Taipei indicated the following:

12.19. Chinese Taipei again registers its interest in this subject and will closely follow developments in it. Chinese Taipei would also welcome any update from the EU side.

12.20. The representative of Japan indicated the following:

12.21. Japan considers that trade policies and measures to address climate change need to be mutually complementary and consistent. For example, on the problem of carbon leakage, Members must prevent it, but at the same time, when it comes to designing specific policies to address it, such as the CBAM, these need to be put in place appropriately, based on discussions that consider the relevant international frameworks. As Japan has pointed out in the Trade and Environmental Sustainability Structured Discussions (TESSD) in September, it is a prerequisite that the CBAM be designed to be consistent with WTO rules. In addition, Japan believes that there will be challenges to address. For example, under the Paris Agreement, the Members have been working towards reducing carbon emissions and achieving carbon neutrality by implementing various policies, such as carbon taxes, obligatory emissions trading systems, and other tax regimes and regulations intended to encourage companies to implement relevant measures of their own accord. Bearing these efforts in mind, the CBAM should be designed to achieve its objective of preventing carbon leakage with the least possible negative effect on trade. In this regard, Japan believes that it is important to consider measurement or evaluation methods for carbon emissions per product unit that are internationally reliable. It is also important to consider the actual verification of carbon costs, including any costs that, in effect, are borne by the product in proportion to carbon emissions. It will be necessary to continue conducting sufficient discussions internationally on this issue, including on these technical matters, and to proceed with institutionalization based on those discussions.

12.22. The representative of Australia indicated the following:

12.23. Australia welcomes the consultative approach that the European Union has taken in relation to its CBAM. However, Australia notes that many aspects of the policy still remain unclear, despite the release of the draft CBAM regulation on 14 July. Australia encourages the EU to continue sharing, to the maximum extent possible, details of its policy deliberations and any updates on the likely form this CBAM might take, consistent with the central WTO principle of transparency. Australia appreciates the EU's advice that it is committed to ensuring the consistency of its eventual measure with its WTO obligations. Further detail and clarity on how the EU will address the issue of WTO consistency would be helpful for Members, including Australia, that have questions and concerns about the possible protectionism impacts of such policies. Australia is strongly committed to addressing climate change and believes that international trade can contribute to that 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 encourages the EU to clarify how it will ensure that its CBAM policy will consider alternative measures to explicit carbon pricing, such as higher standards or Australia's technology-led approach, which can be equally if not more effective in reducing emissions.

12.24. The representative of New Zealand indicated the following:

12.25. New Zealand is a strong advocate for coherent and mutually supportive trade and climate policy responses. New Zealand is forward leaning when it comes to the opportunity to contribute meaningful and positive climate mitigation efforts through trade policy. A good example is what New Zealand is trying to do in the Agreement on Climate Change, Trade and Sustainability, a plurilateral effort that aims to bring together some of the inter-related elements of the climate change, trade, and sustainable development agendas. New Zealand recognizes the potential value of a CBAM as a

tool to contribute to climate change mitigation goals, while also acknowledging challenges in implementation. New Zealand believes that, for such a mechanism to be effective, it must be environmentally effective, WTO-compatible, and scientifically robust. Furthermore, its design should include meaningful consultation with trading partners.

12.26. The representative of Egypt indicated the following:

12.27. This agenda item is of great importance to Egypt because the European Union comes first on the list of its main trading partners. Egypt continues to have concerns over the impact of the proposed CBAM on Egypt's exports to the EU. Egypt also shares the concerns raised by other Members regarding the proposed mechanism's potential long-term negative implications on global trade, its compliance with WTO rules and the WTO Agreements, and the need to guarantee that it would not create unnecessary barriers to trade. Egypt would also like to echo the call by other Members that the proposed 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 levels of development. It is well known that the developing countries are those hardest hit by the negative impact of the pandemic, for which reason, all Members need to ensure that the proposed mechanism will not deepen the economic crisis in those countries.

12.28. The representative of Brazil indicated the following:

12.29. Brazil continues attentively to follow the debate about the EU CBAM mechanism, and awaits the EU's further explanations to become available regarding the methodology to be adopted and the mechanism's compatibility with the EU's WTO obligations. Brazil also echoes some of the concerns raised by Paraguay, especially the fact that the principle of "common but differentiated responsibilities" implies recognition of different historic responsibility, and also the concern on national capacity, which should be applied in a manner consistent with current multilateral debates.

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

12.31. The European Union appreciates the interest of its partners in this important issue. The EU has stepped up its climate ambition, fully translating the implementation of the Paris Agreement into legislation, and invites its partners to share a comparable level of ambition. The introduction of a CBAM to address the risk of carbon leakage is an integral part of that implementation and ambition, as reflected in the European Green Deal, to avoid EU climate action being undermined. The CBAM is a purely climate-oriented, environmental policy tool that will be applied in a non-discriminatory and even-handed manner, in full compliance with WTO rules and other international obligations. The CBAM does not target third countries but applies to goods of certain carbon-intensive sectors. It takes into consideration the application of carbon pricing systems by third countries, opening possibilities for reduction or non-payment of the CBAM charge, as well as the carbon footprint of individual producers, meaning that the CBAM will be charged according to the actual emissions of imported goods. To provide third countries with legal certainty and stability, a monitoring and reporting system will apply from 2023 until end-2025, allowing time for the final system to be put in place. This transitional period will also allow trading partners sufficient preparation time.

12.32. The CBAM will start applying, with revenue collection, in 2026. As of 2026, the CBAM will start applying gradually to the products covered, and in direct proportion to the reduction of free allowances allocated under the EU ETS for those sectors. Over time, the CBAM will replace the free allocation of allowances. The EU is ready to engage with its trading partners and international organizations to inform and, where possible, to assist with the implementation of the measure. There is an urgency to tackling climate change and it can only be achieved by scaling up our levels of global ambition; and only by taking ambitious action, will it be possible to halt global warming and keep the 1.5°C Paris Agreement goal in reach, while limiting the economic, social, and environmental impact of climate change. At present, limiting temperature increases to below 1.5°C is still within reach if countries scale up the levels of their global ambition. To this end, the CBAM proposal, as part of the "Fit for 55" package of proposals, is currently before the EU co-legislators and going through the relevant legislative procedure. The EU co-legislators will analyse the package in depth and come to a joint agreement in order to adopt the different proposals, including the CBAM. In addition, the EU notes that it will revert to Russia regarding the written questions it recently submitted. The EU also wishes to draw Members' attention to a presentation on its CBAM that the

EU will make at the Committee on Trade and Environment's meeting of 11 October 2021. On that occasion, the European Commission, or more specifically, the Department for Trade and the Department for Taxation and Customs, will present an update of the trade-relevant aspects of the European Green Deal, including the CBAM.

12.33. The Committee took note of the statements made.

13 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, SWITZERLAND AND THE UNITED STATES

13.1. The Chairperson recalled that this agenda item had been included at the request of the European Union, Switzerland, and the United States. Written questions had been circulated in document G/MA/W/169.

13.2. The representative of Switzerland indicated the following:

13.3. Since the Committee's previous meeting, Switzerland has been in contact with the GCC member States to seek clarification regarding the state of play of the planned reform. As the representative of the Kingdom of Bahrain indicated, during the Committee's April meeting, that *"the objective was to switch to a graduated tax base as soon as the GCC member States complete the review*", Switzerland wishes to know whether the review has now been completed. Switzerland also seeks information concerning the steps to be taken before the end of the year. Referring to the statement made last April by the delegate from Bahrain, Switzerland recalls that fruit juices and dairy products will be subject to the selective tax. Once implemented, this modification will increase the tax base and the source of revenues. As the market share of energy drinks in the GCC is very small (less than 5%), Switzerland again repeats its long-standing request that the GCC equalizes the tax rate at 50% for all sugar-containing beverages, and implements this change until the end of 2021. This will have no negative impact on the revenue and the health objectives of the GCC. In fact, analysis performed by the competent authorities in the Kingdom of Saudi Arabia have confirmed the conclusions of the European Food Safety Authority (EFSA) that the health problems associated with beverages consumption relate to the sugar content of the beverages. The EFSA provisional assessment of the safety of dietary sugars, opened for public comment until 30 September 2021, confirms the link between the intake of different categories of sugars and the risk of developing metabolic diseases, such as obesity and diabetes. Finally, Switzerland is in contact with the GCC to discuss holding a capital representatives meeting and looks forward to receiving confirmation of the proposed date as soon as possible.

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

13.5. The delegation of the United States, as well as those from the European Union, Japan, and Switzerland, circulated questions on 12 April 2021 to 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. The United States has not yet received written responses to those questions and asks these Members to indicate at this meeting when those responses will be provided. The United States looks forward to receiving their written responses and requests a substantive update on revisions to the GCC excise tax model and its implementation plan under the GCC Unified Excise Tax Agreement. In particular, the United States looks forward to hearing from GCC member State governments on the following: the current status of these revisions; the timeline for completing these revisions by the end of 2021; the timeline for engagement with interested trading partner governments and private industry stakeholders; and details on the planned revisions, including how the revisions will ensure application to all beverages in which the total sugar content exceeds a minimum threshold, exemption of beverages with no added sugar and low caloric beverages, and application of the same tax rate for all covered beverages that have similar amounts of sugar, including energy drinks. Timely engagement with interested trading partner governments and private sector stakeholders on the concerns noted is critical.

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

13.7. The European Union likewise maintains its serious concerns, voiced in various WTO Councils and Committees, as well as in bilateral contacts with the GCC countries, in relation to the GCC "Treaty on Excise Tax" of December 2016. The EU wishes to reiterate the importance of harmonizing the implementation of the Excise Tax Law and the need for close engagement with private industry stakeholders on the process for its revision. The EU welcomes the GCC's willingness to consult with trading partners and industry stakeholders before a revised system is put in place. In this regard, the EU calls upon the GCC to share its study on proposed tax rates and their expected impact with interested stakeholders for consultation prior to adopting a revised taxation model. The EU also seeks GCC confirmation that, in the revised tax system, the energy drinks will fall within the scope of a sweetened beverage tax, and be taxed according to the same criteria as other sweetened beverages, namely, solely on the basis of their sugar content. The EU would also welcome information on the envisaged timeline for the change to the volumetric tax and an acceleration of the implementation of the new tax regime. The EU would also like to underline the call to provide immediate relief for industry until the ongoing GCC excise taxation revision takes effect, by exempting all zero sugar beverages from the tax, and by harmonizing the tax rate at 50% for energy drinks and all other categories of sugar-sweetened beverages subject to the tax. In addition, the EU echoes the request to the GCC member State governments to provide written replies to the questions circulated in the Committee. Finally, the European Union stands ready to continue engaging with the GCC on this issue in order to have this trade barrier solved in the near future.

13.8. The representative of Japan indicated the following:

13.9. On the issue of the selective tax on carbonated soft drinks adopted by certain GCC Members, Japan recognizes that the classification of Japanese soft drinks has been optimized in the United Arab Emirates, and appreciates the action taken by the UAE on this matter. At the same time, and while it recognizes that the GCC member States are currently conducting a study on a new excise tax model, Japan is still interested in this regime from the perspective of taking a systemic approach to taxation. Therefore, Japan looks forward to seeing relevant information on this study shared in advance, and to the GCC member States providing WTO Members with written answers to their previously circulated questions.

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

13.11. On behalf of the United Arab Emirates, the Kingdom of Bahrain, the Kingdom of Saudi Arabia, the Sultanate of Oman, the State of Qatar, and the State of Kuwait, Bahrain thanks the delegations of the European Union, Japan, Switzerland, and the United States, for the interest that they attach to the GCC excise tax regime and for their communication on the application of the excise tax on carbonated soft drinks, malt beverages, energy drinks, sport drinks, and other sweetened beverages, contained in document G/MA/W/169, dated 12 April 2021, and submitted to the Committee under this agenda item. In this regard, Bahrain recalls that the application of the excise tax regime remains a common exercise that is coordinated between the GCC member States, from the beginning of designing the common law or agreement, to its implementation at national level. In other words, the GCC member States prefer to discuss the issue of the GCC excise tax in this Committee, and to answer the questions and concerns of interested WTO Members in a coordinated manner, through one common voice. That said, Bahrain wishes to try to answer some of the questions put by the interested delegations of the GCC member States' trading partners.

13.12. On the updated timeline of the ongoing study on a new GCC excise tax model and its implementation, Bahrain recalls that the revision of a tax regime, such as the excise tax on beverages, is a complex exercise that requires big effort, extensive coordination, and comprehensive studies. Therefore, it is a time and resource-consuming exercise, which necessitates a lengthy period of long-standing effort and patience. The GCC Working Group on Tax is sparing no effort to the end of completing this exercise, and to submitting to the GCC member States the appropriate results and a high standards excise tax model. For this reason, Bahrain requests trading partners to demonstrate additional patience, and to allow the GCC competent authorities the time to complete their hard work on the excise tax regime. At this stage, Bahrain assures Members that their concerns are being taken into account and treated with consideration. As for the consultation of the GCC member States with private industry, trading partner governments, and other interested parties, the GCC member States have their own informal and formal mechanism, and are open, and stand ready, to respond to any demand for consultations that could contribute to improvements in the required equilibrium between the right to regulate and the interests of private industry. This is

naturally in addition to the consultations with their trading partner governments, at GCC level, to which the GCC Member States, collectively, are open.

13.13. On the issue of possible differences in the implementation of the selective tax across GCC member States, Bahrain wishes to confirm that these differences must be consistent with the GCC Unified Excise Tax Agreement, which constitutes the legal framework for the application of the excise tax in all GCC member States. This Agreement requires, under its Article 29, that GCC member States undertake the necessary internal procedures, including through their national laws and regulations, to implement the provisions of the GCC Unified Excise Tax Agreement. Therefore, any inconsistency, if it exists, will be addressed within the GCC relevant working groups, committees, and other administrative mechanisms. As for the legal definition of the different types of beverages, the scope of coverage of the excise tax, and the expected exemptions, Bahrain has little information on these aspects at this stage, and the aforementioned study, which could clarify all these topics and make any appropriate recommendations and suggestions, is not yet completed. Therefore, Bahrain hopes that the GCC's trading partner governments could demonstrate, at this stage, patience, indulgence, and understanding, because of the complexity of the issue and of the need for GCC member States to establish for themselves a high-standard excise tax model that meets their needs and specificities while being adapted to an equilibrium between the right to regulate and the interests of private industry.

13.14. The Committee took note of the statements made.

14 INDIA – INDIAN STANDARDS AND IMPORT RESTRICTIONS IN THE AUTOMOTIVE SECTOR (QUALITY ORDERS): WHEEL RIMS, SAFETY CLASS, HELMETS – STATEMENT BY INDONESIA

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

14.2. The representative of Indonesia indicated the following:

14.3. Indonesia thanks India for notifying the Committee on Technical Barriers to Trade (TBT Committee), on 25 May 2020, of the draft Automobile Wheel Rims (Quality Control), Order 2020 (document G/TBT/N/IND/147). Based on these criteria, wheel rim products must conform to IS 16192 and bear the Indian Standard Mark, which is licensed by the Bureau of Indian Standards (BIS). According to the notification, this order shall come into force with effect from 1 October 2020, yet India has not made any addendum to the notification regarding the stipulation of the regulation. Indonesia seeks clarification regarding the status of the implementation of the regulation. Indonesia is of the view that the regulation has impacted upon exporters, and has become for them a trade barrier, as there is no clarity regarding the mechanism of the regulation. Therefore, Indonesia requests that India either postpone the regulation or allow sufficient transition time for industry to comply with it. Indonesia remains concerned that the conformity assessment procedure, as set out in the document, is more restrictive than necessary. Indonesia is also aware that, before the mandatory implementation of IS 16192, India required all car wheel manufacturers to apply the ICAT (International Center for Automotive Technology) Standard before entering the Indian market. Therefore, Indonesia requests further clarification from India regarding the differences in terms and procedures regulated in the new IS standard compared to the previous ICAT standards. At the same time, Indonesia thanks India for the discussions held in the context of the virtual bilateral meeting on the side-lines of the TBT meeting, and at the Working Group of Trade and Investment meeting of 5 August 2021. Indonesia has requested further clarification from India in relation to this matter, but unfortunately, to date, Indonesia has not received any substantive responses from India regarding Indonesia's concern.

14.4. The representative of India indicated the following:

14.5. India considers that it is not a mandatory obligation under the WTO Agreement on Technical Barriers to Trade to notify the final measure to the WTO. However, the same is published in the Gazette. As also mentioned on the BIS website, the implementation date for the said regulation has been postponed to 21 March 2022. The same has been published in the Gazette.[23] The Quality Control Order has listed the mandated standard and the conformity assessment procedures required.

[23] https://www.bis.gov.in/wp-content/uploads/2021/06/Automobile-Wheel-Rim-Component-Quality-Control-Amendment-Order-2021.pdf

There is no provision in BIS (Conformity Assessment) Regulations 2018 for remote assessment or any other means for inspection. The Government is considering alternatives for in-person inspections. The discussion is in its initial stages.

14.6. The Committee took note of the statements made.

15 INDIA – PLAIN COPIER PAPER QUALITY ORDER 2020 – STATEMENT BY INDONESIA

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

15.2. The representative of Indonesia indicated the following:

15.3. Indonesia remains concerned about the provisions set out in India's Plain Copier Paper (Quality Control) Order 2020, which stipulate that the certification shall be carried out only by the BIS, based on the Conformity Assessment Regulation 2018, through the Scheme 1 of Schedule-II, which shall require a factory visit, sampling, and testing of the product, as well as licensing procedures. Indonesia regrets that India is ignoring the current pandemic situation, which prevents factory visits due to travel bans and social distancing policies. Therefore, Indonesia urges India to consider the use of remote assessment in conducting factory visits, or any other relaxation of its policy, as a means to facilitate trade and minimize technical barriers to trade, particularly at this time. Indonesia wishes to reiterate its previous statement, namely that the regulation in question has had a negative impact and become a trade barrier for exporters, in particular as there is no clarity regarding the mechanism of the regulation. Therefore, Indonesia requests India to postpone or provide a sufficient transition time to allow industries to comply with the regulation. Indonesia also requests India to adopt the available International Standard as a basis for its testing method. Indonesia appreciates India's discussion of this issue in the virtual bilateral meeting during the meeting of the TBT Committee, and at the Working Group of Trade and Investment meeting, on 5 August 2021. Indonesia has sent enquiries and requested further clarification from India regarding this matter. However, Indonesia regrets to note that India has not yet provided any substantive response to its concern.

15.4. The representative of India indicated the following:

15.5. There is no provision in the BIS Regulations 2018 for remote assessment or any other means for inspection. The Government of India is considering alternatives for in-person inspections. The Quality Control Order has listed the mandated standard and the conformity assessment procedures required. On the standards, India wishes to clarify that international standards are indeed adopted unless specified otherwise. India will contact Indonesia bilaterally in order to discuss this issue further.

15.6. The Committee took note of the statements made.

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

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

16.2. The representative of Australia indicated the following:

16.3. Australia's concerns with India's restrictive measures on pulses imports are well known to all Members, particularly its concerns over India's QRs. While Australia has previously welcomed India's temporary suspension of the renewed QRs for mung beans (Moong), pigeon peas (Tur), and black gram (Urad), until 31 October 2021, this does not address Australia's underlying concerns and its continued request that India's QRs be permanently removed. Australia has previously said, in this Committee and other relevant WTO bodies, that it believes that India is using these WTO-inconsistent measures as an ongoing means to flexibly manage imports in response to changing domestic circumstances. Australia understands that the temporary suspension of QRs and the imposition of domestic stock limits for all pulses, until 31 October 2021, is to address concerns about inflation in pulse prices, which reinforces Australia's concerns about how India is using the

QRs. Australia also notes that, at the same time, India recently continued to increase the minimum support prices for a range of pulses. 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 and increasing levels of market price support, high tariffs, and QRs, continue to negatively impact upon the stability and predictability of the global pulses market, to the detriment of all producers and consumers, including those in India.

16.4. Australia and the co-sponsors of this agenda item have submitted numerous formal questions to India in various WTO fora, including the CTG and the Committee on Agriculture. Unfortunately, India has not answered all of Australia's questions or addressed its concerns. It is important that India provides detailed answers to explain the market and other conditions behind its decisions, including the temporary suspension, and explain how they 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. Australia asks India to clearly explain the status of all of its quantitative restrictions on pulses, in particular whether the temporary suspensions will continue beyond 31 October, and the status of the QR on yellow peas for the fiscal year 2021-2022. Australia also requests India to explain the policy rationale for the minimum import price requirement and port restrictions for yellow peas. India needs to provide certainty and stability to exporters, traders, and the global pulses market, which will not be achieved by continuing to implement potential "temporary suspensions" to what were claimed to be "temporary measures" that have now been in place since August 2017. Australia requests that India respond to its questions and permanently remove the QRs.

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

16.6. As has been previously stated, in this and other WTO committee meetings, the United States remains concerned about 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 lifted.

16.7. The representative of Ukraine indicated the following:

16.8. Ukraine wishes to reiterate its position on India's policy on pulses, which it has already voiced on several previous occasions. India has imposed QRs on imports of various pulses for about 40 years. As such, India's restriction measures are neither temporary nor transparent, therefore violating the requirements of Article XI of the GATT 1994 and Article 4 of the Agreement on Agriculture. Ukraine hopes that India will comply with its WTO commitments and eliminate its import restrictions.

16.9. The representative of Canada indicated the following:

16.10. As a high-quality, reliable supplier, Canada has been the Member most negatively affected by India's measures to limit the import of pulses and is disappointed that pulses continue to be listed as an import restricted product under India's book of ITC (HS) Classifications of Export and Import. For dried peas, no quota volume has been announced by India for the fiscal year 2021. Canada therefore understands that the import of dried peas is banned. Continuous QRs and import bans on dried peas and other pulses have been in place for the last three years. Consequently, it is difficult for Canada to understand why India continues to claim that these measures are "temporary". Canada asks that India promptly clarify the situation as to why dried peas are still restricted from import, why no quota on dried peas has been available since 31 March 2021, and when imports of Canadian dried peas can resume. Canada continues to question the legal interpretation provided by India to justify its trade restrictive measures on dried peas. To conclude, Canada calls upon India to immediately and expeditiously review its trade restrictive measures put in place on dried peas and other pulses, and to implement alternative, WTO-consistent policy options that promote a predictable and transparent import regime for pulses.

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

16.12. The Russian Federation reiterates its long-standing concern over India's pulses import policy and calls upon India to stop applying restrictive measures on imports of yellow peas that are inconsistent with WTO rules. During the period of application of restrictive measures, from 2018 to 2021, India still has not provided sound reasoning for the introduction of measures that hinder the import of pulses into India. Import quotas, an import ban, minimum import price requirements, and ports of entry restrictions have led to a situation where import volumes of yellow peas from Russia plunged almost to zero for the first half of 2021. India repeatedly declares its justification for its measures on imported pulses by recourse to Article XX(a) and (b) of the GATT. Russia urges India once again to explain the causal link between the protection of public morals, human, plant or animal life or health and import restrictions and import prohibition on yellow peas. To date, India has failed to provide such a link. Moreover, Russia wishes to clarify when India is going to introduce the details of its import policy on yellow peas for the 2021-2022 fiscal year, given that, as of 8 October 2021, the information on the import conditions on yellow peas on the site of the Directorate General of Foreign Trade of India is still absent, meaning that India has delayed the publication of such information for half a year already. The Russian Federation urges India to abandon its minimum import price requirement, to lift its ports of entry restriction, and to allow unhindered import of yellow peas into India's market, as it is prescribed to do under its WTO obligations. The Russian Federation calls upon India to publish the information concerning its import conditions on time.

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

16.14. This supposedly temporary measure has been in place for over four years. The European Union therefore reiterates its concerns expressed at the previous formal meeting of this Committee and in other WTO bodies. The EU fully supports the comments and questions raised by other Members, in particular those of Australia and Canada.

16.15. The representative of India indicated the following:

16.16. India wishes to reiterate that the objective of this measure is to cater to the food and livelihood security of small and marginal farmers. India has been regularly reviewing this measure based on the market situation of pulses, owing to which the quota of pulses has been increased from time to time. In this regard, apart from quota increases from time to time, the Government of India has further relaxed its import measures through the Directorate General of Foreign Trade (DGFT) Notification, dated 15 May 2021, wherein restrictions on the import of Tur/Pigeon Peas (Cajanus Cajan), Moong, and Urad have been withdrawn by revising their import policy from "Restricted" to "Free", with effect from 15 May 2021, and which will remain in effect until 31 October 2021. India continues to review the situation.

16.17. The Committee took note of the statements made.

17 INDIA – IMPORT POLICIES ON TYRES – STATEMENTS BY THE EUROPEAN UNION AND INDONESIA

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

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

17.3. The European Union wishes to reiterate the concerns it previously raised in the Committee regarding India's licensing regime for importation of pneumatic tyres under Notification No. 12/2015-2020. The EU welcomes India's belated WTO notification of this measure. However, the EU continues to be concerned about the effect of this measure on the import of tyres. Tyre imports have become highly restricted since June 2020, and only a limited number of licences have been granted to EU tyre manufacturers. These licences are limited in terms of duration, quantity, and type of tyres. No licences have yet been granted to bus or truck tyres. The EU would urge India to increase its level of transparency with respect to the applicable requirements and procedural steps to be followed by tyre importers, as well as to reconsider and eliminate any implicit or explicit quantitative or other restrictions on the import of replacement tyres that could run contrary to WTO requirements.

17.4. The representative of Indonesia indicated the following:

17.5. India has imposed loyalty or marking fees for tyre products with an IS marking. Indonesia remains concerned that the imposition of marking fees is burdensome and has become an unnecessary obstacle to trade. The imposition of marking fees has no legitimate justification, and there is no clear relation between marking fees and the protection of human health, safety, or prevention from deceptive practices. Based on a report that Indonesia received from business representatives, technically, India's imports of Indonesian tyres have been hampered since early 2020. This occurred because the Government of India unilaterally stopped importing tyres from Indonesian exporters. In 2020, the Government of India issued a new import policy (Notification No. 12/2015-2020, dated 12 June 2020, regarding "Amendment in Import Policy of Tyres"), which changed the import criterion for tyres from "free" to "restricted". It is for this reason that there have been no tyre imports from Indonesia to India during the period in question, namely that no import licences have been issued by the Government of India. Indonesia is of the view that the aforementioned arrangements are inconsistent with GATT provisions on national treatment, given that they are discriminatory and favour local tyre manufacturers. Indonesia looks forward to hearing India's response on this issue and requests India to review the policy to ensure its compliance with the principle of non-discrimination. At the same time, Indonesia thanks India for the discussion that took place in the virtual meeting of the Working Group on Trade and Investment, on 5 August 2021. Indonesia has also requested India to provide its further clarification of this matter.

17.6. The representative of Chinese Taipei indicated the following:

17.7. Chinese Taipei shares the concerns of the European Union and Indonesia regarding this agenda item. The situation has been ongoing for more than a year since India announced its restrictive import measure on new pneumatic tyres, in June 2020. Chinese Taipei already flagged its concern at the Committee's previous meeting, and it is regrettable that this concern remains unchanged. The DGFT of the Indian Ministry of Commerce and Industry announced on 12 June 2020 that a restrictive import measure had been imposed on new pneumatic tyres, meaning that importers must apply to the DGFT for a licence or special approval before importing those items. Since then, Chinese Taipei has noticed that only about 40% of its application cases have been approved compared to the average figures of the past three years. The delay in issuing import licences has severely affected Chinese Taipei's exports to India, resulting in a sharp 70% decrease in trade in 2020 compared to the same period in 2019. To Chinese Taipei's understanding, India issues import licences only for a limited number of those kinds of pneumatic tyres that are not produced domestically, which constitutes a ban on tyre imports. Chinese Taipei questions how this measure could be compatible with WTO rules concerning QRs. As such, Chinese Taipei urges India to comply with the regulations set out under the Agreement on Import Licensing Procedures. In particular, Chinese Taipei notes that 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 the restrictions. Chinese Taipei requests India to provide the rationale that led it to implement this new measure, which by its nature is restrictive and discriminatory. Chinese Taipei also kindly requests India to provide details of its domestic practices for granting licences to Indonesia's references. Chinese Taipei once again urges India to take immediate measures to ensure that its import licences can be issued in a timely, transparent, non-discriminatory, and predictable manner.

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

17.9. The Republic of Korea has expressed its concerns about India's import policy for tyres in previous meetings. However, India's import policy for tyres continues to create trade barriers to foreign companies, and this concern remains unchanged. In this regard, India's non-automatic licensing is substantially banning imports of tyres, which is inconsistent with WTO rules, including Article 3.2 of the Agreement of Import Licensing Procedures. Korea once again urges India to make improvements in its operation of this policy so that it does not constitute a barrier to free trade.

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

17.11. The United States thanks the European Union and Indonesia for raising this issue again on this meeting's agenda, and continues to share their concerns. The United States also thanks Japan and Thailand, in advance, for raising the following two agenda items. The United States continues to monitor all of these issues and is interested to hear India's response to the concerns raised.

17.12. The representative of India indicated the following:

17.13. India thanks delegations for their interest in this issue. India considers that its non-automatic licensing requirements are administered in a manner that is fair, equitable, and consistent with the rules of the WTO Agreement on Import Licensing Procedures, including with respect to the time-frames for the granting of import licences. India also notes that a number of licences have been granted, following approval by the Exim Facilitation Committee (EFC). India's measure has been taken in view, in particular, of quality issues. In pursuance of non-automatic licensing, the procedure examines the applications received and grants licences based on the comments of the concerned administrative Ministries or based on the criteria laid down for the purpose. In the case of tyre imports, the EFC has granted licences, after examination of the applications, in almost all cases. Specifically, on Indonesia's points, it may be clarified that the fee is not termed as a "royalty fee on tyres", but as a "Marking Fee". The BIS operates a Product Certification Scheme as per the Scheme-1 of the BIS Conformity Assessment Regulation 2018, under the BIS Act, 2016. Under the scheme, the BIS grants Product Certification licences to domestic or foreign manufacturers as per the Conformity Assessment Regulation 2018. The manufacturer is required to pay BIS the necessary fee, as notified in Scheme-I of this Regulation, which includes a marking fee for each product. The marking fee for a product is specified as: (a) the Minimum Marking fee per annum; and (b) the Unit and Unit rate. The manufacturer is required to pay a minimum marking fee in advance for the validity period of the licence and the actual marking fee for each year is calculated by multiplying the unit rate with the quantity or units marked with an ISI mark by the manufacturer during the year. The actual marking fee thus arrived at, or the minimum marking fee for the year, whichever is higher, is payable by the manufacturer. The marking fee, as per the process described above, is the same for domestic and foreign manufacturers, as the marking fee is chargeable on all production of tyres carrying an ISI mark.

17.14. The Committee took note of the statements made.

18 INDIA – IMPORT RESTRICTION ON AIR CONDITIONERS – STATEMENT BY JAPAN

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

18.2. The representative of Japan indicated the following:

18.3. As Japan mentioned at the TRIMs Committee in March, and at the CTG in July, Japan considers that India's import ban on air conditioners, including refrigerants, introduced last year by Notification No. 41/2015-2020, is a measure that unreasonably imposes a restructuring of corporate supply chains. Japan is highly concerned that this measure is likely to be an import ban that is inconsistent with Article XI:1 of the GATT. To date, India has explained, in its written answers in the context of its TPR, and at the CTG, that the measure is consistent with its obligations under the Montreal Protocol, and with the regulations on hydrofluorocarbons, which are ozone-depleting substances. However, Japan considers that this import ban is still superfluous and irrational in that it covers a wide range of air conditioners that use refrigerants. Furthermore, these air conditioners are subject neither to India's reduction and elimination obligations under the Montreal Protocol, nor to the regulation for freon gas causing ozone layer depletion under India's domestic regulations. In this respect, after considering India's previous answers, Japan submitted written questions to the TRIMs Committee in September to request from India more detailed further elaboration. In this regard, Japan expects India to provide prompt answers to its questions. In addition, air conditioners and their related parts are going to be mandated under the BIS ISI Mark certification in January 2022, based on India's Quality Control Orders. However, while it is necessary to obtain a BIS licence for these products through the conformity procedure required of manufacturers, the factory testing for foreign manufacturers has been suspended due to the COVID-19 pandemic. As such, Japan is concerned that the current approach of postponing the implementation date and factory testing for foreign manufacturers could lead to imports being restricted in the foreseeable future. Therefore, Japan calls upon India to consider introducing some alternative procedures that would make it possible for foreign manufacturers to obtain a BIS licence.

18.4. The representative of India indicated the following:

18.5. This issue was raised at the CTG's meeting of 31 March and 1 April 2021, where India had explained its rationale for the measure. India would like once again to inform Members that the

measure was necessary for the application of standards and regulations for the marketing of the item in question, besides reducing risks to human, animal and plant life and health. The measure is also consistent with India's commitments to the Montreal Protocol. Furthermore, as per the Ozone Depleting Substances Regulation and Control Amendment Rules, 2014, imports of air conditioners containing Group VI substances (hydrochlorofluorocarbons) is prohibited since 1 July 2015. In August 2021, the Government of India ratified the Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer for the purpose of phasing down hydrofluorocarbons in India. This amendment was adopted by the Parties to the Montreal Protocol in October 2016, at the 28th Meeting of the Parties to the Montreal Protocol, held in Kigali, Rwanda. India will complete its phasing down of hydrofluorocarbons in four steps, from 2032 onwards, with a cumulative reduction of 10% in 2032, 20% in 2037, 30% in 2042, and 85% in 2047. India has a consistent policy in this regard and remains open to discussing this issue bilaterally with the delegation of Japan.

18.6. The Committee took note of the statements made.

19 INDIA – IMPORT POLICIES ON TYRES, TELEVISION SETS, AND AIR CONDITIONERS – STATEMENT BY THAILAND

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

19.2. The representative of Thailand indicated the following:

19.3. Thailand wishes to reiterate the concern that it raised at the Committee's meetings of November 2020 and April 2021 regarding India's import policies for tyres, television sets, and air conditioners. According to Notifications No. 12/2015-2020, 22/2015-2020, and 41/2015-2020, India has changed the import conditions for tyres and television sets from "Free" to "Restricted", and changed the import condition for air conditioners from "Free" to "Prohibited". Since Thailand has not received any response from India, it wishes once again to request India to provide detailed clarifications regarding the three notifications in question, as well as notifying the amendments to India's import policies to the WTO at the earliest opportunity. India's import measures on tyres, television sets, and air conditioners have adversely affected Thailand's exporters. For this reason, Thailand requests India to give its attention to this matter, including by exploring a less trade restrictive alternative and by sharing the relevant information with other WTO Members. Thailand stands ready to meet with India bilaterally with a view to achieving a mutually satisfactory solution to these issues.

19.4. The representative of India indicated the following:

19.5. India thanks Thailand for its interest. India covered the issue of tyres under agenda item 17, and air conditioners under agenda item 18, and refers to its responses under those items. For the comments on television sets, India has filed a notification to the Committee on Import Licensing clarifying its position (document G/LIC/N/2/IND/15, of 28 May 2021). India continues to discuss this issue with its capital and remains open to discussing the issue with Thailand bilaterally.

19.6. The Committee took note of the statements made.

20 INDONESIA – IMPORT SUBSTITUTION PROGRAMME – STATEMENT BY THE EUROPEAN UNION

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

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

20.3. Indonesia's import restricting policies and practices are a long-standing item in several WTO bodies. The European Union is deeply concerned in this regard, especially as the number and scope of Indonesia's restrictions seem to have further expanded over time. These restrictions have a negative and increasing impact on trade flows at a time when growth and economic development are under major stress due to the pandemic. On this occasion, the EU wishes to draw attention to some worrying recent developments with regard to Indonesia's increased focus on import substitution. Notably, the EU has serious concerns over reported plans by the Indonesian Ministry

of Industry to achieve, by 2022, a reduction in imports equivalent to 35% of the value of its 2019 import potential through a range of measures that include expanding local content requirements and the mandatory use of Indonesian National Standards ("SNI"), as well as the further promulgation of cumbersome import licensing procedures. Implementation of this approach appears to be already under way with the adoption, for example, of import restrictions on medical devices through the "freezing" of several foreign devices in the Indonesian e-catalogue for public procurement, preventing government health institutions from purchasing them. The many import restricting measures implemented by Indonesia have already negatively affected EU operators across a variety of sectors. Beyond such impact, these measures will also hamper the post-pandemic economic recovery of the country, which cannot be achieved through export promotion alone. The EU would therefore like to ask Indonesia for clarification of its reported plans for an import substitution programme, as well as its underlying rationale. The European Union would also welcome Indonesia's clarification of the implementing measures that it intends to undertake, including how Indonesia will ensure their compliance with its WTO obligations.

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

20.5. The United States shares the European Union's concerns regarding the Indonesian government's recent statements that it will suppress imports with the goal of "substituting 35% of imported products" by 2022. The United States urges Indonesia to share further information on these statements and to rethink this trade-disruptive goal.

20.6. The representative of Indonesia indicated the following:

20.7. Indonesia explained previously that, in principle, the use of Indonesian National Standards is not intended to create import substitution programmes, nor to hamper imports. Rather, their aim is consumer protection, including safety, security, and health, regardless of whether the product is domestically produced or imported. Indonesia always reports to the WTO on any mandatory SNI implementation, and is transparent and clear in providing information on technical provisions. Furthermore, Indonesia's import licensing measures are also not intended to be an import substitution programme, but serve, rather, as a protection from legal disputes and financial losses for businesses that engage in international trade.

20.8. The Committee took note of the statements made.

21 INDONESIA – CUSTOMS DUTIES ON CERTAIN TELECOMMUNICATION PRODUCTS – STATEMENT BY THE UNITED STATES

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

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

21.3. The United States continues to be disappointed that Indonesia has not responded to its questions, nor otherwise addressed its concerns, with respect to 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 for almost two years, along with other Members, including in the CTG and the Market Access and ITA Committees, as well as bilaterally. The United States has been patient and constructive, providing concrete examples that clearly illustrate US concerns multiple times, as well as preparing several specific questions that were circulated in the ITA Committee, in document G/IT/Q/1, on 14 April 2021. Unfortunately, Indonesia has yet to provide a substantive response to the repeated attempts by the United States at engagement. In addition, the costs of Indonesia's policies in this space are not insignificant, practically speaking. Indonesia's tariffs not only impose an unfair financial burden on foreign firms, but they also limit access for Indonesian consumers and firms to important high-tech products. US traders have also been actively noting the disincentives to investment in Indonesia that result from these tariffs. Stakeholders have stressed the importance of addressing the integrity of market access commitments. This Committee provides the forum to do so; however, it requires the cooperation of each participant to be proactive in not only identifying, but also addressing, the concerns that are raised.

21.4. The representative of Japan indicated the following:

21.5. Japan appreciates the United States' inclusion of this item. Regarding the imposition of 10% customs duties on certain telecommunications products, Japan notes that, in June 2020, in this Committee, Indonesia explained that "certain products may have been affected by the splitting and merging process during the transposition." Subsequently, in this Committee, in November 2020, and in the ITA Committee, in April 2021, Indonesia stated that it "did not intend to take action beyond its commitments or obligations under the ITA Agreement". Japan urges Indonesia to provide further details on the aforementioned customs duties, including information on possible next steps, to allow it to scrutinize the facts in depth.

21.6. The representative of Canada indicated the following:

21.7. Canada views Indonesia's application of tariffs above its bound rates on ICT products as inconsistent with Indonesia's WTO commitments and contrary to the objectives of multilateral tariff liberalization. In addition to these systemic concerns, Canada also has commercial concerns with regard to Indonesia's application of tariffs on ICT products, which have impacted at least CAD 1.8 million in Indonesian imports from Canada in 2020 (a decrease of 29% compared to 2019). Canada calls upon Indonesia to eliminate its tariffs on ICT products in a way consistent with its WTO commitments.

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

21.9. Despite the European Union's requests and calls for Indonesia to align the tariff treatment of certain ICT products classified under subheading 8517.62 with Indonesia's WTO commitments, it appears that Indonesia continues to charge a significant tariff (10%) on products classified under tariff line 8517.62.49. The European Union has not yet heard any explanation from Indonesia, although it had raised the issue at both the Market Access and ITA Committees. In this particular category of products (tariff item 8517.62.49) the EU has recorded a significant drop in its 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 call for the tariffs in tariff subheading 8517.62 to be brought down to zero. The European Union seeks further clarification from Indonesia as to why it continues to apply tariffs that are not in line with its WTO bound commitments.

21.10. The representative of Indonesia indicated the following:

21.11. Indonesia is giving its close attention to the imposition of import duty tariffs on several IT products, as raised by several Members earlier in the meeting. Indonesia had previously reiterated its statement at the ITA Committee and the CTG, namely that the Government of Indonesia continues to be committed to complying with, and respecting, every WTO Agreement, including Indonesia's commitment to the ITA Agreement. Indonesia has no intention of taking any action beyond its obligations under the ITA Agreement. Indonesia stands ready to continue communicating with those WTO Members that have expressed their concern.

21.12. The Committee took note of the statements made.

22 MEXICO – IMPORT QUOTA ON GLYPHOSATE – STATEMENT BY THE UNITED STATES

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

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

22.3. The United States would like to reiterate its concern with the 4 April announcement by Mexico's National Council for Science and Technology (CONACYT) recommending an import quota on glyphosate and glyphosate-containing products. US 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 by rejecting all applications for import permits for those goods. During that time, Mexico has not provided an opportunity for public comment, submitted

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 Article III of the GATT?

22.4. The representative of Canada indicated the following:

22.5. Canada notes that Article XI of the GATT prevents Members from imposing QRs. While paragraph 2 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 its justification for the imposition of this measure.

22.6. The representative of Mexico indicated the following:

22.7. Regarding the Decree published in the Official Journal of the Federation on 31 December 2020, and as Mexico has indicated on previous occasions, the work of the agencies responsible for the Decree's implementation has not been completed and is still ongoing. 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 in terms of its provisions, and taking into consideration Mexico's international obligations and commitments.

22.8. The Committee took note of the statements made.

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

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

23.2. The representative of Thailand indicated the following:

23.3. The Government of Thailand has been informed by Thai exporters, since 2019, that they have been unable to export caffeinated mixed energy drinks to Nepal due to the implementation of the Nepali government's measure on import prohibition of caffeinated mixed energy drinks and flavoured synthetic drinks, which Nepal has not officially notified or justified under WTO rules and regulations. Thailand is deeply concerned about the measure as it seriously affects exports of Thailand's energy drinks to Nepal. Thailand would like to recall Nepal's statement delivered at the meeting of the Committee of 29-30 April 2021, regarding Nepal's import prohibition measure on energy drinks, in which Nepal justified its action on the grounds of a balance-of-payments problem and the need to reduce Nepal's foreign exchange reserves. Moreover, Nepal informed the Committee on that occasion that it would provide the official notification to further clarify the precise legal basis under the WTO Agreements justifying Nepal's temporary adoption of an import prohibition on energy drinks. In addition, Nepal had indicated that it would discuss implementation of the measure with the organizations concerned. Therefore, Thailand requests Nepal to share an update on the progress of its official notification to WTO Members, and of its considerations concerning the elimination of the said measure. Lastly, Thailand would welcome holding bilateral consultations with Nepal with a view to finding a mutually acceptable solution to this issue.

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

23.5. The United States supports Thailand's concern over Nepal's ban on the import of certain energy drinks. In January 2020, the United States requested Nepal to notify this measure through the WTO TBT Inquiry Point but has not yet received a response. The United States urges Nepal to notify the measure to the TBT Committee and suspend it until WTO Members have had an opportunity to review and comment on it.

23.6. The representative of Nepal indicated the following:

23.7. Nepal wishes to refer to its statements delivered at the Committee's meetings of June and November 2020, and April 2021, and reiterates all of its justifications presented on those occasions, and requests that they be considered positively. The aforementioned statements indicated that Nepal's export-import ratio of trade in goods reached to 1:15.3 in the fiscal year 2017/2018, from 1:2.5 in the fiscal year 2004/2005, after its accession to the WTO, resulting in a huge trade gap. Such a surge in imports posed severe challenges to Nepal's entire economic development process. The main legal basis of the measure is Section 3(1) of the Export and Import Control Act 1957, which allows the Government of Nepal to take necessary measures if conditions are appropriate to do so, 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 implemented during the period of Nepal's accession, and had been notified to the WTO at that time. The measure is neither concentrated to any specific area and issue, nor focused on the trade restriction of only a few products; rather, the measure broadly covers trade regulation and facilitation aspects of Nepal's international trade with a view to making it standardized and smooth. The measure has been applied as part of the Export and Import Control Act 1957 on a temporary basis; furthermore, the measure fully complies with WTO laws and is applied on an MFN basis to all WTO Members. Nepal is working on the measure and may review it periodically, revising it based on the review's findings and consultations. However, the process of assessment and consultation may take some time because the entire state mechanism is fully engaged in the fight against the COVID-19 pandemic. Regarding the notification itself, and based on the notification sent by the Permanent Mission of Nepal in Geneva in January 2020, Nepal is working closely with the WTO Secretariat in order to revise the document such that it meets the proper format, and this revised version is currently in the final stage of its verification in capital. Nepal extends its sincere appreciation to the Secretariat in this regard.

23.8. The Committee took note of the statements made.

24 RUSSIAN FEDERATION – EXPORT PROHIBITION ON TIMBER PRODUCTS - STATEMENT BY THE EUROPEAN UNION

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

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

24.3. The European Union reiterates its concern about the Russian Federation's announced introduction of an export ban on certain categories of wood, starting from 1 January 2022, following a presidential instruction. First, Resolution No. 396/2021, of 18 March 2021, limits to 2021 the scope of tariff-rate quotas for the export of coniferous wood, including EU-specific TRQs, which form part of Russia's WTO Schedule of concessions and a bilateral agreement with the EU on their operationalization. The EU wishes to ask the Russian Federation how it intends to comply with its commitment to effectively apply these TRQs for the export of coniferous wood. Second, Resolution No. 1225, of 20 July 2021, has reduced from four to one the number of railway border crossing points with the EU for exports of round wood. Moreover, the chosen crossing point has practically no infrastructure to handle wood trade, making exports of wood to the EU all but impossible. The EU wishes once again to ask the Russian Federation how this measure, which amounts to a *de facto* ban on exports of wood, could comply with the prohibition of QRs set out in Article XI of the GATT. Third, the EU kindly asks if the Russian Federation is planning to adopt further measures implementing the presidential instruction. The European Union looks forward to receiving responses to these questions.

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

24.5. The United States continues to echo the European Union's concerns about the Russian Federation'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 monitor closely 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.

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

24.7. The Russian Federation wishes to note that there is no export prohibition in force on the export of timber products from Russia. All measures that Russia introduces in the sphere of regulation of export of timber products, including the reduction of railway border crossing points, are in the context of measures aimed to combat criminal activities in the field of illegal logging and illegal export of these products.

24.8. The Committee took note of the statements made.

25 RUSSIAN FEDERATION – DISCRIMINATORY APPLICATION OF VALUE-ADDED TAXES – STATEMENT BY THE UNITED STATES

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

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

25.3. The United States wishes to register its concerns that the Russian Federation appears to apply its value-added tax in a manner that discriminates against imported films. The United States understands that Russia imposes an 18% VAT on the sales of most goods, works, and services supplied in Russia, whether imported or domestically sourced. However, the United States also understands that Russia exempts from that 18% VAT the distribution of films that obtain a "national film certificate", a designation which is nearly impossible for foreign films to obtain. The United States would appreciate if the Russian Federation could explain the exemption from the 18% VAT for domestic films in light of its WTO obligations, in particular with respect to non-discrimination.

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

25.5. The Russian Federation will transmit the questions from the United States to its capital, and stands ready to engage bilaterally on this matter.

25.6. The Committee took note of the statements made.

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

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

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

26.3. As the United States has done in past meetings, it must register its continued concern about Russia's mandatory labelling regime – or "track and trace", as it is sometimes called. The United States will continue to watch carefully the implementation of the regime to prevent it from becoming, intentionally or unintentionally, a non-tariff barrier. In addition, the United States echoes concerns previously expressed by the EU about the potential overreach of the labelling mandate, and asks the Russian Federation to consider limiting the requirement to those products that are prone to counterfeiting or to tax evasion. In addition to its previously expressed concerns about the mandatory labelling regime, the United States would like to raise a new issue: the newly introduced Traceability Regime. The United States understands that the Traceability Regime system was recently changed from voluntary to mandatory, that it does not appear for the moment to cover products subject to the mandatory labelling regime, that labels are applied to consignment of goods, not individual products, and that the reports are provided to the Tax Service, not the Chestnyznak company. But many questions remain, most prominently: how does the Traceability Regime differ from the labelling regime, now and in the future? The Government of Russia has stated that it plans to extend the labelling regime to all products. When that goal is reached, does the Government of Russia anticipate that some or all products would then be subject to both the labelling and traceability regimes? If the labels are applied to a consignment, what happens when the consignment is broken up and delivered to different wholesalers?

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

26.5. The European Union shares the concern of the United States with regard to this measure's negative impact upon trade, which is a concern that the EU has consistently raised at the TBT Committee, as the EU considers that the measure falls within the scope of the TBT Agreement and its notification requirements. The EU genuinely understands and supports the necessity to fight counterfeit and illegal imports, but considers that individual tracking and tracing is a particularly demanding requirement, which may be justified for those goods of higher value, where evidence of counterfeit or tax avoidance is clear, but which is otherwise disproportionate. The measure may thus be justified for tobacco or furs, and we recall that the EU also has a system of individual tracking for tobacco products and for medicinal products. However, the scope of the Russian Federation's measure also includes tyres, bed and kitchen linen, footwear, and other products, to which the conditions which would warrant its proportionality hardly apply, and the measure therefore constitutes an unjustified trade barrier for these goods. Moreover, the Russian Federation has announced plans to extend the scope of the measure to all goods placed on the Russian market by 2024. The European Union thus calls upon the Russian Federation to revise the current scope of the measure, and the plans to extend it, so as to apply the labelling and tracking scheme in a highly selective and targeted manner.

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

26.7. The Russian Federation wishes to stress 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. Currently, the system applies to dairy products, bottled mineral water, pharmaceuticals, tobacco products, textiles, shoes, perfumes, tyres, and cameras. As previously stated, the system is non-discriminatory, as both manufacturers in the territory of Russia and importers have equal access to the technical matters related to obtaining a data matrix code. The operator of the system and the Government regularly provide information support to operators. As for statistics of data matrix codes obtained, one can see that the number of codes issued is large. For example, for dairy products, the number of codes obtained is approximately 8,5 billion codes, for bottled mineral water it is 105,4 million codes, for pharmaceuticals about 11 billion codes, for tobacco 25 billion codes, for textiles about 1,8 billion codes, for shoes 2,9 billion codes, and so on. The comprehensive information on the measure is regularly published on the official website of the operator or Government institutions. Taking this information into account, one can conclude that the measure cannot be considered as trade restrictive or non-transparent. In case delegations have questions, the Russian Federation is always open to discussing them, both bilaterally and during the working meetings of WTO bodies.

26.8. The Committee took note of the statements made.

27 SRI LANKA – IMPORT BAN ON VARIOUS PRODUCTS – STATEMENTS BY AUSTRALIA, THE EUROPEAN UNION, AND THAILAND

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

27.2. The representative of Australia indicated the following:

27.3. Australia welcomed the update by Sri Lanka on its series of import restrictions provided at the CTG and the CMA meetings earlier this year. Despite these updates, Australia continues to share the concerns of other WTO Members with respect to the evolving nature of Sri Lanka's measures. The range of import measures currently being implemented, and their cumulative impact, appear to be overly trade restrictive and do not have a clear end-date. Australia appreciates the difficult circumstances that Sri Lanka continues to face as a result of the impacts 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 economic recovery post-pandemic. This is true for Sri Lanka and all other WTO Members. In April 2021, Sri Lanka provided an update regarding its work with the Secretariat to appropriately notify its measures to the WTO; however, this notification has not yet been released. Australia again reiterates its request for Sri Lanka to notify the WTO of these measures as soon as possible, and in particular to provide the WTO basis of these measures and to indicate when they will be lifted. The lack of certainty has been disruptive of trade and has impacted Australia's exporters' ability to

provide staple foodstuffs to Sri Lankan consumers. Finally, Australia would appreciate if Sri Lanka could reassure Members that the measures are being implemented in a manner consistent with Sri Lanka's WTO obligations. Australia remains interested in engaging further with Sri Lanka on this matter, including through the suggested consultations in Geneva.

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

27.5. The European Union continues to have serious concerns with regard to the broad import restrictions imposed by Sri Lanka, in various forms, since April 2020. In terms of trade, over 2020, EU exports to Sri Lanka decreased by 27%,which was way beyond the average decline in exports (of 9%) that it had noted in total EU exports. These figures show that these measures are causing real damage to the EU's commercial and economic interests. The EU does not dispute that Members can take import restrictions in case of a critical Balance-of-Payments (BOP) situation. However, when doing so, a WTO Member has to 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, in particular: (i) the obligation to notify the import restriction to the General Council and to enter into consultations with other WTO Members; (ii) the need for the measures to be temporary in nature, as the measures have no expiration date and apply "until further notice"; (iii) the obligation to present timetables for progressive relaxation and phasing out until final elimination of the measures; and (iv) the need to administer the import restrictions in a transparent manner.

27.6. Since the initial measure of April 2020, Sri Lanka has repeatedly modified the regulations, gradually moving products from the banned category into the category where imports are subject to a 90 or 180-day credit facility. However, the EU notices with concern that, in July 2021, items have again been moved back to the banned category, and other new restrictions have been imposed, namely the 100% cash margin deposit. The measures remain heavy, complex, and non-transparent, despite a relaxation in a very few cases. Also, on a select number of tariff lines, such as cars and tyres, or the import of certain 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 of nearly 650 product lines remain banned, while 1,300 product lines can enter, but only under credit provisions. The EU acknowledges that Sri Lanka has contacted the WTO Secretariat and shared an overview of the measures in force with the aim of seeking its advice and information on the notification format and procedure. This is a very positive first step, but surely not sufficient. Furthermore, there is no clarity on the temporary nature of the measures imposed, and the EU would welcome an update by Sri Lanka in this regard. The EU also urges Sri Lanka to provide indications regarding the temporary nature of the ban. Specifically, the EU seeks clarification as to when Sri Lanka is going to remove the ban, especially as the ban has now been in place for over one and a half years. The European Union stands ready to continue working 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 them.

27.7. The representative of Thailand indicated the following:

27.8. Thailand wishes to reiterate its concern as raised in the Committee's meeting in December 2020 regarding Sri Lanka's import measures, which came into effect in May 2020. According to Notification No. 108-003/2020, Sri Lanka changed import conditions on numerous products, including automotive and auto parts, whereby Sri Lanka has imposed measures such as a temporary suspension of imports, imports on a credit basis, import control licences, and import bans. Thailand has been particularly concerned about the effect of the suspension of imports of automotive products, which has barred exports from Thailand since June 2020, and the credit basis measure for the importation of auto parts, which allows Sri Lankan importers to make a payment to overseas exporters within 180 days instead of 30 days. At the Committee's previous meeting, Thailand requested Sri Lanka to clarify such import measures, as well as the rationale behind these particular policies. Thailand also stressed that these measures have hindered bilateral trade between Thailand and Sri Lanka. To date, Thailand has not yet received any responses from Sri Lanka. Hence, Thailand once again requests Sri Lanka to provide its detailed clarifications on the Notification, as well as notifying the amendments of Sri Lanka's import policies to the WTO as soon as possible. Thailand stands ready to meet bilaterally with Sri Lanka with a view to achieving a mutually satisfactory solution to this issue.

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

27.10. As it has previously expressed in this Committee, the United States remains concerned that Sri Lanka is continuing to restrict imports of a variety of goods. One of the latest group of goods to be impacted by these measures is agricultural chemicals and fertilizers. There has been some confusion on the reasons for its ban on the import of agricultural chemicals. Could the Government of Sri Lanka provide more information on this measure?

27.11. The representative of Japan indicated the following:

27.12. Japan echoes the concern expressed by Australia and the European Union regarding the possibility of inconsistency 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 an 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 those requirements, and the reason why it 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 with its early withdrawal.

27.13. The representative of Sri Lanka indicated the following:

27.14. At the outset, Sri Lanka appreciates the interest shown by delegations in its trade policy measures introduced to curb the economic impact of the COVID-19 pandemic in the island. On the pertinent issues raised, Sri Lanka recalls that it had already made statements at previous meetings of various WTO bodies, including in this Committee and the CTG. For the sake of saving time, Sri Lanka will not repeat those statements. However, Sri Lanka would like to reiterate that it has been fully abiding by its obligations and commitments under the respective WTO Agreements, as the measures are targeted and temporary in nature, and have been subjected to periodical reviews with a view to regulating and monitoring imports that place a significant burden on the scarcity of foreign exchange during the current pandemic, which was the main rationale of Sri Lanka's measures. During the process of containing the spread of many variants of the COVID-19 virus, the Government of Sri Lanka has given priority to the importation of vaccines and related medicines, products and devices over other non-essential items using the scarce foreign exchange, permitting only importation of certain basic food items to ensure the food security of its population as an exception. As a result of the flexible measures introduced on importation of essential items, to which many countries have resorted, Sri Lanka also did not offer flexible measures in relation to the importation of non-essential items into the country. When one looks at the global trade patterns of non-essential commodities over the last two years, it is evident that global demand for non-essential goods, including automobiles and their parts and accessories, have significantly shrunk, indicating that such downwards trends in demand and exports are not solely due to the measures imposed by the countries, but because of consumer preferences that are contributing to a significant decline in exports of non-essential goods around the world.

27.15. Sri Lanka has been continuously examining existing restrictions on foreign exchange and making informed decisions to liberalize these measures at regular intervals. Sri Lanka wishes to share key aspects of the developments that have taken place since June 2021. Accordingly, the previous Import and Export Control Regulations issued since April 2020, which imposed restrictions on imports, have been repealed. First, the requirement to obtain import licences has been removed and for those products no prior approval is required as the temporary suspension is no longer applied. Second, those items that were subject to importation only on a 90 or 180-days credit basis are no longer subject to such requirements. Third, those goods, which were subject to temporary suspension, are now allowed to be imported, except automotive vehicles and plastic goods. In addition, certain fertilizer varieties have been brought under Special Import Licences. These measures on imports, which still continue to exist on plastic goods and certain kinds of fertilizer, are justified under Article XX of the GATT 1994, as they have been introduced on a non-discriminatory basis to limit the use of certain plastic and chemical fertilizers domestically for environmental reasons. While noting the concerns expressed by many delegations, Sri Lanka wishes to inform Members that it does allow certain types of motor vehicles falling under HS 8705, 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. Apart from the above justifications, Sri Lanka also notes that its passenger car imports from the European Union had been on a declining trend. Compared to 2018, Sri Lanka's imports of passenger cars from the EU had

declined by 41% in 2019. In addition, Sri Lanka considers that, although its imports from the EU had declined by 73% in 2020 compared to 2019, this cannot be solely attributed to its import restrictions, since imports of passenger cars from the EU were anyway on a declining trend before the pandemic, and even without any restrictions. Furthermore, Sri Lanka also wishes to flag that imports of motor vehicles have been volatile during the 2017 to 2019 period due to Sri Lanka's decision to periodically relax or suspend its duty-free car permits. These duty waivers and suspension of customs duties, Import Cess and excise duties in the case of duty-free car permits cannot be considered as commercial activities that take place "under the normal course of trade" (within the meaning of the WTO rules); accordingly, Sri Lanka's trading partners cannot presume that the trade flows taking place under "non-normal course of trade" are the general norm, and claim that Sri Lanka's imports of motor vehicles from EU member countries and Japan have been affected due to the trade restricting measures imposed by Sri Lanka. Due to the comparatively high c.i.f. prices of European and Japanese made motor vehicles, in the absence of duty-free car permits, the demand for such vehicles is not expected to surge.

27.16. Regarding transparency requirements, the principal set of procedures, based on which the existing measures on imports have been formulated by Sri Lanka, had already been notified to the WTO in 2014. This is the Regulation on the Payment Terms and Methods Prescribed under regulations 3 to 16 of the Regulation, published in Extraordinary Gazette No. 1739/03 of 2 January 2012. Members with concerns may kindly refer to this Notification made by Sri Lanka in 2014. Furthermore, on the question of transparency obligations, and as informed during previous meetings, Sri Lanka, in consultation with the Secretariat, prepared the first draft of the notification, which is still being analysed and finalized in capital. As Members know, Sri Lanka had a long-term lockdown, lasting for months, in view of the series of severe waves of the COVID-19 pandemic, which posed an unprecedented level of threat to the Sri Lankan economy and entire health sector. Although Sri Lanka does not wish to quote this situation as an excuse for not fulfilling its transparency obligations, Sri Lanka has been compelled to face the bitter reality of the country with regard to the pandemic. Sri Lanka was fully closed for a long period, during which time only essential services were delivered with a skeleton staff. Sri Lanka will continues to make its best effort to secure and submit its final draft notification as expeditiously as possible.

27.17. The Committee took note of the statements made.

28 SRI LANKA – IMPORT BAN ON PALM OIL – STATEMENT BY INDONESIA

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

28.2. The representative of Indonesia indicated the following:

28.3. Indonesia has previously raised its concerns regarding Sri Lanka's actions to impose a policy of prohibiting the importation of palm oil (CPO, palm stearin, and refined, bleached, and deodorized (RBD) olein). Sri Lanka's Department of Export and Import Control has issued an Operational Instruction on the policy of prohibiting the import of palm oil, which basically instructs that the import of palm oil with HS code 15.11 is temporarily suspended, from 5 April 2021 until further notice. Therefore, Indonesia wishes to ask for clarification and a response from Sri Lanka regarding the purpose and/or rationale for its Palm Oil Import Ban. Although it is claimed that the ban on imports of palm oil is temporary, the policy does not specifically mention the period for which the import ban will apply. The aforementioned policy could have systemic implications for global trade in palm oil. In this regard, Indonesia considers that the prohibition on imports of palm oil by Sri Lanka is inconsistent with several WTO rules, especially Article XI of the GATT, Article 4.2 of the Agreement on Agriculture, and Article 3.2 of the Import Licensing Agreement. Indonesia has found that, since the regulation was enacted, a number of exports of palm oil and its derivatives have been facing obstacles. Indonesia's data shows that there was a very significant decline in exports of some of our palm oil derivative products, but that there was also an increase in exports of crude palm oil, which had higher MFN tariffs (import duties increased by approximately 4%). In addition, Indonesia also found that the Government of Sri Lanka imposes an additional levy on palm oil imports of 0.4% of the c.i.f. value. Indonesia requests the Government of Sri Lanka to resolve the aforementioned matters and to ensure that normal trade can be restored.

28.4. The representative of Colombia indicated the following:

28.5. Colombia expresses its interest and 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. The dynamics in the global market for these products, as well as the restrictions or limitations on their commercialization in various jurisdictions, directly affect our exports and market trends. Of particular concern in this specific matter are the "Operating Instructions" issued by the Sri Lankan government, through which imports of palm oil have been suspended or restricted. Colombia notes that Sri Lanka has not submitted notifications of these measures, which limits Members' knowledge of its policy objectives, the procedures for marketing palm oil and its derivatives, and the duration of the application of the restrictions. In this regard, Colombia seeks Sri Lanka's clarification of the measures adopted, the period of their application, its justification for the measures, and details of the authorities responsible for their administration.

28.6. The representative of Sri Lanka indicated the following:

28.7. Sri Lanka notes that this issue has also been very recently raised in the Committee on Import Licensing, where Sri Lanka responded to these queries. In this context, Sri Lanka notes that it has not changed its import policy in respect of the importation of palm oil, and that the process of implementation of import authorizations through import licences by Sri Lanka is fully transparent and predictable. As Sri Lanka informed Members at the recent meeting of the Committee on Import Licensing, and also at this Committee's previous meetings, it has complied with the due procedures with regard to provisions under the Agreement on Import Licensing Procedures, and the Agreements on Technical Barriers to Trade and Sanitary and Phytosanitary Measures. First, through its Notification to the TBT Committee (document G/TBT/N/LKA/36, dated 28 May 2018), Sri Lanka has notified Imports (Standardization and Quality Control) Regulations of 2017 – Gazette Extraordinary of Sri Lanka No. 2064/34, dated 29 March 2018. This regulation governs the Compulsory Import Inspection Scheme of Sri Lanka, which is operated by Sri Lanka Standards Institution.

28.8. Under the Compulsory Import Inspection Scheme, importers are not permitted to import into Sri Lanka the specified 122 items listed in Schedule I of this regulation, including palm oil, unless they conform to the relevant Sri Lankan Standards. At various meetings of the Committee, Sri Lanka has already explained its reasons for including all palm oil, palm olein, and palm stearin varieties under the Compulsory Import Inspection Scheme. It is purely due to the SPS measures relating to aflatoxin and mycotoxin, which are carcinogenic materials. As stated above, the two TBT and SPS enquiry/ focal points in Sri Lanka, namely, Sri Lanka Standard Institute (SLSI), and the Ministry of Health, respectively, had already notified to the WTO the standards adopted for the 122 items in question, including palm oil products. As notified, there are three SLSI Standards in relation to palm oil (SLS 720), palm olein (SLS 961), and palm stearin (SLS 960). Out of all palm oil, palm olein, and palm stearin varieties, the specific products falling under HS codes 1511.10.00 (crude palm oil), 1511.90.20 (other palm oil – not refined), and 1511.90.90 (other palm olein, not Refined Bleached and Deodorized (RBD) Palm Olein) appeared to have been additionally contaminating with aflatoxin and mycotoxin, prompting Sri Lanka to impose much stricter measures on their importation. Second, the principal set of procedures that relate to automatic and non-automatic licences are stipulated in the Regulation published in the Extraordinary Gazette No. 1739/03, dated 2 January 2012. Sri Lanka had also already notified this Regulation to the WTO in 2014. The Members that are having concerns may kindly refer to this notification made by Sri Lanka to understand the import authorization under non-automatic licences, which is available in the public domain and can be accessed at the website of the Department of Import and Export Control. Accordingly, palm oil products, namely falling under HS codes 1511.90.10, 1511.90.30, and 1511.90.90, can be imported into Sri Lanka by obtaining an import licence from the Department of Import and Export Control, with a fee of 0.4% of c.i.f. Value.

28.9. The Committee took note of the statements made.

29 UNITED KINGDOM – RENEGOTIATION OF TARIFF RATE QUOTAS UNDER ARTICLE XXVIII OF THE GATT 1994 – 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 continues to have a significant concern regarding the United Kingdom's approach to the renegotiations of TRQs. The Russian Federation stresses the impossibility

of concluding negotiations without an agreement on compensation from the UK. The Russian Federation urges the UK to provide its compensatory proposal.

29.4. The representative of New Zealand indicated the following:

29.5. New Zealand wishes to indicate its interest in this issue. New Zealand, too, is concerned about the United Kingdom's treatment of TRQs and other issues, including its AMS claim and SSG and its proposed goods Schedule. However, New Zealand is continuing to work with the UK to achieve a satisfactory resolution on TRQs, and hopes to reach an agreement soon.

29.6. The representative of Mexico indicated the following:

29.7. Mexico reiterates its interest and systemic concern regarding this item. To save time, Mexico requests that its intervention from the Committee's previous meeting be reflected in the record.[24]

29.8. The representative of India indicated the following:

29.9. India continues to discuss this issue with the United Kingdom and shares the concerns raised by other Members. India hopes to find a solution amicably, but also expresses its interest in this matter.

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

29.11. The United Kingdom thanks the Russian Federation, New Zealand, Mexico, and India for their statements on the United Kingdom's Article XXVIII negotiations on bound TRQ commitments. As the UK has expressed on numerous occasions, at WTO Committees and in negotiations, 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 UK has engaged with Members on this issue since 2018, undertaking several rounds of negotiations, and continues to actively engage with those Members that remain concerned with the UK's approach to the TRQs. The UK wishes to thank the relevant Members for their continued engagement. The UK's TRQs were apportioned in a fair and transparent manner, and through constructive discussions and data-led propositions the UK has seen that outcomes can be reached that are mutually agreeable between the UK and the relevant Members. The UK welcomes the increasing number of Members that have now formulized the agreed arrangements. Regarding the UK's Aggregated Measurement of Support entitlements and Special Agricultural Safeguards, the UK has set out its rationale and reasoning for its approach on these two issues in previous Committee meetings. The United Kingdom wishes to refer Members to those statements.

29.12. The Committee took note of the statements made.

30 DRAFT REPORT (2021) OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS (G/MA/SPEC/61)

30.1. The Chairperson recalled that the Committee was required to annually submit a report on its activities to the CTG. The draft report covering the activities of the Committee during the review period had been circulated in document G/MA/SPEC/61. He proposed that the Committee requested the Secretariat to finalize the report and to email it to delegations on 13 October 2021. In the absence of any objections by Members by 15 October 2021, the report would be considered to have been approved by the Committee and would be submitted to the CTG for appropriate action.[25]

30.2. The Committee so agreed.

31 ELECTION OF THE VICE-CHAIRPERSON

31.1. The Chairperson informed the Committee that consultations on the position of vice-chairperson were still ongoing.

[24] See document G/MA/M/73 para 14.12.
[25] See document G/L/1407 of 18 October 2021.

31.2. The representative of China indicated the following:

31.3. China opposes the creation of the position of vice-chairperson in the Committee on Market Access for the following reasons. First, China does not see that there is a need to have a vice-chairperson for this committee. With one chairperson, and assistance from Secretariat, the existing structure can ensure the full functioning of this committee. China does not see that a vice-chairperson will add any value to this committee. Second, the term of the chairperson is only one year. If a potential candidate sees that there would be no certainty for him or her fully to play the chairperson's role in the coming year, such person may give up their candidacy. For exceptional cases, if a chairperson cannot continue in the role, the CTG Chairperson could be invited to chair a meeting, either in-person or virtually. More than that, China wishes to encourage candidates to take their candidacy very seriously, rather than providing an extra tyre, with a vice-chairperson, as a negative signal to the candidate of chair. Third, in recent years, sometimes, the process of electing the chairpersons of the subsidiary committees of the CTG has been very tough. If there is a vice-chairperson that can play the chairperson's role, people will have less pressure to show flexibility to conclude the selection of the chairperson, and then the vice-chairperson selection would also become complicated. Last but not least, in the GC Chairperson's report from the previous week's GC meeting on his consultation on the selection of chairpersons of subsidiary bodies, he mentioned that one Member had suggested to establish a vice-chairperson position, but that there had also been strong objections to that suggestion. Clearly it is a pending issue, and no decision has yet been taken.

31.4. The representative of Canada indicated the following:

31.5. Canada wishes to reflect on the statement from China, and wonders if this is something that the Chairperson might wish to take up for further discussion in a future formal setting. Speaking in my own capacity, from my own experience as a Canadian delegate who was the Vice-Chairperson, my role was to be there just in case I was needed in order to allow for the Committee's work to continue. Also speaking from my past experience, the possibility to elect vice-chairpersons exists in the Rules of Procedures of many WTO Committees, and it is an important flexibility that allows for committees to plan and prepare for worst-case scenarios, where the Chairperson is no longer in a position to continue in that role. Members saw an example of this earlier in the year, in the Trade Facilitation Committee, where the Ambassador had to return to capital, leaving the Committee without an actual chairperson for six to eight weeks, and this did, in part, impede the Committee's ability to continue its work. If it is agreeable for the Committee, Canada considers that it would be useful for us to have informal consultations on this specific issue, not the selection process itself, but the role of the Vice-Chairperson in the Committee. The Committee has always had a tradition of having a vice-chairperson, and it currently has a Vice-Chairperson from Mexico, who was elected by the Committee in 2020. Accordingly, Canada proposes that the Committee takes this upon itself in the coming weeks or months, and that Members in the Committee discuss how best to understand the purpose of the vice-chairperson, the role within each of the individual committees, and its separation from the larger discussion that is ongoing in the General Council.

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

31.7. The European Union adds its voice to the fact that it has found the fact of having a Vice-Chairperson useful in this Committee. At this point in time, the EU would encourage the Chairperson to hold further consultations to deal with this issue.

31.8. The Committee took note of the statements made.[26]

32 OTHER BUSINESS

32.1 Training sessions for Geneva-based delegates

32.1. The Chairperson recalled that, at the Committee's informal meeting of 21 September 2021, the Secretariat had extended the deadline to participate in the online survey on the indicative list of topics for training sessions for Geneva-based delegates until 7 October 2021. The purpose of these sessions was to provide Geneva-based delegates with specialized training on the rules and procedures, including for notifications, in the different areas of the Committee's work. I have been

[26] On 11 November 2021, the Committee on Market Access had elected Mr Don Spedding (Australia) as Vice-Chairperson for the period 2021-2022 through written procedures.

informed by the Secretariat that 26 submissions had been received, indicating that there was a particular interest among delegates to receive training on the following two topics: (i) "Introduction to Market Access: Main Rules and Procedures, Including Notifications, Under the Agreements Covered by the Market Access Committee"; and (2) "Main Concepts Relating to Tariffs: GATT Principles on Tariffs and Tariff Negotiations, Including Plurilateral Agreements". Based on this result, he instructed the Secretariat to begin preparing the first training session on the topic "Introduction to Market Access" for next year, and to inform delegations of all the details regarding this activity in due course.

32.2. The Committee took note of the statement.

32.2 Dates of next meetings

32.3. The Chairperson asked the Committee to take note of the following arrangements. The last informal meeting of 2021 would take place on 9 December. Regarding the meeting dates for 2022, the formal meetings of the Committee had been scheduled for 30-31 March and 18-19 October 2022. The informal meetings had been scheduled for 1 February, 27 June, and 23 November 2022. Additional informal meetings may be convened if necessary. The proposed CMA dates took into account the tentative schedule of meetings of other CTG subsidiary bodies, and the meeting dates of the CTG itself, in an effort to avoid possible overlaps and facilitate the work of delegates.

32.4. Finally, the Chairperson reminded delegations that this was the second time that the Committee had used the eAgenda. He hoped that Members continued to find the system useful and reminded them that they could upload or modify their statements in eAgenda until 18 October 2021. In addition, as requested at the informal meeting of 26 May 2021, the Secretariat was going to prepare a document explaining the main functions of eAgenda for the CMA, and how to use it. This document would be circulated to Members for comments and discussed at the Committee's next informal meeting, on 9 December 2021.

32.5. The Committee took note of the statement.

32.6. The meeting was adjourned.