



MINUTES OF THE COMMITTEE ON MARKET ACCESS 30 AND 31 MARCH 2022

CHAIRPERSON: MR CHAKARIN KOMOLSIRI (THAILAND)

The Committee on Market Access (CMA, or the Committee) adopted the agenda as reproduced in documents WTO/AIR/MA/16/Rev.1, WTO/AIR/MA/16/Rev.1/Add.1, and WTO/AIR/MA/16/Rev.1/Add.1/Corr.1. An annotated agenda had been circulated in document JOB/MA/153.

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1 INTRODUCTION OF HARMONIZED SYSTEM CHANGES TO SCHEDULES OF CONCESSIONS – STATUS REPORT (G/MA/W/158/REV.4)

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 on eAgenda¹ and would be incorporated into the minutes of the meeting.²

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.4, 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 17 March 2022, and had taken into account the results of the last HS multilateral review, which had been held on 1 February 2022.

– 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.³

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 previous 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 1 February 2022 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. Further to the last multilateral review, a reminder had been sent by the Chairperson to the two Members with pending HS2002 procedures: the Bolivarian Republic of Venezuela and China.

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.29, dated 24 January 2022. The status of the HS2007 transposition files after the multilateral review of 1 February 2022 was as follows: 112 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. Further to the last multilateral review, a reminder had been sent by the Chairperson to those Members with pending HS2007 procedures: Argentina; the Dominican Republic; Iceland; Indonesia; Japan; Paraguay; and Tunisia.

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.15, dated 24 January 2022. The status of the HS2012 transposition files after the multilateral review of 1 February 2022 was as follows: 103 files had been certified or were in the process of certification; two 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

¹ <https://agenda.wto.org/en/cma>

² Document RD/MA/100.

³ Ongoing separate procedures, GATT document L/6905.

by the transposition as they had acceded to the WTO with a Schedule of concessions in HS2012. Further to the last multilateral review, a reminder had been sent by the Chairperson to those Members with pending HS2012 procedures: Ecuador; the Republic of Korea; Mexico; the Russian Federation; Singapore; and the United States.

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

– **HS2017 (WT/L/995)**

1.11. The Secretariat (Mrs Alya Belkhodja) recalled that a revised written report had been issued as document JOB/MA/143/Rev.6, dated 24 January 2022. The status of the HS2017 transposition files after the multilateral review of 1 February 2022 was as follows: 64 files had been certified or were in the process of certification; 16 files had been released for multilateral review and had received comments from other Members; one file had been released for multilateral review but would be examined at the next informal meeting; three draft files had been completed and sent to Members for their first review and 51 draft files remained to be prepared.⁴

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

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

2.1. 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 work of the WCO's Harmonized System Committee and shared some feedback on the experience-sharing session on trade in COVID-19 goods organized by the Committee on 4 March 2022.⁵

2.2. The representative of the WCO (Ms Gael Grooby) reported as follows:

2.3. In this session of the CMA, I have been asked to address some of the concerns expressed in previous sessions of the CMA on the difficulties seen in achieving uniformity in tariff classification between Members. While I do not come here with a solution to this, I can go through some of the reasons that are inherent within the HS itself as to why differences can occur. With a deeper understanding of the why, we will be in a better situation for discussing ways to improve the issues illustrated in the problems of tracking specific product types of pandemic supplies. The issues I will cover today are specificity, ambiguity, and classification resolution issues.

2.4. The level of specificity is highly variable across the HS. For example, one of the goods on the list is "Salicylic acid and its salts" and these have their own subheading, subheading 2918.21. Salicylic acid is used for a range of skin conditions in its own right, but its main interest, in terms of the pandemic, is that it is the principal ingredient used to manufacture acetylsalicylic acid, which is aspirin, used to treat pain, fever and inflammation. But what about aspirin tablets themselves? They are a compounded medicament consisting of acetylsalicylic acid and various other non-active ingredients put up in a measured dose, that is, as tablets. So aspirin tablets or capsules are covered under subheading 3003.90 – Other. This is a very broad heading covering thousands of different products. So while we can track with a good level of precision trade in pure salicylic acid, or in pure acetylsalicylic acid (2918.22 – O-Acetylsalicylic acid, its salts and esters), we cannot track specifically international trade in ready-to-use aspirin through the HS. However, knowing these non-specific classifications is still vitally important nationally. If you want to put in domestic subheadings for aspirin tablets or capsules, or you want to put in concessions or measures to be applied to these goods, then you do need to know that they should be applied under 3004.90 in order to target national measures.

2.5. Why is the specificity level so variable? The HS was created from what was in its predecessor – the Brussels Nomenclature – and then modified over the years on the basis of proposals from Member governments. So highly specific classifications reflect what was preoccupying the interest of governments at the time proposals came into the Harmonized System Committee. So an area like textiles, which has a long history of quotas, sensitive trade negotiations and economic importance, includes many very specific provisions. For example, 5206.33 covers *cotton yarn (other than sewing*

⁴ Document RD/MA/100.

⁵ See agenda item 8.

thread), containing less than 85% by weight of cotton, not put up for retail sale, in the form of multiple (folded or cabled yarn, of uncombed fibres, measuring per single yarn less than 714.29 decitex but not less than 232.56 decitex (exceeding 14 metric number but not exceeding 43 metric number per single yarn)). In fact, heading 52.06 has 20 subheadings detailing the various possibilities for *cotton yarn (other than sewing thread), containing less than 85% by weight of cotton, not put for retail sale.* And 5206 is one of two headings covering *cotton yarn (other than sewing thread), not put up for retail sale.* Taking headings 52.05 and 52.06 together, there are 44 very specific subheadings for this subset of goods. If we compare this to something like heading 90.18, which is an important heading in the pandemic that covers "*Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments*", in other words, the majority of the crucial medical equipment, we can see that it has not been heavily specified. Compared to the 44 subheadings for *cotton yarn (other than sewing thread), not put for retail sale,* the entire category of heading 90.18 has only 13 subheadings, of which only eight name product types with relatively high specificity. The other five are "other" subheadings.

2.6. This difference in specificity between these examples relates to what the Members had put up for inclusion. The choices on where efforts are made to increase specificity are in the hands of Members. The HS is Member-driven and proposals are meant to come from Members or intergovernmental organizations (IGOs) representing Members. We currently have very little from Members to improve on this situation for medical goods. We have only one proposal before the Review Sub-Committee in relation to more specificity for medicaments. I would note that the cycle is close to finishing with only four meetings of the Harmonized System Committee left, so if proposals do not arrive in the next few months, then the prospects for being better prepared in HS2027 for future health emergencies with more specificity for critical medical goods are limited.

2.7. It has been previously noted in the CMA that there is a level of ambiguity in some of the HS provisions relevant to the pandemic. One product that was mentioned is paper masks. There are two potential subheadings of heading 48.18 that might cover these paper masks: 4818.50, which covers "Articles of apparel and clothing accessories" and 4818.90, which covers "Other". So the question is, are masks articles of apparel or clothing accessories? Different administrations have come to different answers on this. The HS is language-based. The inherent lexical ambiguity levels of most languages are very high. There are estimates that for English, over 80% of words have more than one meaning. For perfect clarity between Members, then there would have to be a perfect shared understanding of the intended meaning of the corresponding English and French words, or phrases, used in the provisions, as well as the ability to have available words or phrases that correspond perfectly to that understanding of the meaning in every language into which the HS is translated. Given that this is impossible, ambiguity is always going to be an issue. This is sometimes addressed by legally binding definitions. These can be very helpful but do add to the difficulty for HS users as their existence is not obvious to someone reading the provision unless it is actually specified in the terms, and usually it is not. They can also risk fixing the definition in a way that does not allow for the natural evolution of the goods. However, my own view is that definitional notes serve an important role in the HS. But this can be difficult when it is a question of the definition of very broad words, such as "apparel" or "accessory", that is causing the consistency problems.

2.8. The other source of ambiguity is that there is a need inherent in the requirements within the legally binding rules of the HS to make certain judgements when there is more than one possible heading or subheading. Here I am mainly referring to the requirements to judge specificity or essential character, although these are not the only aspects in the Rules which require a judgement call. In particular, judgements on what constitutes the "essential character" of a particular item are a relatively common source of disagreements between Members. The other tool is the Explanatory Notes, and although these are not legally binding, the value of proposals to update the Explanatory Notes should not be underestimated as they are very influential in classification.

2.9. Finally, we need to address the issue of international classification resolution. What is the process for clarifying these variations in classification at the six-digit level that were highlighted by the CMA? Firstly, the normal process is for one of the Contracting Parties to refer the matter to the Harmonized System Committee (HSC). The HSC will make a decision. This may occur in the first meeting or the HSC may first ask for more information and consider it in a subsequent meeting. It can also be postponed if the HSC has insufficient time to consider all of its agenda: as agendas normally cover very large numbers of items, this can easily happen. The matter is decided on a simple majority vote – so 50% of the vote cast plus 1. There are then six months available for a

reservation by Contracting Parties. Matters can be reserved for re-examination up to three times. So a decision can be made at one meeting, or it can take multiple meetings. As meetings only occur twice a year, if a matter is not decided at the first meeting, then the minimum wait time is six months, and it can be measured in years if it is subject to delays and reservations. So the resolution of differences is not always a rapid matter. It should also be noted that such decisions are not binding, although most Members follow them in good faith. One last point, I should also note that the publication of a Classification Opinion is a separate matter from a decision, and if one is wanted, then after the decision is final, it goes to the next meeting of the HSC, in six months' time, for the approval of the Classification Opinion draft.

2.10. Having looked at the issues of the variations in specificity, the inherent ambiguity of natural language provisions, and the potentially long time-frames for resolving classification variations, where does that leave us for looking at how we do better in the future? I will touch on two points.

2.11. One is the need for the HSC and the WCO Secretariat to consider alternative ways to engage Members when public classification advice is needed urgently. The WCO Secretariat faced a major dilemma with the pandemic. The HSC was due to meet in person in March 2020 when the lockdowns and travel restrictions were first imposed in Belgium. So we effectively lost that meeting. This left a bad situation where there was an urgent need for public advice from the HSC in an emergency situation, but no capacity or process to provide such advice. The WCO Secretariat does not normally have a mandate for giving public classification advice, this is a function of the HSC and only as an in-session function, yet there would be no meeting until September. Even for September, there were doubts about what could be covered as there was no format in place for holding a two-week meeting virtually. This is why the lists were published as indicative only and stressed the need to consult with national administrations. We also updated the lists when Members made us aware of differing practices and presented the lists to the HSC at the first opportunity. The HSC accepted the lists as indicative only, not having sufficient time in virtual meetings, focused on urgent HS 2022 work, to go through all the classifications. Even going this far went beyond what is in the normal scope of the WCO Secretariat.

2.12. So there does need to be a process in place for obtaining authorization and, if possible, endorsement, from Members out of session and quickly in situations that meet a definition of an event requiring classification information to be disseminated urgently. We are launching this year an Exploratory Study of the HS as a basis for a possible Review, and this is something that I will refer to that team as an item for consideration and for reporting on, within their intermediate reports, to the HSC for their consideration.

2.13. The second point is the importance of Whole-of-Government input into the HS. While it is the Customs administrations who normally put forward proposals, these reflect government policies and needs, as well as technical needs. So input into what is needed in HS 2027 to address the issues identified as a result of the pandemic is an issue that the trade and health administrations in countries should be looking at in conjunction with the customs administrations in order to achieve desired results. I will end by noting again that we have only four HSC sessions left in the HS 2027 negotiations cycle. Time is of the essence.

2.14. The Committee took note of the WCO report.

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

3.1. The Chairperson recalled that there were four issues to discuss under this agenda item, namely: (i) the status of implementation of the IDB Decision; (ii) the status of IDB notifications; (iii) the document with the list of Members' official websites; and (iv) the status of the CTS database.

3.1 Status of Implementation of the 2019 IDB Decision (G/MA/367)

3.2. The Chairperson recalled that a full version of the Secretariat's report and the presentation had been made available as a room document⁶ and in the eAgenda and would be incorporated into the minutes of the meeting.

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

- a. New dissemination portal: the consultant engaged by the Secretariat to help develop better interfaces to improve the user experience for the new dissemination portal had submitted her report, which had been further refined by the core group based on additional inputs from users. The development phase, with support from the Information Technology Solutions Division (ITSD), was expected to start by the second quarter of 2022.
- b. On the automatic electronic transmission of data (paragraph 8 of G/MA/367), there were currently two Members that had concluded such an agreement with the Secretariat (Canada and Uruguay), and the Secretariat continued to engage with other interested delegations. On 22 March 2022, a meeting to discuss the automatic data transmission had been held with Mauritius and this possibility had also been mentioned in a meeting on data issues with Paraguay. Meanwhile, the other parallel project related to the automatic data notification for Members using ASYCUDA was progressing. The Memorandum of Understanding (MoU) had been recently signed with Togo, in addition to Madagascar and Côte d'Ivoire. The Democratic Republic of the Congo had also expressed its interest in participating but the process had been put on hold due to some administrative matters; however, it was currently being revisited. The module to automate some of the tasks related to data receipt, validation, integration, update of the information system, and other processes until the final dissemination of data was currently in an early phase of its development.
- c. On a related subject, the Tariff Download Facility (<http://tdf.wto.org>), one of the IDB/CTS online dissemination applications which facilitated mass download for data at different HS standard levels chapter (2-digit), heading (4-digit), and subheading (6-digit) levels for multiple years/reporters was scheduled for decommissioning since the majority of tariff indicators published on this online portal were already available in the WTODATA (<http://stats.wto.org>) portal which was API-enabled and mass download could therefore be carried out more efficiently.

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

3.2 Status of IDB Notifications (G/MA/IDB/2/Rev.55)

3.5. The Chairperson recalled that a full version of the Secretariat's report and presentation had been made available as a room document⁷ and in the eAgenda and would be incorporated into the minutes of the meeting.

3.6. 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.55. Data cut-off had been 14 March 2022, which was 16 days ahead of the deadline for 2022 applied tariffs notification scheduled on 30 March 2022. Hence, the latest dataset due from Members was for 2020 imports, which had been due by 31 October 2021. The electronic copy for all years from 1996 was also available for download from the site <https://IDBFileExchange.wto.org>. A "call to notify" email had been sent to concerned Members in mid-February 2022 for the current year (2022) applied tariffs. For the statistics cited below, the cut-off date had been 21 March 2022.

3.7. Ahead of the official deadline for 2022 applied tariffs, only 36 Members (or 26%) had notified among the 136 expected notifying Members. This might have seemed lower if compared to what

⁶ Document RD/MA/100.

⁷ Document RD/MA/100.

had been reported in the first CMA meeting of 2021, which had been held after the submission deadline, when there had been 46 applied 2021 tariff notifications. However, the 2022 percentage was higher than the corresponding statistic for 2020, which had been 21%. Based on all expected yearly notifications of Members from 1996, data on applied tariffs data were 81% complete. Of the 36 available data on 2022 applied tariffs, 32 had been official submissions while the other four had been collected by the Secretariat from approved "framework sources". As to the inclusion of other applied tariffs, notably preferential rates, 22 submissions (or 61% of received notifications) had included non-MFN duty schemes. Furthermore, there had been two notifications which had contained the optional additional import taxes. Overall, 29 Members representing 21% of notifying Members had a complete notification record on MFN applied tariffs. However, there remained 51 Members (38%) with six or more years of outstanding applied tariff data.

3.8. The 2020 import data had been due in October 2021 and this reference had been used as the basis for the import notification statistics. There were 54 available notifications which represented 40% of the 136 expected notifications. All of these had been notified, meaning that no framework dataset for 2020 had been collected yet. Of those expected datasets, 41 (30%) had been submitted by the 31 October 2021 deadline. Data on imports required for submission from notifying Members for the years 1996 up to 2020 were 75% complete. For all data on imports due for those years, 41 Members, or 30% of notifying Members, had complete data. The number of Members with six or more years of data which were yet to be submitted was 53, representing 39% of notifying Members. On a positive note, there were already five Members that had notified their 2021 imports, well ahead of the deadline.

3.9. The number of recomposed tariffs as provided in paragraph 22 of document G/MA/367, which referred to "estimated" MFN tariffs when a single year historical tariff dataset was outstanding but the tariffs for adjacent years and imports for the corresponding year had been notified, remained at thirty-five country periods with the latest recomposed year as 2015. The IDB would send out a notification reminder email to all Members with outstanding data after 30 March 2022 (deadline for submitting tariffs) to determine if missing historical tariffs could still be collected. Furthermore, the Secretariat would examine existing notifications to see if additional notified imports could be integrated with recomposed applied MFN tariffs which had been outstanding for at least five years (2017 or earlier).

3.10. Overall, as of the same data cut-off, the IDB disseminated data consisted of 2,858 country periods of either applied tariffs with matched imports at the national tariff line level or either of the required notifications. All WTO Members, except for Afghanistan and six acceding Members (Algeria, Bahamas, Belarus, Comoros, Iran, and Serbia) had notified their data in the IDB, and these had been disseminated in the different online portals, namely TAO, TDF, and WTODATA.

3.11. On the PTA-TM data (Table 1), which should also be notified to the IDB based on the IDB Decision, and the 24 notifying Members of the PTA⁸, only 11 Members had notified the required applied tariffs (MFN plus the PTA preferences) and 13 Members had no applied tariff notification yet for 2022. In addition, there were five Members with outstanding 2021 applied tariff data. On import data, with a breakdown by the PTA-TM required duty scheme, there had been 13 notifications received out of 24 expected for 2020 (the United Kingdom was expected to notify its imports separately). Of those, three Members had submitted only their regular import data, without the breakdown by PTA-TM duty scheme, and eight Members had not yet submitted any import data. As stipulated in paragraph 5 of the IDB Decision, and to avoid the multiple processing of data, the Secretariat would await the complete PTA-TM datasets (tariffs or imports) before integrating the notifications.

⁸ The European Union (27) and the United Kingdom are counted separately from 2021 for tariffs. Switzerland and Liechtenstein count as one.

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

Data Notified	Number			Percentage (%)		
	Applied MFN Tariff + PTA Preferences					
	2020	2021	2022	2020	2021	2022
MFN Only	0	1	0	0	4	0
MFN + GSP/LDC (incl. Other PTAs) + Other Duty Schemes	21	18	11	91	75	46
No Notification	2	5	13	9	21	54
Expected PTA Tariff Notifications ^a	23	24	24	100	100	100
	Imports by PTA Duty Scheme					
	2018	2019	2020	2018	2019	2020
Regular Imports with No Breakdown by PTA Duty Scheme	6	5	3	26	22	13
With PTA-TM breakdown	16	15	13	70	65	54
No Notification	1	3	8	4	13	33
Expected PTA Import Notifications ^a	23	23	24	100	100	100

^a EU tariff notifications until 2020 include its 27 member States and the UK. Starting in 2021, UK tariffs were notified separately. The UK is expected to notify its 2020 import data separately.

3.12. After the data cut-off for document G/MA/IDB/2/Rev.55, on 14 March 2022, the following additional notifications were received (until 24 March 2022):

- Angola 2022 tariffs;
- Canada 2020 imports;
- Colombia 2022 tariffs and 2021 imports;
- European Union 2022 tariffs;
- Guatemala 2022 tariffs and imports for 2003, 2004 and 2016;
- Mauritius 2022 tariffs;
- Oman 2022 tariffs;
- South Africa 2020 imports;
- United States 2022 tariffs.

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

- 2022 cohort of Young Professionals;
- French and Irish Mission Internship Programme (FIMIP) and the Netherlands Trainee Programme (NTP).

3.14. The 2022 edition of the World Tariff Profiles (WTP) was expected to be launched in June 2022. The number of downloads of the previous edition (WTP 2021) had been around 99,000 from July 2021 to February 2022.

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

3.3 List of Members' Official Websites with Tariff Information and Import Statistics (G/MA/IDB/W/13/Rev.6)

3.16. 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 sixth revision of

this document had been prepared by the Secretariat. In this regard, the Secretariat had consulted with Members informally prior to circulating this sixth revision in document G/MA/IDB/W/13/Rev.6.

3.17. The Secretariat (Mr Simon Neumueller) indicated the following:

3.18. As in previous cases, the Secretariat took a close look at all the weblinks of the official websites on tariff information and import statistics, checked that all of those links were still functioning and, if not, looked for alternative links that could be replaced in the draft document, while also adding weblinks that were previously missing. As a next step, the draft of this document was then shared with WTO Members for their verification of the updated weblinks and the Secretariat subsequently received several corrections from Members. The final document was circulated on 24 March 2022 and new revisions will be prepared in the future.

3.19. The Chairperson recalled that, as announced at the Committee's previous formal meeting, in October 2021, the Secretariat had worked with the web team to make this information available on the WTO website.⁹ He gave the floor to the Secretariat to show the mock-up.

3.20. The Secretariat (Mr Berisford Codd) indicated the following:

3.21. The Secretariat has prepared a mock-up with the updated websites for tariff information and import statistics. On the page, there was a full listing of all WTO Members, along with official websites for tariff information and import statistics. The table showed up to 100 Members on one page. A blank space indicated where official sources were not identified, and the webpage was to be updated as new revisions of the document became available. In addition to the general page, the links were also available from the individual WTO Member pages. The links would be located on the top left of the page. The Secretariat remained open to receiving any additional updates, which could be emailed to the Secretariat.

3.22. The representative of India indicated the following:

3.23. India thanks the Secretariat for compiling this information and notes that India had submitted its official website links on tariff information, as well as its import statistics. This information was shared on 25 March, and hence it had not yet been reflected in document G/MA/IDB/W/13/Rev.6. India looks forward to the inclusion of its submission in the document's subsequent revision.

3.24. The Chairperson recognized the usefulness of having this information available online because interested Members could directly access the websites through the links without having to go into the document first. He therefore asked the Secretariat to make this webpage available online.

3.25. It was so agreed.

3.26. The Chairperson reminded delegations to continue to test the weblinks and to inform the Secretariat as soon as possible of any change, so that this information was kept up to date.

3.27. The Committee took note of the Secretariat's reports and the statements made.

3.4 Status of the CTS Database

3.28. 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 on eAgenda and would be incorporated into the minutes of the meeting.¹⁰

3.29. The Secretariat (Ms Alya Belkhodja) reported that the Secretariat had made CTS files available to all Members on the TAO.¹¹ Out of the 135 CTS files: 54 had been made available in

⁹ https://www.wto.org/english/tratop_e/markacc_e/tariffandimpofwebsites_e.htm

¹⁰ Document RD/MA/100.

¹¹ <https://tao.wto.org>

HS2017; 49 had been made available in HS2012; 16 in HS2007; 14 in HS2002; and two remained in HS96. All legal instruments were available through the Goods Schedule e-Library.¹²

3.30. In addition, the Secretariat had published on TAO the complete CTS database in MS Excel in June 2021. Each Member's file reflected the latest information on bound commitments as included in the CTS MS Access files. However, the CTS files in Excel followed the presentation used in the legal instruments, as, for example, in the Uruguay Round Schedule of concessions. An updated version of the CTS Excel files had been posted to TAO on 24 March 2022.

3.31. The representative of Switzerland asked whether the Secretariat could inform the Committee about the project to update the TAO.

3.32. The Secretariat (Ms Alya Belkhodja) replied that the project for developing a new TAO was under way and that a report would be made under the agenda item on the IDB.¹³

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

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

4.1. The Chairperson drew Members' attention to the notifications of quantitative restrictions (QRs) from 16 Members. 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 8 April 2022 to inform the Secretariat accordingly.

4.2. The representative of Ukraine indicated the following:

4.3. Under this agenda item, Ukraine considers it necessary, as a matter of urgency and for the sake of transparency, to draw Members' attention to Ukraine's notification in document G/MA/QR/N/UKR/5/Add.2, of 25 March 2022. This notification was prepared by Capital-based colleagues, of whom Ukraine is grateful and proud. The majority of Ukraine's Capital-based colleagues, as well as their families, are either hiding from attacks in bomb shelters or were forced to flee their homes along with more than 10 million other Ukrainians seeking safe places to stay. Despite all the horror of the war unleashed by the Russian Federation, they continue to fulfil their duty and demonstrate Ukraine's commitment to the fundamental rules of this Organization.

4.4. Due to the Russian Federation's military invasion of Ukraine, the Government of Ukraine was forced to introduce export restriction measures and non-automatic licensing of the exportation of certain agricultural products. This is a forced step to ensure national food security of Ukraine in these hard and terrifying times for the Ukrainian people and their lives. Active military actions have already halted trade and destroyed many sown areas and farms. Today, one of the targets of the Russian army is Ukrainian agricultural equipment, food, and especially petroleum depots. Even under these circumstances, Ukraine's farmers, while risking their lives, have already started the sowing season in some regions of Ukraine.

4.5. Ukraine firmly believes that it is extremely important to share this information with Members, so that they can focus on policies likely to help mitigate or help solve a possible food crisis. Since the effects of the aggression on international trade in food products are already perceptible, this issue is being discussed by many Members, and the agricultural community, in all relevant forums. At the meeting of the General Council on 24 February 2022, the day that the Russian aggression against Ukraine began, Ukraine clearly stated that the world faced a looming food crisis. In this regard, Ukraine informed Members that all its resources and measures, including its trade and

¹² <https://goods-schedules.wto.org>

¹³ See paragraph 3.3(a).

economic resources and measures, would be directed to maintain the national economy and save the lives of Ukraine's people.

4.6. Ukraine wishes to conclude by quoting the statement made by one Member at the General Council's most recent informal meeting, with which we fully and extremely agree, that "absent this military action, that infrastructure would still be working. Absent this military action, cargo ships would be transiting the Black Sea. Absent this military action, world food prices would reflect normal market conditions." To date, this statement remains completely relevant for all trade issues.

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

4.8. The United Kingdom thanks Ukraine for its intervention, against the context of the Russian Federation's illegal war. Indeed, Russia's invasion of Ukraine is an egregious violation of international law and the UN Charter. Russia's actions have undermined the ability of another WTO Member – Ukraine – to fully participate in all aspects of the world trading system, including on trade in goods. As a result, WTO Members cannot continue "business as usual". The consequences of Russia's actions are affecting trade in goods not only in Ukraine, but in markets across the globe, increasing the prices of key commodities such as oil and gas, grains, and metals.

4.9. To name a few examples: first, when it comes to agricultural goods, Ukrainian farmers and manufacturers cannot plant, harvest or produce the food needed to feed the world, because of Russian tanks in Ukrainian fields. The UN Secretary General has called the crisis a "hurricane of hunger", and the Director of the World Food Programme expects a "catastrophe on catastrophe". Second, when it comes to manufacturing and industrial goods, Ukrainian export and import infrastructure and plants are being bombed and blockaded by Russian missiles from land and air, and therefore Ukraine cannot participate in industrial supply chains. Third, when it comes to the infrastructure that underpins trade in goods, Ukrainian ports and airports cannot export or import, because they are blockaded by Russian ships and troops. Fourth, let us not forget that trade in goods depends on trade in services. With Russia's invasion spurring the fastest-growing refugee crisis since the Second World War, the UN High Commissioner for Refugees has noted that 10 million Ukrainians have had to flee, with a quarter of Ukraine's population displaced inside the country, or as refugees abroad, because of Russia's actions.

4.10. The point here is that, while the Russian Federation continues its illegal invasion of Ukraine, these impacts will persist across supply chains, which is to the detriment of Ukraine and the rest of the world. And it is only when Russia stops this illegal invasion that Ukrainian farmers can start planting the seeds needed to feed the world. And it is only when Russia stops this illegal war that Ukrainian supply chains on goods can restart, and Ukrainian ports import and export goods. That is the solution, and it lies with one WTO Member only: the Russian Federation. And while Russia continues to violate international law, human rights, and multiple commitments to peace and security, the United Kingdom will work with its allies and partners across the multilateral system to condemn Russia's appalling actions and to isolate it on the international stage. As the UK does so, it will remain transparent on its measures, including through the WTO. For example, the UK has just notified, through the IDB, that it has implemented a 35% tariff added on top of the current MFN tariff rates for a number of goods originating in Russia. The UK will keep Members updated, as appropriate.

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

4.12. The United States reiterates its strong support for Ukraine during this unimaginably difficult time. The United States is deeply impressed with the heroism of the Ukrainian people and the bravery of their armed forces and their leaders. The United States condemns Russia's premeditated and unprovoked attack on Ukraine as well as the actions of the Belarus regime, which is aiding Russia's war of aggression. President Putin's premeditated war has brought catastrophic loss of life and human suffering. Russia is solely responsible for this death and destruction, and the world must hold Russia accountable.

4.13. The United States calls upon Russia to immediately cease its use of force against Ukraine and refrain from any further unlawful threat or use of force against any UN member State. The United States is united with its allies and partners in its commitment to ensure the Russian government pays a severe economic and diplomatic price for its further invasion of Ukraine. The actions of Russia

are incompatible with the rules-based system that WTO Members have built and work to improve. The WTO is predicated on certain values, among these that a fair and just international order is one built on rules, reciprocity, and transparency.

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

4.15. The Russian Federation draws Members' attention to the Terms of Reference of the CMA contained in document WT/L/47, as adopted by the General Council. According to this document, the CMA shall: (a) in relation to market access issues not covered by any other WTO body, supervise the implementation of concessions relating to tariffs and non-tariff measures and provide a forum for consultation on matters relating to tariffs and non-tariff measures; (b) oversee the application of procedures for modification or withdrawal of tariff concessions; (c) ensure that GATT Schedules are kept up-to-date, and that modifications, including those resulting from changes in tariff nomenclature, are reflected; (d) conduct the updating and analysis of the documentation on QRs and other non-tariff measures, in accordance with the timetable and procedures agreed by the CONTRACTING PARTIES in 1984 and 1985; (e) oversee the content and operation of, and access to, the Integrated Data Base; and (f) report periodically – and in any case not less than once a year – to the Council for Trade in Goods."

4.16. The Russian Federation particularly underscores that consideration of matters of global or regional security concerns, and UN Charter enforcement or compliance, do not fall under the mandate of the present Committee. Russia hopes that the Committee's Chairperson will be able to moderate the discussion accordingly, resisting pressure from those delegations negligent to this basic rule and their attempts to violate rules that they themselves have developed and adopted for the discussion. Otherwise, Russia considers that the Committee runs the risk of having a medieval bazaar rather than a WTO Committee meeting. Russia urges delegates to exercise self-restraint in this regard.

4.17. The representative of Paraguay indicated the following:

4.18. Paraguay wishes to thank Ukraine for bringing its notification to the attention of the Committee, despite the fact that this item was not on the agenda. Paraguay thanks Ukraine for its effort and commitment to the system. Paraguay supports the Ukrainian people, and particularly their families, who are in such a difficult position. The WTO is based on respect for international law; therefore, WTO Members must all ensure their compliance with that law. The WTO must continue to contribute to peace and security. In this regard, Paraguay wishes to reiterate that it condemns the attacks on the Ukrainian people, which are in violation of the principles of sovereignty and international law; in addition, it reiterates the necessity of finding a peaceful and mutually acceptable solution.

4.19. The representative of New Zealand indicated the following:

4.20. New Zealand thanks Ukraine for its notification and submission and for its commitment to transparency and the multilateral order. New Zealand cannot discount the reasons for Ukraine's notification at this time, which is relevant to discuss within this Committee. New Zealand reiterates that it stands with the international community in condemning Putin's unjustified and illegal attack on Ukraine, which represents a clear violation of Ukraine's sovereignty and territorial integrity. New Zealand's thoughts are with the people in Ukraine impacted by this conflict. New Zealand is deeply concerned to see reports of mounting casualties and widespread damage.

4.21. New Zealand has called for Russia to act consistently with its international obligations, cease military operations in Ukraine, withdraw its troops, and return to diplomatic negotiations as a pathway to resolve this conflict. A unified response sends a shared message to Russia: no country may seize the territory of a sovereign state and no country has a veto over another's security partners or political path.

4.22. The representative of Japan indicated the following:

4.23. Japan condemns the Russian Federation's recent aggression against Ukraine in the strongest terms. Japan believes that the significance of the Market Access Committee lies in its capacity to maintain and develop the rules-based international order, which is the foundation of the multilateral

trading system, with the WTO at its core. However, the invasion of Ukraine by Russia is an act that undermines the very foundation of the international order and the multilateral trading system. In this respect, Japan appreciates the statements from Ukraine, the United Kingdom, the United States, Paraguay, and New Zealand, and also shares their concerns.

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

4.25. The Republic of Korea thanks Ukraine for its notification and for sharing their information. Like others, Korea also believes that this is relevant to the work of this Committee. In addition, Korea echoes previous speakers regarding the situation in Ukraine. The Korean government strongly condemns the Russian invasion against Ukraine as a violation of the principles of the UN Charter. Ukraine's sovereignty, cultural integrity, and political independence must be respected. Korea also shares the deep concerns of the international community over the humanitarian situation in Ukraine. Reaffirming its commitment to the rules-based global trade order under the WTO, Korea is also concerned over the serious impact and uncertainty created by Russia's actions on the global supply chain, in many different areas, including security and shortages of key products.

4.26. The representative of Norway indicated the following:

4.27. Norway thanks Ukraine for its notification, which clearly shows the challenges they are facing in these difficult times. Norway condemns in the strongest possible terms the unprecedented military aggression of the Russian Federation against Ukraine. Norway expresses its concern for the severe destruction and human suffering this illegal act of aggression is causing. By its unprovoked, unjustified, and premeditated military actions, the Russian Federation is grossly violating international law, on the core principles of which the international rules-based order is built, and the fundamental principles of the UN Charter, which has prevailed since World War II. It is an attack on what the UN, the WTO, and Geneva as a capital of multilateralism, stand for. Norway expresses its full solidarity with Ukraine and the Ukrainian people.

4.28. The representative of Türkiye indicated the following:

4.29. Türkiye rejects the unjust and unlawful attacks against Ukraine. Türkiye's firm support for the unity, sovereignty, and territorial integrity of Ukraine will continue. This military aggression causes a huge humanitarian crisis. Türkiye is providing Ukraine with military and other assistance. Türkiye reiterates its call for an urgent humanitarian pause for dialogue and diplomacy. To this end, Türkiye is in close contact with Ukraine and the Russian Federation. Upon Türkiye's initiative and intensive diplomatic efforts, four Ministers from Ukraine and Russia met on the margins of the Antalya Diplomacy Forum, on 10 March 2022; as part of these efforts, Türkiye's foreign minister visited both countries on 16 and 17 March. Lastly the negotiating delegations of Russia and Ukraine had met in Istanbul on the previous day. As Türkiye's foreign minister said yesterday, the talks in Istanbul had yielded the most significant progress since the military aggression had begun. Türkiye will continue these efforts with a view to restoring peace and stability in its close neighbourhood.

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

4.31. The European Union cannot ignore the international context in which the Committee's meeting takes place, that is, the Russian Federation's war of choice against Ukraine. The EU and its member States stand in full solidarity with Ukraine and its people. Because of Russia's invasion of Ukraine, trade in goods in and from Ukraine is being strongly disrupted. Ukraine, and several other delegations before us, have spoken eloquently of the extraordinary hardships that Russia's military actions against Ukraine have caused. Because of these extraordinary challenges, Ukraine was compelled to take a number of trade measures, and the EU has taken due note of the latest QR notification that Ukraine has circulated. Ukraine also referred to the effects of the war on international trade; these effects are being felt around the world.

4.32. As reflected in the recent Joint Statement on aggression by the Russian Federation against Ukraine¹⁴, the European Union and other WTO Members have adopted measures against Russia to protect their essential security interests. The purpose of these measures is to restore peace and security as soon as possible, in full respect of Ukraine's territorial integrity and sovereignty. These

¹⁴ Document WT/GC/244.

actions come as a response to Russia's act of aggression against Ukraine. The Russian Federation bears full responsibility for that act and its consequences. The European Union demands that Russia immediately cease its military actions and respect Ukraine's sovereignty within its internationally recognized borders.

4.33. The representative of Chinese Taipei indicated the following:

4.34. Chinese Taipei thanks Ukraine for its intervention and notification to the Committee, despite its very difficult circumstances. Chinese Taipei also joins others in raising its serious concerns regarding the war, which has led to a devastating loss of human life in Ukraine. This is not acceptable from any perspective. This unjustified attack needs to be stopped. As mentioned by previous speakers, the war has undermined the supply chain for food and other essential goods and has deteriorated food security. In addition, it seriously undermines the livelihood of people in many countries. All of this is of importance to the WTO. Chinese Taipei therefore calls on the Russian Federation to end its acts of aggression immediately. Chinese Taipei stands firmly by Ukraine and its people

4.35. The representative of Australia indicated the following:

4.36. Australia thanks Ukraine for its notification. This issue is relevant to the work of this Committee. Australia condemns in the strongest possible terms Russia's unprovoked, unjust, and illegal invasion of Ukraine. This invasion is a gross violation of international law, including the Charter of the United Nations. Australia strongly supports Ukraine's sovereignty and territorial integrity, and calls on Russia to cease its attacks on Ukraine and withdraw its forces from Ukrainian territory. Russia's war on Ukraine is exacting a catastrophic humanitarian toll. Australia supports collective action by the international community to impose costs and increase leverage on Russia and those in Russia who bear responsibility.

4.37. The representative of Switzerland indicated the following:

4.38. Switzerland wishes to thank Ukraine for its efforts to meet its notification obligations in spite of its current difficulties. Like previous speakers, Switzerland condemns the illegal military aggression by the Russian Federation against Ukraine in the strongest possible terms. This aggression is a gross violation of international law and in particular the prohibition of the use of force and the respect for state territory and integrity. Leading to a de-escalation, Switzerland calls upon Russia to respect its international obligations, to cease its military action, and to immediately withdraw its troops from Ukrainian territory. Switzerland calls upon all parties to fully respect international law, including international humanitarian law. The parties must guarantee the protection of the civilian population and people who are not directly involved in combat, and it must respect the rules of war. Attacks on civilians or civilian infrastructure are forbidden and must cease immediately. The only way of putting an end to this conflict is through dialogue and diplomacy. Switzerland is very concerned about the consequences of this military aggression, as the UK has clearly spelled out; these consequences affect all Members, in particular the most vulnerable.

4.39. The representative of Canada indicated the following:

4.40. As WTO Members all recognized here, the monitoring of QRs is fully within the mandate of the Market Access Committee, and it is up to each Member to determine how it explains its measures and what additional information to provide. Canada would like to thank Ukraine for its early transparency efforts, especially given the unimaginable circumstances their colleagues in Capital are currently facing. In that same spirit, Canada wishes to bring to the Committee's attention a new quantitative restriction it has recently imposed on imports of petroleum products from the Russian Federation. Specifically, as of 10 March 2022, all imports of petroleum products from Russia have been banned. Canada will submit an update to its QR notification in the coming days.

4.41. There is a crisis, and no one should be blinded to the one and only reason this is happening. Canada strongly condemns Russia's unjustifiable and unprovoked invasion of Ukraine. These attacks are causing widespread humanitarian consequences and resulting in the senseless deaths of innocent people. The international community must continue to be seized of this issue. This is not just an attack on Ukraine. This is an attack on international law, including the UN Charter, as well as democracy, freedom, and human rights.

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

4.43. The Russian Federation expresses its apologies that Members have to listen to all these interventions, which are clearly outside the scope not only of the Committee but of the WTO itself. Unlike WTO Members that have just made their politicized interventions, Russia will focus its response statement on the unilateral trade restricting measures introduced by those Members that have just taken the floor, in direct violation of WTO rules. Such measures are the reason for the broken global supply chains that are still fragile after the pandemic. And it is these measures that are leading to the increasing energy costs, including natural gas that is used to produce fertilizers, and spiking food prices. Indeed, wide-scale consequences could have been avoided if the WTO Members that have just taken the floor had not breached basic WTO rules. In particular, the following measures are clearly inconsistent with the relevant WTO provisions: implementation of import tariffs above MFN rates; import ban on Russian oil, oil refining products, as well as other energy resources, such as natural gas and coal; restrictions on export to Russia of various goods, including oil refining equipment and technologies, foodstuffs and other goods; blocking of Russian financial institutions, transportation companies, export support agencies; ban on the use of EU sea ports; and not to mention the freezing of a substantial part of Russia's currency reserves, which is robbery if we call a spade a spade.

4.44. The Russian Federation is not specifying all trade restricting measures because to do so would otherwise need a dedicated session of the Committee. In addition, Russia's views are explained in more detail in document WT/GC/245. Unilateral measures against Russia's oil and gas industry, as well as its financial sector, have led to the increased global energy costs and global prices for fertilizers that are produced from gas. Unilateral measures against Russia are the reason for the drastic increase in the cost of freight and insurance for exported Russian products, including agricultural products. And it is therefore no wonder that all the additional costs due to these unilateral measures are being passed on to consumers, resulting in growing global food prices. Moreover, the overcompliance of international commodity traders, as well as international banks transferring money for the supplied products, has resulted in reduced shipments of products, including agricultural products, onto the global market. All these unilateral measures put severe pressure on global supply chains, and on the global food market in particular. The Russian Federation is convinced that the only way of dealing with the current crisis is to talk economics, not politics, and prevent the violation of multilaterally agreed trade rules through unilateral means. Otherwise, world markets and the economies of many Members will continue to suffer.

4.45. The Committee took note of the statements made.

4.1 Notifications

– *Albania (G/MA/QR/N/ALB/1/Add.2)*

4.46. The Chairperson drew Members' attention to a new notification from Albania that had been circulated in document G/MA/QR/N/ALB/1/Add.2 and concerned the termination of restrictions relating to COVID-19.

4.47. The Committee took note of this notification.

– *Australia (G/MA/QR/N/AUS/5/Add.3)*

4.48. The Chairperson drew Members' attention to a new notification from Australia that had been circulated in document G/MA/QR/N/AUS/5/Add.3 and related to measures introduced in response to COVID-19.

4.49. The Committee took note of this notification.

– *Canada (G/MA/QR/N/CAN/4/Add.2)*

4.50. The Chairperson drew Members' attention to a new notification from Canada that had been circulated in document G/MA/QR/N/CAN/4/Add.2.

4.51. The representative of Canada indicated the following:

4.52. The measures implemented are designed to help safeguard the Canadian drug supply by ensuring that bulk importation frameworks do not cause or exacerbate a drug shortage in Canada. The sale of drugs for consumption outside of Canada continues to be permitted when such sales will not cause or exacerbate a drug shortage in Canada. Assessments will be made on a case-by-case basis. The scope of the order is limited only to drugs intended for the Canadian market for which a shortage would have the highest impact on patient health and safety. Sales of products manufactured in Canada solely for export are not impacted by the new measure.

4.53. The Committee took note of this notification.

– *Colombia (G/MA/QR/N/COL/1/Add.3)*

4.54. The Chairperson drew Members' attention to a new notification by Colombia that had been circulated in document G/MA/QR/N/COL/1/Add.3.

4.55. The Committee took note of this notification.

– *European Union (G/MA/QR/N/EU/5/Add.7)*

4.56. The Chairperson drew Members' attention to a new notification from the European Union that had been circulated in document G/MA/QR/N/EU/5/Add.7 and related to measures introduced in response to COVID-19.

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

4.58. The European Union circulated this notification on 7 October 2021, which was after the closing date of the agenda for the October meeting. Addendum 7 was about the extension until 31 December 2021 of the export authorization requirement applicable to exports of vaccines produced by companies with which the EU has Advance Purchase Agreements. As a reminder, that scheme was established at the end of January 2021 and notified to the WTO a few days later, on 5 February 2021, in document G/MA/QR/N/EU/5/Add.1. The need for the mechanism was regularly reviewed and notifications were provided promptly every time the scheme was extended. At the end of 2021, the European Commission assessed that the risk that exports affect either the execution of the Advance Purchase Agreements or the security of Union supplies of COVID-19 vaccines had been steadily decreasing due to increased levels of production and vaccination in the EU. In light of this, and as the EU informed Members at the informal meeting of this Committee in December 2021, the scheme was terminated on 31 December 2021. Instead, a monitoring mechanism applies since 1 January 2022 for statistical purposes, which provides the Commission with timely, company-specific vaccine export data. The Commission thereby collects information on the number of COVID-19 doses exported outside the EU. The Commission publishes such information on the website of its Directorate General for Trade, currently on a bi-weekly basis.

4.59. The Committee took note of this notification.

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

4.60. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by India that had been circulated in documents G/MA/QR/N/IND/2, G/MA/QR/N/IND/2/Add.1, and G/MA/QR/N/IND/3. Questions remained pending from the European Union and the United States.

4.61. The representative of India indicated the following:

4.62. India's submission, as against document G/L/59/Rev.1, was contained in document G/MA/QR/N/IND/3, circulated on 29 September 2021. This was discussed in the last CMA meeting on 11-12 October 2021. In that meeting, some Members had made interventions mentioning items which were in the import licensing domain. Subsequently, India's notification under Article 7.3 of the Import Licensing Procedures was made on 20 January 2022 and circulated in document G/LIC/N/3/IND/21. Between these two notifications, India has covered all the relevant information on QRs and import licensing.

4.63. The Committee took note of this notification.

– *Kazakhstan (G/MA/QR/N/KAZ/3/Rev.2/Add.1)*

4.64. The Chairperson drew Members' attention to a new notification from Kazakhstan that had been circulated in document G/MA/QR/N/KAZ/3/Rev.2/Add.1 and related to measures introduced in response to COVID-19.

4.65. The Committee took note of this notification.

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

4.66. The Chairperson drew Members' attention to a new notification from the Republic of Korea that had been circulated in document G/MA/QR/N/KOR/3/Add.2.

4.67. The Committee took note of this notification.

– *Kyrgyz Republic (G/MA/QR/N/KGZ/1/Add.11, G/MA/QR/N/KGZ/1/Add.12, G/MA/QR/N/KGZ/1/Add.13, G/MA/QR/N/KGZ/1/Add.14 and G/MA/QR/N/KGZ/1/Add.15)*

4.68. The Chairperson drew Members' attention to five new notifications from the Kyrgyz Republic, which had been circulated in documents G/MA/QR/N/KGZ/1/Add.11-G/MA/QR/N/KGZ/1/Add.15. G/MA/QR/N/KGZ/1/Add.14 contained measures introduced in response to COVID-19. In addition, the Kyrgyz Republic had submitted G/MA/QR/N/KGZ/1/Add.16 after the agenda of this meeting had closed. This notification would be reviewed at the next formal meeting of the Committee.

4.69. The Committee took note of these notifications.

– *Liechtenstein (G/MA/QR/N/LIE/3)*

4.70. The Chairperson drew Members' attention to a new notification from Liechtenstein that had been circulated in document G/MA/QR/N/LIE/3.

4.71. The Committee took note of this notification.

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

4.72. The Chairperson drew Members' attention to two new notifications from the Republic of Moldova that had been circulated in documents G/MA/QR/N/MDA/2/Add.1 and G/MA/QR/N/MDA/2/Add.2.

4.73. The Committee took note of these notifications.

– *Russian Federation (G/MA/QR/N/RUS/5)*

4.74. The Chairperson drew Members' attention to a new notification from the Russian Federation that had been circulated in document G/MA/QR/N/RUS/5.

4.75. The Committee took note of this notification.

– *Thailand (G/MA/QR/N/THA/2, G/MA/QR/N/THA/2/Add.1, G/MA/QR/N/THA/2/Add.2 and G/MA/QR/N/THA/2/Add.3, G/MA/QR/N/THA/2/Add.4, G/MA/QR/N/THA/2/Add.5, G/MA/QR/N/THA/2/Add.6)*

4.76. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by Thailand that had been circulated in documents G/MA/QR/N/THA/2, and G/MA/QR/N/THA/2/Add.1-G/MA/QR/N/THA/2/Add.4. Questions remained pending from the European Union. Since then, Thailand had submitted two other addenda, which had been circulated in documents G/MA/QR/N/THA/2/Add.5 and G/MA/QR/N/THA/2/Add.6. Addenda 2, 3, 4 and 6 contained measures introduced by Thailand in response to COVID-19.

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

4.78. As in previous meetings, the European Union wishes to stress that Thailand's import licensing requirements for feed wheat should have been included in Thailand's QR notification, given that they are non-automatic licensing requirements. The EU also reiterates its concerns on the import procedures for feed wheat introduced by Thailand, including the local corn purchase requirement. The EU would like to again ask Thailand to notify these import procedures in the context of the Import Licensing Committee. The EU would also welcome receiving written replies to its questions submitted in that Committee in 2017 and 2018. The EU reiterates its interest in understanding on what basis the measure, announced as temporary, has been maintained for so long. The latest extension was adopted in November 2021 to cover the year 2022.

4.79. The European Union's concerns and requests remain after the recent decision of Thailand's Ministry of Commerce, of 15 March 2022, to suspend the local purchase requirement on corn until 31 July 2022. This decision is only a temporary measure responding to the global animal feed shortage caused by Russia's invasion of Ukraine, but the underlying non-automatic import licence requirement remains in place. The EU therefore maintains its request for this measure to be fully discontinued. The EU also reiterates its request to receive a detailed description of Thailand's import licensing procedures, as well as relevant data about the actual situation regarding the market of corn, in order to better understand Thailand's justification of its measure. Based on the EU's information, average domestic prices have been trending upwards since the introduction of the measure in late 2016. The EU understands that the support programme for corn production and the deficiency payment schemes developed by the Government of Thailand have not been notified to the WTO. Therefore, the EU requests Thailand to notify these measures in a timely manner. These supporting measures encourage the expansion of corn production; they actually contradict the rationale of corn oversupply that Thailand's authorities put forward to justify the conditions on the import of corn. This rationale is even less relevant in the current context of shortage of feed wheat due to Russia's aggression against Ukraine. The EU also remains strongly concerned about the WTO compatibility of Thailand's import licensing regime for feed wheat. More generally, the EU is also concerned about the apparent priority given to market considerations over WTO rules as a driver for policy decisions in this area. In light of recent developments, the EU also considers that Thailand's claim regarding "ongoing stakeholder consultations" on a possible review of the measure cannot any longer be maintained.

4.80. The representative of Thailand indicated the following:

4.81. Thailand would like to thank the European Union for its interest and questions regarding Thailand's import policy on feed wheat. Thailand wishes to inform the EU that its import permit measures on feed wheat, including a possibility of increasing the applied rate of the product under Thailand's commitments at the WTO, is still in progress and the relevant stakeholders must be consulted.

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

– *Türkiye (G/MA/QR/N/TUR/2/Add.2, G/MA/QR/N/TUR/2/Add.3)*

4.83. The Chairperson drew Members' attention to two new notifications from Türkiye that had been circulated in documents G/MA/QR/N/TUR/2/Add.2 and G/MA/QR/N/TUR/2/Add.3. G/MA/QR/N/TUR/2/Add.2 related to COVID-19 measures, whereas G/MA/QR/N/TUR/2/Add.3 was Türkiye's complete notification of all its QRs in force.

4.84. The Committee took note of these notifications.

– *United Kingdom (G/MA/QR/N/GBR/1/Add.1)*

4.85. The Chairperson drew Members' attention to a new notification from the United Kingdom that had been circulated in document G/MA/QR/N/GBR/1/Add.1 related to measures introduced in response to COVID-19.

4.86. The Committee took note of this notification.

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

4.87. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications from the United States, which had been circulated in documents 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, and G/MA/QR/N/USA/5/Add.2. Questions remained pending from the European Union, which had been circulated in documents G/MA/W/116 and G/MA/W/127, and from China. Since then, the United States had submitted one new notification, in document G/MA/QR/N/USA/5/Add.3.

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

4.89. The European Union has been raising its concerns regarding US trade prohibitions on sturgeon products in this Committee since 2015. In the latest US notification (G/MA/QR/N/USA/5), the restrictions are listed in the measures numbered 11 and 12. As previously explained, the EU's main concern is that the United States 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, namely CITES, recommends. Any updates on this issue would be appreciated. The EU had the opportunity to explain these concerns, in more detail, to the US bilaterally in 2021. In this regard, the EU would welcome receiving further updates about the ongoing review being carried out by the US Fish and Wildlife Service on the listing of sturgeon species as endangered. In particular, the EU requests the US to confirm that the Amur sturgeon has been finally listed under the Endangered Species Act.

4.90. The European Union will continue its dialogue with the United States on this matter and engage on the findings of the review, as appropriate. For this purpose, regular updates on the roadmap and calendar for the whole review process would be very useful. The EU would also appreciate receiving further information through this Committee. Finally, the EU would like to confirm with the US whether it is possible, in the case of farmed threatened species, to obtain an Endangered Species Act permit to avoid the ban; if so, the EU would welcome clarification from the US as to the procedure to obtain such a permit.

4.91. The representative of China indicated the following:

4.92. As mentioned at previous CMA formal meetings, China has concerns about the US import quotas on steel and aluminium products under Section 232, which has been reflected in the notifications circulated by the United States in documents G/MA/QR/N/USA/4 and G/MA/QR/N/USA/5. China believes that the measures in question are inconsistent with the provisions of Article XI and Article XXI of the GATT 1994. China has requested the US to provide detailed information and a clarification of its measures. China regrets that the US response has to date been insufficient to alleviate its concerns. Taking this opportunity, China wishes to reiterate its prior request that the US provide details of its import quota measures, including the volume of quotas received by WTO Members such as the Republic of Korea, Argentina, and Brazil, as well as the conditions for obtaining such quotas. China also wishes the US to explain how such quotas can address its so-called "national security" concerns.

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

4.94. First, in response to Russia's actions, the United States has imposed a variety of measures against Russia, including certain import and export prohibitions. The US promptly notified these measures in document G/MA/QR/N/USA/5/Add.3, which was circulated on 21 March 2022.

4.95. In response to the European Union's comments about sturgeon, the United States appreciates the EU's continued interest in this matter. As communicated at the Committee's previous meeting, as of May 2021, there are now six foreign species of sturgeon listed as endangered under the US Endangered Species Act (ESA). The ESA applies not only to wild animals, but to those in captivity as well. When a species is listed under the ESA, the listed entity includes both captive animals and wild animals. Mostly recently, in April 2021, the United States 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 US and 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 2021. During the comment period on the proposed listing, the Service received a request to hold a public hearing. As a result, the US will be reopening the comment period and holding a public hearing on a date and time to be determined.

4.96. 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 Ponto-Caspian and Siberian sturgeons. The Ponto-Caspian sturgeon review includes Russian, Persian, ship, and stellate sturgeon. At any time during the Service's review, the European Union may provide additional information to help 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. In addition, the US is happy to facilitate a continued discussion among the relevant authorities, as appropriate.

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

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

4.2 Quantitative Restrictions: Factual Information on Notifications Received – Report by the Secretariat (G/MA/W/114/Rev.4)

4.99. The Chairperson drew Members' attention to document G/MA/W/114/Rev.4, entitled "Quantitative Restrictions: Factual Information on Notifications Received". This periodic Secretariat report summarized the content of the QR notifications that had been received in the intervening period since the report's previous revision. He invited the Secretariat to briefly highlight the most important aspects of the report.

4.100. The Secretariat (Ms Roberta Lascari) indicated the following:

4.101. In this presentation, I will briefly touch upon some of the main elements of the Secretariat's factual report on the QR notifications received, which was circulated in document G/MA/W/114/Rev.4. With respect to the total number of notifications, to date 58 Members have notified under one or more of the biennial periods of the QR Decision.¹⁵ This represents an increase of seven Members since the last version of this report. Twenty-five Members have notified changes to their measures, which mostly relate to COVID-19. No "reverse" notification has been received to date. In the context of this report, the terms "QR" and "measure" are used to identify two different concepts. The main difference between the two concepts is that one QR can be enforced through one or more measures. This explain why the number of measures is higher than the QRs notified. Calculations are based on the information contained in the latest notification by the Member.

4.102. Based on the notifications received so far, Members have mainly notified QRs that have taken the form of non-automatic licensing procedures, prohibitions, and conditional prohibitions. Quotas represent a small percentage of measures notified. Regarding the type of measures, paragraph 2(ii) of the QR Decision requires Members to provide a "precise indication of the type of restriction imposed using the symbols contained in Annex 2". Of the 2,289 measures notified by

¹⁵ Document G/L/59/Rev.1.

Members, 62% consist of import measures while the remaining 38% are export measures. The QR Decision also requires Members to provide specific information at the tariff line level for the products that have been affected by the QRs. Overall, the 1,762 QRs used in the calculations relate to the complete universe of HS Chapters. The ten HS Chapters most frequently referred to in the QR notifications are as follows: Chapter 29 (Organic chemicals), with the highest number of notified QR measures, followed by Chapter 38 (Miscellaneous chemical products), and Chapter 28 (Inorganic chemicals). No information on the HS code has been provided for 14% of the notified QRs.

4.103. The QR Decision further requires Members to provide an indication of the ground for adopting such prohibitions, as well as their WTO justification, including precise WTO provisions. This information is indicative in nature and is provided by Members for transparency purposes only. Almost all of the QR notifications (97%) mention the GATT 1994 as the legal basis for such measures. The most cited provision is Article XX of the GATT 1994 – General Exceptions – (1363 QRs, or 77% of the total). More specifically, subparagraph (b) of Article XX of the GATT 1994 appears in 54% of the QRs in the dataset. There are 20 QRs where no specific provision has been cited. The QR Decision requires Members to provide an indication of the grounds for the measures maintained, including "any relevant international commitment where appropriate". Some Members have provided extensive information on some of these international conventions and agreements, while others have cited only some of them. The most cited international conventions are the Montreal Protocol on Substances that Deplete the Ozone Layer and the Vienna Convention for the Protection of the Ozone Layer. Finally, I wish to recall that the full notifications of all QRs in force are due by 30 September of the current year, and will cover the biennial period 2022-2024. In order to prepare the notification, the following resources, in addition to the QR database and this Secretariat's report, could be useful: (i) the practical guide on notifications (document JOB/MA/101/Rev.2); (ii) the webpage "How to notify?" of the QR database, and (iii) the Trade Policy Reviews of each Member. In this regard, the Secretariat stands ready to assist Members with their notifications.

4.104. The Chairperson thanked the Secretariat for its presentation and 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." The deadline to submit notifications covering the next biennial period was 30 September 2022. This meant that Members were required to notify the full list of QRs that they were currently applying by 30 September 2022. This notification would cover the period 2022-2024 and therefore no additional notification would be required in this two-year period unless there was any change to the notified restrictions or new restrictions were introduced. He therefore urged Members to comply with this notification requirement and make the effort to submit their complete notifications before 30 September 2022. In addition, he reminded those 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 QRs in force at a later date, to do so. The Secretariat stood ready to provide assistance to comply with this important transparency obligation.

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

4.106. The European Union thanks the Secretariat for its useful presentation and for the reminder about the deadline to submit the next complete QR notification. In this regard, the EU requests the Chairperson to circulate a communication to remind EU colleagues in Brussels of the deadline. The communication could also include the different sources of information that are available to prepare such a notification, as indicated in the presentation. Again, it might be difficult to find this information in the report, hence the EU considers that a specific communication in this regard would be very useful. In addition, the EU recalls that the Secretariat had indicated at one point that specific workshops on QRs notifications would be organized. The reasons for delays are well known, but the EU wonders if there is still a plan to organize these workshops.

4.107. The Secretariat (Ms Roberta Lascari) indicated the following:

4.108. In response to the EU's request, yes, the Secretariat can prepare a communication from the Chairperson for colleagues in Capital reminding them of the deadline and providing a list of resources. On the QR workshop, yes, the Secretariat was originally planning to organize a workshop later in the year, especially in light of the deadline for the next complete notifications. However, because the CMA is planning to hold a number of meetings this year, there is a risk of too many activities being organized at the same time. Even so, the Secretariat is still considering whether such

a workshop could take place in the second half of the year. If not, the Secretariat has included a QR workshop specifically targeting notifications in its technical assistance biannual plan, which covers this year and the next, so the workshop will be held next year if it proves impossible to hold it in the current year.

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

5 SITUATION OF SCHEDULES OF WTO MEMBERS – REPORT BY THE SECRETARIAT (G/MA/W/23/REV.18)

5.1. The Chairperson drew Members' attention to a new revision of the report by the Secretariat describing the current situation of Members' WTO Schedules of concessions (G/MA/W/23/Rev.18). A full version of the Secretariat's report had been made available as a room document¹⁶ and on eAgenda.

5.2. The Secretariat (Ms Roberta Lascari) indicated the following:

5.3. As of 21 March 2022, Members have submitted 672 notifications pursuant to the Decision of 26 March 1980 on Procedures for Modification and Rectification of Schedules of Tariff Concessions¹⁷ (the "1980 Procedures"). These include, for example, changes relating to unilateral liberalization efforts; rectifications of errors; tariff concessions resulting from plurilateral agreements modifying schedules of concessions, such as the 1996 ITA, the ITA Expansion, and the Agreement on Pharmaceuticals (Pharma); as well as more recent changes to Part IV of the Schedules resulting from the Nairobi Declaration eliminating export subsidies. In addition, these notifications include the certification of renegotiations under Article XXVIII of the GATT 1994, which will be reported on separately under the next agenda item. Two additional procedures relating to the certification of HS transposition changes have been circulated after issuing the report, bringing the total number of current procedures to 674. The vast majority of notifications to change WTO Schedules (473 procedures) are the result of HS transposition procedures.

5.4. The Secretariat has drawn Members' attention to the work that remains pending for each Member, including the procedures on which reservations are outstanding, or where the Member concerned has indicated that the changes were subject to the completion of domestic procedures which had not been finalized after several years. Overall, of the current 674 procedures: 638 (95%) have been certified, and 32 procedures are ongoing. Leaving aside those procedures that are currently within the 3-month review period (12 procedures), and 4 procedures that have been withdrawn, there remain 20 procedures that are pending because of either existing reservations raised by some Members (16 procedures) or because the Member proposing the change has not yet completed its domestic procedures (4 procedures). However, since the date of circulation of the Secretariat's report, one Member has notified that changes contained at the conclusion of its domestic procedures would soon be certified. The Secretariat reminds Members that they may consult and access a wealth of information relating to Schedules of concessions and their changes at the WTO Goods Schedules e-Library.

5.5. The representative of Switzerland indicated the following:

5.6. Switzerland thanks the Secretariat for this presentation of its comprehensive report. As mentioned by the Secretariat, Switzerland has notified the completion of its domestic procedures in relation to the renegotiations in document G/SECRET/40 on 24 March 2022. This was Switzerland's last required notification regarding the formal certification of its seasoned meat modifications.

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

6 REPORT BY THE SECRETARIAT ON THE STATUS OF RENEGOTIATIONS UNDER ARTICLE XXVIII OF THE GATT 1994 (G/MA/W/123/REV.9)

6.1. The Chairperson drew the Committee's attention to a new revision of the "Factual Report on the Status of Renegotiations under Article XXVIII of the GATT 1994", which had been circulated in

¹⁶ Document RD/MA/101.

¹⁷ BISD 275/25.

document G/MA/W/123/Rev.9. A full version of the Secretariat's report had been made available as a room document¹⁸ and on eAgenda.

6.2. The Secretariat (Ms Roberta Lascari) indicated the following:

6.3. The "Factual Report on the Status of Renegotiations under Article XXVIII of the GATT 1994" (G/MA/W/123/Rev.9) provides an overview of all the renegotiations that have been undertaken by WTO Members pursuant to Article XXVIII of the GATT 1994. As of 18 March 2022, Members have undertaken 49 renegotiations, which are at different stages in the procedures. No major development in these procedures has occurred since the previous report. The overall status of Article XXVIII renegotiations remains as follows: 24 renegotiation procedures have been concluded and the modifications to the WTO Schedules certified; 5 renegotiations have been concluded (step 1), and the draft changes to the Schedules have been submitted by the relevant Members under the 1980 Procedures (step 2), but they have not yet been certified; 10 renegotiations remain ongoing; one request to initiate a renegotiation under paragraph 4 of Article XXVIII of the GATT has not been approved; and 9 renegotiation procedures have been withdrawn.

6.4. The Secretariat has also provided additional information with respect to each of these categories, as follows. Of the 49 renegotiations, 24 have been successfully concluded and the modifications certified. In five cases, Members have concluded their Article XXVIII negotiations and consultations with interested Members, notified the bilateral agreements and final report, and have begun the 1980 Procedures to certify the changes. However, four of these procedures are on hold due to reservations and the conclusion of one of them is subject to the completion of domestic procedures. Following the circulation of the Secretariat's report, the Member with outstanding domestic procedures notified the WTO of the conclusion of such procedures and the changes to the Schedule will be certified soon.

6.5. With respect to the conclusion of negotiations, the Secretariat recalls that renegotiations under Article XXVIII of the GATT 1994 follow a "two-step" process from their initiation to their full completion. Under the first step, Article XXVIII procedures are undertaken and concluded once the renegotiating Member has circulated the bilateral agreements with the Members holding rights in the negotiations (namely, Members holding Initial Negotiating Rights, principal suppliers, and Members with a substantial interest), as well as the final report describing the outcome of its renegotiation. The second step of the procedures requires the renegotiating Member to submit the draft modifications to its Schedule resulting from such negotiations under the "1980 Procedures for the Modification and Rectification of Schedules" (1980 Procedures). In the absence of objections within a three-month period from the date of circulation of the draft changes, this second step will result in a certification of the modifications to the Schedule by the Director-General and the Article XXVIII process is considered formally concluded.

6.6. With respect to the nine procedures that have been withdrawn, some of these are linked to enlargement of the European Union. In these cases, a Member with an individual Schedule has begun a renegotiation process on its own, but then the overall Schedule has been withdrawn when that Member has joined the EU. In one case, the request for authorization to initiate a renegotiation under paragraph 4 of Article XXVIII of the GATT 1994 has not been approved by the Council for Trade in Goods. Finally, there are 10 renegotiations that have been launched, or the authorization to launch a renegotiation has been authorized. These procedures remain ongoing either because the negotiations and consultations have not yet been concluded or the renegotiating Member has not completed the formal steps to conclude the process. The Secretariat stands ready to provide technical assistance to Members with respect to these procedures as required.

6.7. The representative of Senegal indicated the following:

6.8. Senegal wishes to thank the Secretariat for its presentation and would like to share some information about its renegotiation process. Senegal has received support from the Secretariat with respect to the launch of its Article XXVIII renegotiation process. Colleagues in Capital are finalizing the notification and it will soon be submitted to the Secretariat for circulation to Members so that

¹⁸ Document RD/MA/102.

Senegal can officially start its renegotiation process. Senegal thanks the Secretariat for its technical assistance in preparing the notification.

6.9. The Committee took note of the Secretariat's report and the statement 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 21 March 2022, and as contained in document G/MA/W/157/Rev.4. The second item concerned the revised summary report on export restrictions and trade easing measures relating to the COVID-19 pandemic prepared by the Secretariat at the request of the Committee, which had been circulated in document G/MA/W/168/Rev.2. The third item related to communications submitted by Uruguay and the United Kingdom concerning unilateral measures aimed at facilitating trade for essential products to combat the COVID-19 pandemic (document G/MA/W/173 and document G/MA/W/175). 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) indicated the following:¹⁹

7.3. Since the beginning of the COVID-19 pandemic in 2020, trade has played a crucial role in the response to the pandemic. Since then, trade policy measures have been implemented by many Members to, on the one hand, facilitate or ease trade, making it easier and faster to import the goods essential to fight the pandemic and, on the other, some Members have also restricted exports of these goods to ensure sufficient supply for domestic use.

7.4. The Secretariat has provided a factual overview of both export restricting and trade easing measures, explaining how these measures have evolved over time. In addition, a first attempt in trying to better understand the relationship between export restrictions and their potential impact on trade has been presented. This work stream is in a preliminary stage and the Secretariat considers that many methodological challenges may still need to be addressed, and that at this stage it is difficult to clearly identify the relationship and to arrive at conclusions. The report presented is in its second revision and includes an additional 25 measures when compared to the first revision, which was presented at the Committee's previous formal meeting, on 11 October 2021. The term "trade easing" has been used in this revision of the report, as opposed to "trade facilitating", to better distinguish the types of measures covered from those measures under the purview of the Trade Facilitation Agreement.

7.5. Export restrictions contained in the report relate to full bans or prohibitions, non-automatic licensing requirements, and other restrictions. A wide range of products, which vary from Member to Member, including personal protective equipment, vaccines, other pharmaceuticals, and medical consumables like syringes, are subject to these measures. The report contains a total of 98 measures that have prohibited or restricted trade in relation to COVID-19. Of these, 35 Members (counting the European Union as one) have notified 68 export restrictions. Some Members wished to provide additional transparency and notified all modifications of these measures over time and, in addition, also notified the termination of some of these measures. The Secretariat reminds Members that according to the QR decision in document G/L/59/Rev.1, Members have the obligation to notify all quantitative restrictions in force, as well as changes to those quantitative restrictions.

7.6. Nonetheless, a comparison of the measures that have been notified under the QR Decision with the information contained in the WTO's trade monitoring report shows that there are an additional 19 Members with 30 measures that have not yet been notified. When both notified and non-notified measures are considered, and looking at the types of measures, the most frequent type used are full prohibitions, followed by non-automatic export licences and prohibitions except under defined conditions. However, since almost 30% of measures have not been notified formally, all these measures do not contain standardized information on the type of measure in place. Some measures

¹⁹ Document RD/MA/103.

have changed type over time. For example, there are cases where a full export prohibition on all face masks was introduced, which then evolved into a non-automatic licensing scheme only for N95 masks. In other words, some restrictions have changed both in terms of the type of measure and its product coverage. In March 2020, when the WHO declared a global pandemic, many Members considered it necessary to introduce export restrictions, in the third quarter of 2020, almost no additional measures have been notified, and since then only a few additional measures have started to show up again. In addition, there are six cases where it cannot easily be deduced when a given measure has entered into force.

7.7. Almost all export restrictions that have been introduced in relation to COVID-19 mention that they are "temporary", a term that is not defined in the WTO provisions. When the total duration of a measure is considered, that is, a measure that has first been introduced for 90 days and that then has been extended by another 90 days, is counted as a 180-day measure. 22 measures have been in force for less than 3 months, an additional 13 for less than 6 months, 23 additional measures for less than one year, while seven measures have lasted for more than one year. Information on duration is not complete, since 33 measures have no clearly indicated duration, despite having been notified as "temporary" in many cases. Considering the current status of the measures, the highest number of export restrictions that have been in force was at the end of April 2020, during the first wave of the COVID-19 pandemic. Since then, the number of measures in force has progressively dropped, and seems to have plateaued towards the end of 2021. As of March 2022, 34 export restrictions are still in force.

7.8. Product categories have been defined according to Annex Table 4 to compare coverage of the measures. The types of restricted products in the first 6 months of 2020 were mainly related to personal protective equipment and sanitizers and disinfectants. In March 2022, two years later, considerable changes in the types of products subject to export restrictions were observed. For example, food items are no longer prohibited for exportation as a result of the COVID-19 pandemic and the number of restrictions on facemasks, protective garments and gloves have since been reduced. The evolution is even more visible for percentage changes in the types of restricted products. In relative terms, pharmaceuticals, other medical supplies, such as syringes, and medical devices and equipment continue to be more heavily restricted in 2022. Other products, such as COVID-19 test kits and vaccines have been, in the absolute number of measures, less restricted for exports.

7.9. Most measures that have been notified refer to Article XI:2(a) of the GATT. Measures that have been applied are those intended to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting Member. In addition, many of the notifications referred to Article XX(b) of the GATT, which relates to measures that are necessary to protect human, animal or plant life or health. A considerable number of measures in the report do not have information on their justification, since either the notification has not made explicit reference to a WTO provision or because the measures have not been notified under the QR Decision, so in these cases there is no information available regarding the WTO justification. Since the report's previous revision, the overall picture of the status of the measures has slightly changed. As of March 2022, a third of the measures still seem to be in force, which represents a drop from 41% in October 2021. The remaining two thirds of the measures have either expired or their termination has been explicitly notified.

7.10. In addition to the export prohibitions and restrictions, the Secretariat has also summarized and prepared a short description of other measures that could be characterized as easing or facilitating trade. The report contains information on a total of 169 trade easing measures. 14 Members had voluntarily provided, for increased transparency, 26 communications, with 41 trade-easing measures that had been implemented in response to COVID-19, irrespective of the fact that there was no notification requirement. The WTO Trade Monitoring Report contains an additional 129 measures from 59 Members. The report uses the term "trade easing" measures, since the measures in question seek to make it easier to import, export, or transit, and mostly cover aspects relating to changes in the applied tariffs and other charges. The Secretariat considers that it is important not to use the term "trade facilitating" to avoid giving the impression that it refers to measures under the purview of the Trade Facilitation Agreement. The same approach in categorizing and standardizing the measures is used as is used with regard to export restricting measures.

7.11. The majority of measures are tax-related measures, which can be explained by two different types of motivation. First, to reduce the price of products that are essential to combat the

COVID-19 pandemic, and second, to provide liquidity and improve the cash flow of traders. The latter had been more frequent during the early phase of the pandemic, and included measures such as the deferral of payment of tariffs and other taxes on the importation of all products.

7.12. These tax-related measures are mostly related to the reduction, elimination, suspension or waiver of tariffs, and make up more than 50% of all the measures in the report. Other important categories include the elimination/suspension or waiver of other internal taxes, fees, and other charges.

7.13. In most cases, these measures have been qualified as temporary and have focused on a narrow list of products. The second major category of measures relates to different types of customs procedures, including expedited or simplified clearance procedures, as well as the simplification of other customs procedures. In this category, some measures seem to relate to provisions covered by the Trade Facilitation Agreement. A minority of measures relate to the establishment of procedures for donated goods in a state of emergency. The majority of measures, where such information is available, show that the measures are temporary in nature. However, for almost 50% of the measures, information about their duration has been insufficient, so the figures could change considerably if this information is eventually included in the analysis.

7.14. In terms of the types of products, the majority of Members seem to have focused on facilitating imports of personal protective equipment (PPE), including face and eye mask production, protective garments and gloves. What is most interesting 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, in particular during the first phase of the pandemic.

7.15. 15 measures have facilitated trade in vaccines, showing the importance of vaccines as a solution to end the pandemic. A recent communication to the WTO has explicitly made reference to the *Joint Indicative List of Critical COVID-19 Vaccine Inputs*, published on the WTO website, to define 14 goods eligible for tariff suspension.

7.16. The situation is almost unchanged from that of October 2021 with respect to the current status of the trade easing measures. Only 16% seem still to be in force, while 41% have expired, and for 44% of the measures, the Secretariat does not have sufficient information to know whether they are in force or if they have expired.

7.17. The final part of the presentation shows a preliminary analysis made by the Secretariat which tries to analyse the effects of export restrictions on trade in COVID-19 essential goods, as notified by Members. This stream of work was requested by some Members at the Committee's previous formal meeting, on 11 October 2021. The limitations and caveats on the results of the Secretariat analysis are too abundant to draw definitive conclusions, hence the results presented are only preliminary.

7.18. By definition, quantitative restrictions have a limiting effect on trade. For example, in the case of full export bans or prohibitions, the product cannot leave the exporting country and therefore there is no trade in the products subject to bans or prohibitions. However, the effect of quantitative restrictions on trade may be less obvious or difficult to measure. In case of restrictions, for example, non-automatic export licences do not fully halt trade but establish additional requirements to export. That is, depending on the type of the measure, the effect on trade may be smaller or larger, and easier or more difficult to measure.

7.19. Another major challenge for the analysis is with respect to frequency of trade data available. Since, based on information available, most export restrictions only seem to have lasted for a few months within a particular year, using yearly trade data, which is the typical way in which this information is captured at the WTO, is problematic. This analysis could have benefited from using monthly import data, as this would make it easier to capture the actual impact of export restrictions on trade.

7.20. From a methodological point of view, several other factors make it difficult to isolate the effect of export restrictions on trade. In particular, the large majority of export restrictions in the analysis had been introduced between March and April 2020, a time-period where three shocks affected trade

at an unprecedented scale. First, a supply shock due to the closure of many factories as a result of sanitary protocols and lockdowns had resulted in global supply chain disruptions. Second, at the same time, a demand shock had affected Members that had all been trying to access the same products to combat the pandemic. This had resulted in a sharp rising demand, for example, for facemasks, protective garments, gloves and disinfectants. Third, there had been a major disruption in all means of transport. Border closures, lockdowns, and sanitary measures for ship and airplane crews had led to global transportation disruptions to move goods across borders. Putting all of this together had made it difficult to untangle the individual effects from one another.

7.21. Another additional methodological difficulty had to do with how trade in goods is measured. In most cases, COVID-19 essential goods were classified at either the HS subheading level (six digits) or at the national tariff line level (eight digits or more) together with many other products that were not directly related to the fight against the pandemic and were not subject to the export restrictions. This means that the dataset could show, for example, trade in a certain product, where in fact exports of this specific product were fully banned but since other products of this subheading were not banned, trade values were still positive. This made it hard to measure trade in these essential products and, as a result, to provide analysis on the evolution of trade in these products. More details on the problems relating to the measurement of trade in these products were also discussed in the WTO's report on *Improving trade data for products essential to fight COVID-19: a possible way forward*²⁰, and the Secretariat report on the first experience-sharing session on trade in COVID-19 related goods.²¹

7.22. The basis for this analysis was the WTO's Quantitative Restrictions Database²², which contained all notified export restrictions with detailed information on covered tariff lines. These specific exporter tariff lines²³ were then matched with quarterly data on imports for each concerned importer and exporter to precisely identify the impacted trade flows. The analysis had not taken into account the non-notified measures of the trade monitoring exercise.

7.23. As highlighted in the Secretariat report, the majority of export restrictions on COVID-19 goods had been in force for less than three months. In order to relate these measures to trade values, quarterly trade data, sourced from outside the WTO, were used to give a more nuanced picture.²⁴ If annual data were used, the effect of these restrictions might not have even been visible at all, since these effects might have been smoothed out over time. The analysis could have been further strengthened through (i) the use of monthly trade data and (ii) a focus on volume of trade rather than value, none of which was available to the WTO Secretariat at the time. For ease of simplicity, the exact duration of the export prohibitions and restrictions was not considered at this stage of the analysis, but it could have been considered in future work.

7.24. Quarter-on-quarter growth of total global imports was put in relationship with the quarter-on-quarter growth of imports of all COVID-19 products that were subject to export restrictions by the concerned exporting Members. The value of imports in the restricted goods had grown during the first quarter of 2020, while global imports had fallen in the same time-period by 8%, which could have suggested that the increased demand for these products had then led to an increase in the trade volume of the concerned products. However, another partial explanation could have been that an increase in the unit price of these goods – due to increasing global demand – had led to rises in trade values despite these products having been restricted. For example, the price of face masks had exploded in the early months of 2020, which had led to much higher trade values in these products. This meant that the same number of imported face masks would have shown a much higher trade value. In the second quarter of 2020, when global total imports had fallen by a dramatic 14%, imports of COVID-19 essential goods that were restricted for exports had only fallen by 8%. However, when global imports had rebounded in the third quarter of 2020 by a massive 19%, imports in restricted goods had recovered only at a 4% rate.

7.25. The data had also seemed to suggest that the impact of export restrictions differed across product categories. Several key products were considered in this preliminary analysis. Imports of face masks for example, from those Members that restricted exports in face masks were compared

²⁰ https://www.wto.org/english/tratop_e/covid19_e/trade_data_report_e.pdf

²¹ JOB/MA/152.

²² <https://qr.wto.org>

²³ At the six-digit (subheading) level in the Harmonized System (HS).

²⁴ <https://tradedatamonitor.com/>

with imports from those Members that did not restrict exports. Many types of face masks were classified in HS subheading 6307.90 ("Made-up articles of textile materials"). Exports in this subheading had skyrocketed during the first two quarters of 2020 from those Members that had subsequently introduced export restrictions. In the second quarter of 2020, imports from those Members without export restrictions had grown faster compared to those origins from where exports had been restricted.

7.26. The reasons why imports from those Members with export restrictions in place had continued to grow, although at a lesser rate, could have been numerous, and included, but were not limited to, the following: (i) not all restrictions had resulted in full bans as some had taken the form of non-automatic licensing schemes; (ii) the difficulty of measuring trade in face masks, which falls under a subheading where many other products, not subject to restrictions were classified; (iii) only certain types of face masks had been restricted; and (iv) export restrictions had not covered the full quarter, which meant that some exports had taken place in the unrestricted periods. The global race to import face masks seemed to have somewhat subsided in the third quarter of 2020, and since some export restrictions had been removed by the end of 2020, exports from Members in the "restricted" category started to grow again in the fourth quarter of 2020.

7.27. The Secretariat encourages Members that submitted QR notifications or submitted information on trade easing measures to review the information provided and to contact the Secretariat in case of errors. The Secretariat stands ready to adjust or update the report as necessary in order to respond to Members' needs.

7.28. The representative of Norway indicated the following:

7.29. Norway encourages the Secretariat to continue to give priority to this important information for Members.

7.30. The representative of Colombia indicated the following:

7.31. Colombia thanks the Secretariat for its report and useful, very detailed, presentation. In addition, Colombia thanks Uruguay and the United Kingdom for the document that they have shared, which also make an important contribution to this discussion. For Colombia, it has been extremely useful and interesting to see the changes that have been made in their trade-related COVID-19 measures, as well as the adjustment in their national policies as the pandemic has progressed. Colombia is also happy to see the progressive reduction in restrictive measures and would call for other restrictive measures to be withdrawn as soon as they can be. Export restrictions on vaccines have seen an increase of 33%, which was really the only category where there was an important increase from the analysis that the Secretariat has presented. When it comes to PPE and vaccines, they have a particular importance within the analysis that Members have seen and most trade facilitating measures, as well as trade restrictive measures, have impacted upon developing countries the most. Colombia thanks the Secretariat for its efforts in the analysis of export restrictions on trade and understands the limitations of the methodology used; nevertheless, Colombia thinks that this is an analysis which has shown to the Committee the impact of export restrictions on the trade of these various important goods. Colombia suggests that this presentation and other documents be shared in the experience-sharing session, which would feed into Members' discussion in a very positive manner.

7.32. The representative of Thailand indicated the following:

7.33. Thailand wishes to thank the Secretariat for its very insightful report on trade-related measures related to the COVID-19 pandemic as well as the factual information on the QR notifications and the report by the Secretariat. Thailand recognizes the efforts and time that the Secretariat has invested in these very helpful reports, which deserve to be published and circulated to a wider audience. Thailand wishes to encourage the Secretariat to keep up the good work.

7.34. The representative of Canada indicated the following:

7.35. Canada appreciates the work of the Secretariat in updating the Summary of Export Restrictions and Trade Easing Measures Relating to the COVID-19 Pandemic. Canada considers that the presentation demonstrates that it is quite a rich and substantive review of what has been

happening over the last year and a half. Canada considers that the report provides some very valuable information to guide Members' work on an effective WTO response to the pandemic. Like Colombia, Canada hopes that Members can continue to examine this. In fact, it confirms that the examination of such measures in a time of crisis is a useful and important approach.

7.36. Canada wishes to make a few additional points. First, Canada considers that the switch to the term "trade easing" is good, and helps to ensure that a clear distinction is drawn relative to the work of the Trade Facilitation Committee. Canada notes that there were six QR measures where it was not possible to understand the date of their entry into force. The Secretariat had also mentioned that 33 of the measures were of an unspecified duration. Canada is disappointed that Members have not provided this important information in their notifications, especially as at least a couple of the measures cross over into Article XI:2(a) of the GATT, and the exception that is claimed as justification. Canada recalls that the words in that Article quite clearly refer to temporary measures, and so an understanding of when a measure comes into force and when it ends is key.

7.37. The Secretariat also mentioned that, if Canada recalls correctly, there were 14 Members that had provided 26 notifications of information that was not required under the Agreement. Canada recognizes that it was one of those 14 Members. Nevertheless, Canada considers that the other 13 Members provided a very worthwhile service to this Committee, and to Members, in providing information on what was happening, the measures that they were taking, and what they were doing. Canada sees this as an element of transparency that is much discussed, and an element that should also be practised to the fullest extent possible, especially in the context of a global crisis. Even if Members are not required to provide such information under the Agreements, if the information is trade-related, then there is no harm in providing it, such that all Members understand what is happening in the context of a crisis.

7.38. The Secretariat mentioned the technical aspects of the presentation, of which Canada should have liked to have seen still more. Canada notes that this is a technical committee, and that delegates here are supposed to be technical experts, or at least to have a knowledge of the rules, data, and tariffs. For these reasons, Canada considers that it is important that the Committee continue to dig into this information and not be afraid to spend the time to understand and further analyse it, including with regard to the impact and rationale behind any measures introduced. Therefore, Canada requests the Secretariat to continue to do this type of work, including digging into the trade impact, as mentioned over the last few slides of the Secretariat's presentation.

7.39. One element of the Secretariat's analysis also speaks to the next agenda item, but Canada also wished to highlight it here. The Secretariat indicated that most of the restrictions were full export prohibitions. For Canada, this indicates that there is a way, as part of this discussion, to dig into why a full prohibition was chosen instead of a less trade restrictive measure.

7.40. Similarly, the Secretariat noted in its review that up to two-thirds of the measures have either expired or terminated, which, to Canada, indicates that Members have perhaps decided that they no longer needed the measures. In Canada's view, this also allows for an enquiry into what the factors were behind the decision not to extend, and to terminate, these export restrictions. Canada considers that this is part of an important process that the Committee needs to be undertaking in the coming months. Finally, Canada notes that it shares the views of Colombia on this item, and also thanks Uruguay and Ukraine for providing further details on their measures and for maintaining a level of transparency that Canada hopes that Members in the Committee can continue.

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

7.42. The European Union thanks the Secretariat for its report and presentation. The various reports produced so far have been useful to inform Members' considerations about transparency and how it could be improved, and the EU invites the Secretariat to keep updating the analysis. According to Secretariat's latest report, as of 25 March 2022, Members have adopted 98 measures that prohibit or restrict exports as a result of the COVID-19 pandemic. This means that, since the previous report, of October 2021, Members have introduced 21 new measures. And, unfortunately, 30 out of the 98 measures have not been notified under the QR Decision, so there is certainly room for improvement.

7.43. The European Union also notes that more than a third of the measures have taken the form of full bans or prohibitions. Most of these measures were introduced at the beginning of the pandemic, in 2020, but for a large number of them their envisaged duration is unclear. Therefore, the EU would very much echo the comments on this issue just made by Canada concerning the type and duration of the measures introduced. Although Members do not provide the underlying reasons for keeping their measures in place, the report assumes that this may be an indication of global shortages in pharmaceuticals, medical products, or COVID-test kits. Yet, without an appropriate analysis of demand and supply, which is beyond the scope of the report, it cannot be concluded with certainty that the form of the measures (for example, a full ban) actually depends on the gravity of the experienced shortages.

7.44. The report states that 35 Members have provided notifications on the imposition of export restrictions during the pandemic. It would be interesting to hear from those Members that maintain such restrictions, including in the most extreme form, such as prohibitions, why they consider them necessary. The European Union has stated on many occasions that it considers that such measures may be justified and necessary, in particular in a situation of a critical shortage of essential products; however, the EU also considers that such measures should always be proportionate, targeted, and time bound. If a Member considers that a situation of critical shortage exists, and provides explanations, it would also be incumbent on the Membership to consider how to assist that Member in reducing that critical shortage. The EU would also like to express its appreciation to those Members that voluntarily notified and informed the Committee about the measures that they had introduced to ease trade during the pandemic. Indeed, the EU considers that transparency on both trade-restricting and trade-facilitating measures is crucial to governments and the private sector. Therefore, the EU looks forward to further engagement on the work on this issue. Lastly, regarding the impact of the measures, the EU took note of the preliminary findings and various caveats associated with the analysis; nevertheless, these were interesting findings. The EU invites the Secretariat to continue exploring these issues.

7.45. The representative of India indicated the following:

7.46. India thanks the Secretariat for its efforts in collating this very detailed document, which will help Members to understand what interventions other Members have undertaken to fight the common global challenge of the COVID-19 pandemic. This compilation and the subsequent efforts by the Committee and Secretariat to track COVID-19-related export information, and to conduct experience-sharing sessions, is truly appreciated. India also notified its trade facilitating measures in document G/MA/W/171, circulated on 29 September 2021. India believes that these temporary measures have helped in solving specific pandemic-led problems. India also thanks the Members that undertook these notifications.

7.47. The Secretariat (Mr Simon Neumueller) indicated the following:

7.48. In relation to the issue on vaccines, for example, this big increase in percentage terms is due to the low overall number of measures in place. In the beginning of 2020 there were only three measures in place, and as of March 2022, four measures, leading to a percentage increase of 33%. With respect to the technical work that the Secretariat presented at the end, the Secretariat was interested to hear more from Members on how they could support the analysis by providing, on a voluntary basis, more detailed data at a higher frequency than annual data.

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

7.50. The United Kingdom is pleased to provide this communication to the Committee in order to provide further transparency on the trade-facilitative tariff measures that it has applied since March 2020 in support of trade in COVID-19 critical goods. Throughout the pandemic, the UK has maintained transparency by publishing information on its national website as measures have come into effect, providing traders with detailed guidance about their scope and operation. In this communication, the UK has summarized the approach that it has taken to apply tariff reliefs and tariff suspensions and signposted to the locations on its national website where full information can be found. This includes all lists of COVID-19 critical goods that the UK has used.

7.51. The United Kingdom strongly welcomes the opportunity provided by this mechanism to formally note these records for the benefit of all Members. The UK has greatly benefited from the

information contained in similar communications made by other Members and captured under the COVID-19 pages on the WTO website by the WTO Secretariat. The UK encourages Members to consider this mechanism to share information on their approach to facilitating trade during the pandemic, as well as their lists of COVID-19 critical products. To conclude, the United Kingdom would also like to echo comments made by other colleagues today by thanking the Secretariat for its detailed and informative presentation on COVID-19 measures.

7.52. The Chairperson encouraged the Secretariat to continue updating the report and to present its next revision at the subsequent formal meeting of the Committee. He reminded Members to duly notify all quantitative restrictions in relation to COVID-19 and, in addition to the original notification, to also notify all modifications and termination of measures. Moreover, he stated that notifying all of the measures covered by the trade monitoring exercise to the Committee, in accordance with the QR Decision²⁵, including details on their precise entry into force and termination dates, would be important to assist the Secretariat in making its report more accurate.

7.53. The Committee took note of the reports by the Secretariat, the four documents, and the statements made.

8 REPORT BY THE CHAIRPERSON ON THE EXPERIENCE-SHARING SESSION IN RELATION TO TRADE IN COVID-19 RELATED GOODS AND REPORT BY THE SECRETARIAT (JOB/MA/152)

8.1. The Chairperson reported to the Committee about the first experience-sharing session on trade in COVID-19-related goods and invited Members to consider the summary report prepared by the Secretariat and circulated in document JOB/MA/152.

8.2. The Chairperson reported that the Committee had held its first experience-sharing session on trade in COVID-19 related goods on 4 March 2022. This session had been organized following the information session of 28 January 2022, where the Secretariat had presented the work that it had done in relation to the COVID-19 pandemic, including a number of reports and new tools which were particularly relevant to the work of the Committee. Following that information session, at the informal meeting of the Committee on 1 February 2022, some delegates had asked the Secretariat to continue to update Members about any COVID-19 related work of interest to the Committee and to continue an exchange of views or experiences among Members, including through additional information or experience-sharing sessions organized by the Committee, as appropriate.

8.3. Following the informal meeting, he invited all Members to open-ended consultations, on 9 February 2022, with the objective of exchanging views and ideas about possible technical work by the Committee in the area of trade in COVID-19 related goods. A number of delegations had taken the floor to support this type of work by the Committee, had proposed topics of interest, and had provided suggestions on how to organize the discussions. Based on Members' interventions at the informal consultations, the following topics had emerged as possible areas in which the Committee could engage in a technical dialogue on Members' practices: (i) the definition of essential goods to combat the pandemic, namely, how Members have defined such lists and updated them over time; (ii) tariff classification of these essential or critical goods within the Harmonized System, including, once the products had been identified, whether Members faced issues with their HS classification. This was an area in which collaboration with the World Customs Organization could be necessary; (iii) how Members had monitored and measured trade in these essential goods to combat the pandemic, including the creation of national tariff lines or statistical breakouts; (iv) the sharing of Members' practices on measures aimed at easing trade under the purview of the Committee including, for example, in relation to tariff suspension, reduction, or elimination; and (v) how to improve transparency in export restrictions, as well as a sharing of experiences with respect to the choices underpinning the use of such restrictions (for example, why a certain type of measure was chosen, what factors determined the termination/non-renewal of certain measures, whether a review of their effectiveness was undertaken, and so on). In terms of the format, Members had pointed to the importance of gathering together in an informal mode within the context of the Committee, through experience-sharing sessions at the technical level, to exchange information on these topics. The benefit of inviting experts from other organizations and/or the private sector, and strengthening the link between WTO Committees, was also mentioned.

²⁵ Document G/L/59/Rev.1.

8.4. Against this background, the Chairperson had sent an email, on 10 February 2022, proposing that the Committee organize the first of a series of experience-sharing sessions, starting with the first two topics from the list, namely: how Members defined their lists of "essential goods" to combat the pandemic, what challenges they faced with their tariff classification, and what could be learned as a way forward, including for better international cooperation.

8.5. The first session had taken place on 4 March 2022 and representatives from six Members had participated as speakers, namely: Canada; China; Ecuador; the European Union; Singapore; and the United Kingdom. Several other Members had participated in the discussion by taking the floor and sharing their experiences at the meeting or by requesting the Secretariat to circulate written communications afterwards. The two communications from Uruguay and the United Kingdom that the Committee had considered under the previous agenda item had stemmed from this session. The Chairperson thanked all those Members for their active engagement in this exercise and for sharing their valuable experiences. A representative from the WCO had also participated in the meeting and had provided written contributions. The Secretariat had compiled all the documents and presentations relating to this session and summarized the discussions held in a report which had been circulated in document JOB/MA/152.

8.6. The Chairperson believed that this type of exercise was very useful for improving Members' understanding of the main challenges faced during the pandemic and for sharing information and knowledge about what solutions worked well. He recalled that nobody had been spared by this pandemic and that it was important that Members joined forces to be better prepared for the future.

8.7. Regarding next steps, and as requested at the session, the Chairperson informed Members that the Secretariat had been looking into possible dates for the organization of three additional experience-sharing sessions to cover the other topics that Members had identified. The Secretariat had made provisional bookings on the following dates. First, on 26 April 2022, to discuss how Members had monitored and measured trade in essential goods to combat the pandemic, including through the creation of national tariff lines or statistical breakouts. This session would be linked to the one organized on 4 March 2022 and could build upon the information provided in that context. As mentioned by Members, the participation of the World Customs Organization in this particular session would be extremely useful. The third session had been tentatively scheduled on 20 June 2022 and would focus on Members' practices in relation to measures aimed at easing trade under the purview of this Committee including, for example, in relation to tariff suspension, reduction, or elimination, among others. Finally, on 16 September 2022, the session could take place for Members to discuss how to improve transparency in export restrictions and share experiences with respect to the choices underpinning the use of such restrictions (for example, why a certain type of measure had been chosen, what factors determined the termination/non-renewal of certain measures, and whether a review of their effectiveness was undertaken).

8.8. The Chairperson recalled that this was a tentative programme for the series of experience-sharing sessions on the topics identified by Members so far. He thanked Members for listening to his report and opened the floor for comments or feedback.

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

8.10. The European Union thanks the Secretariat for its comprehensive report of the useful technical meeting in March on the COVID-19 pandemic and the treatment of essential COVID-19 goods by customs. The report very well reflects Members' challenges when confronted with the need to facilitate the movement of essential goods across borders. Based on Members' inputs, the report provides a very accurate, albeit non-exhaustive, compilation of the lessons learned during the pandemic. The EU believes that all the lessons distilled in Section 3 of the report are useful and deserve more consideration. The EU would like to highlight some of them in particular.

8.11. The European Union agrees that the WTO framework has proven very valuable in containing temptations to erect barriers that are eventually self-defeating. The EU also fully shares the view that improved dialogue between Members and cooperation with international organizations are crucial assets during a health crisis. Likewise, the EU sees value in deeper engagement and consultation with stakeholders, be it at domestic or WTO level, to inform decision-making and implementation. The EU welcomes the identification of tangible avenues to do better in these

different fields, especially as these are based on Members' experience. The EU suggests that the Committee continue exploring these.

8.12. During this crisis, many Members were unable to find out what the exact availability of essential goods was. And this is notably because it was challenging to monitor trade or production of such goods. This was notably due to the fact that we did not always have appropriate codes in our tariff schedules. The European Union has introduced amendments to its tariff nomenclature to rectify this situation. The EU therefore believes that Members could further consider the option of a common reference list of core items, which should be reflected in their national nomenclatures, or which could be used as a reference for an efficient customs clearance process. Where there are classification issues, Members could discuss them and exchange relevant information in appropriate forums or through appropriate mechanisms, including in collaboration with the WCO. Members should reflect further on the best way to do that. The EU believes that these small steps would enhance trade monitoring and potentially improve predictability. The EU also uses this opportunity to thank the WCO for its presentation under item 2, which was very rich and detailed. The EU hopes that this presentation can be circulated in writing, and it sees high value in the WCO participating in future experience-sharing sessions. Unfortunately, Members cannot rule out that a future pandemic or crisis may unfold, and shortages may concern different types of goods. Members could reflect on how to better use the existing WTO mechanisms to be able to quickly react and engage with other Members in response to a crisis. The EU sees value in continuing the technical discussions on these various issues under the aegis of this Committee. The EU looks forward to additional experience-sharing meetings.

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

8.14. The United Kingdom warmly welcomes this report by the Secretariat, and the additional reflections shared by the WCO earlier in the session. The information session on 4 March 2022 focused on how Members have defined COVID-19 critical products and the issues the UK has encountered regarding product classification. It highlighted the value of shared work done at a national level to produce lists of COVID-19 critical goods; this is why the UK has shared information on its lists, and trade facilitative measures as set out under agenda item 7. The UK would welcome any further information that other Members may share on these types of measures.

8.15. The United Kingdom thanks other Members for their reflections and expertise and looks forward to continuing to discuss the specific issues relating to product identification and classification challenges with Members moving forward. The UK concludes by extending its thanks to the Chairperson and the Secretariat for their ongoing work to facilitate reflective discussions among Members about their experiences of responding to the COVID-19 pandemic through trade. The UK looks forward to the opportunity to engage in future sessions.

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

8.17. The United States would like to thank the Chairperson for his report, and the Secretariat for its summary of the 4 March discussion. The US found that discussion to be very informative and looks forward to participating in future experience-sharing sessions.

8.18. The representative of India indicated the following:

8.19. India thanks the Chairperson for his tireless efforts to set up these experience-sharing sessions in January and March in relation to trade in COVID-19-related goods. India's delegation immensely benefited from the session and India looks forward to participating in the other sessions planned through the year. India reiterates its request from the information and informal session conducted in January. This request is for the Secretariat on the COVID-19 vaccine trade data page.

8.20. Firstly, India requests the addition of a total population number to the tables where vaccine exports have been documented. As the Director-General of this esteemed Organization has said several times, no one is safe until everyone is safe in this pandemic. This statement truly reflects the urgency to provide vaccine access and vaccine equity to every human being. Hence, countries with large populations, such as India, were also working in the global interest while running a very successful public vaccination campaign, which has seen almost two billion inoculations completed. This number puts the exports in the right context. India was able to further vaccine equity to the

second largest national population and was also able to further vaccine equity to those around the world who needed it the most.

8.21. Secondly, and to stress the previous point, the Secretariat is requested to also add the vaccine flows to the export figure. It will be good to understand for each of the top exporting Member the destination for the vaccines. A percentage split between high-income, middle-income, and low-income countries would provide an additional qualitative perspective to exporting Members' efforts towards vaccine access, vaccine equity, and vaccine affordability.

8.22. The representative of Canada indicated the following:

8.23. Canada joins others in thanking the Chairperson and the Secretariat for their efforts in organizing these meetings and in providing the report that has been shared with Members today. Canada would also like to mention that, in addition to the documents circulated by Uruguay and the United Kingdom, Canada had also circulated document G/MA/W/174, which essentially records the speaking points for Canada's presentation in the previous week's session, and which supplements the PowerPoint presentation in the Annex to document JOB/MA/152. Canada also supports the European Union's intervention considering further lessons learned. This is going to be part of our work programme going forward, which Canada also fully supports. It will give us space in the Committee to have this type of exchanges and to try to allow time for Members to prepare their own contributions to the discussion. Canada found the discussion at the beginning of this month very enlightening. It highlighted the different ways that each Member took to identifying the products which they found to be essential and to how they lowered their tariffs to ease the access of the users within their jurisdiction. Canada also echoes what the EU said about the presentation by the WCO. Canada appreciates what was provided at the meeting today and hopes that the WCO representative will share some of her speaking points with the Committee because her presentation was quite detailed and very interesting. Canada sees a very high value to including in future discussion the tariff classification aspects of the work that the Committee is undertaking over the next year at least.

8.24. The representative of Colombia indicated the following:

8.25. Colombia echoes others in thanking the Chairperson for convening this meeting, and also the Secretariat for the summary report. Colombia wishes to thank those Members that made presentations or circulated documents as a part of this experience-sharing session, which was very interesting and constructive. Colombia appreciates having specific dates for the coming sessions because it also allows us to organize ourselves and our work with our delegates back in Capital so that we can indeed have a greater level of active participation. Colombia also stressed the importance of keeping in mind the time differences in order to allow for wider participation from Capital-based officials and Members. On document JOB/MA/152, Colombia would like to highlight three elements in the area of lessons learned. The first point relates to improving and strengthening the dialogue among Members, in particular to improve the exchange of information such as the publication of lists of essential products and notifications of measures adopted by Members. Members have all agreed that having such updated information contributes to facilitating access to information and therefore enhances trade. Second, it is also important to step up transparency through an ongoing exchange of good practices and information. It is quite important to stress the positive results obtained through the dialogues and experience sharing, and also the importance of continuing to work with other international organizations. Colombia joins those that already made comments on the good cooperation with the WCO in this regard. Finally, Colombia observes that the pandemic is not over in all countries. There are still important risks prevailing for different waves of the pandemic. This should give us elements to be able to face other situations which could crop up in the future, and as we are currently witnessing in other areas. Colombia stresses that the lessons learned in Section 3 of document JOB/MA/152 should be complemented by what is discussed and what is identified in the coming sessions. Therefore, this Committee could have a dedicated document on lessons learned on the basis of what has been discussed among Members.

8.26. The representative of Japan indicated the following:

8.27. Japan thanks the Chairperson for this very comprehensive report. These sessions were highly beneficial for Members. This provides a big picture regarding COVID-19-related trade in goods, and the related challenges, covered by this Committee. Japan looks forward to engaging in the future sessions.

8.28. The representative of Australia indicated the following:

8.29. Australia wishes to join colleagues in echoing congratulations to the Secretariat for this very useful work. Australia found the March session quite thought-provoking and illuminating. Australia values the arrangement of the future sessions. Australia thinks it is very important that Members do exchange this sort of information and learn from each other's experiences. Australia looks forward to contributing to the future sessions and would appreciate, when possible, trying to arrange a suitable time for in-Capital participation.

8.30. The representative of Thailand indicated the following:

8.31. Thailand wishes to thank the Chairperson, the Secretariat, and particularly the speakers who made the presentation during the first experience-sharing session. Thailand has benefited immensely from this presentation, and would share it with colleagues in Capital. Thailand also shares many of the experiences and difficulties that have been faced by those Members that made the presentations, such as on the issue of product classification, which has introduced ambiguity into how to monitor trade flows of products such as surgical masks and N95 respirators. To conclude, Thailand wishes to express its appreciation to those involved and sees a high value in continuing this work. Thailand looks forward to participating in the next experience-sharing session.

8.32. The representative of China indicated the following:

8.33. China wishes to thank the Chairperson and the Secretariat for holding this first experience-sharing session and for preparing these reports. China will actively participate in the coming sessions.

8.34. The Chairperson thanked the delegations of the European Union, the United Kingdom, the United States, India, Canada, Colombia, Japan, Australia, Thailand and China for their comments. The Chairperson indicated that the Secretariat had made preliminary bookings to hold the next experience-sharing session on Tuesday, 26 April 2022, from 12 noon until 3pm. The topic of the session would build upon the topic of the first experience-sharing session and would focus on how Members had monitored and measured trade in COVID-19 essential goods, including through the creation of national tariff lines or statistical breakouts. The second experience-sharing session would also take place in hybrid format to allow Capital-based officials to participate virtually and would be based on contributions by Members. The Chairperson encouraged delegates to contact their colleagues in Capitals and to enquire whether they would be willing to contribute to the session. As had been demonstrated in the first session, the participation of speakers offering diverse perspectives and backgrounds was of great benefit to this kind of activity. The Chairperson indicated that the deadline to propose speakers was Thursday, 14 April 2022. The Chairperson requested that Members take note of the date for the time being, and the Secretariat would follow up with a written communication in this regard. The Chairperson noted that, provided there was a sufficient number of speakers for the second experience-sharing session, he would ask the Secretariat to confirm the session and to circulate a draft programme to Members.

8.35. The representative of Canada indicated the following:

8.36. On a point of clarification, Canada wishes to confirm that the topic of the session on 26 April would be as indicated, but would include also the topic of the first session. This will provide an opportunity for any Member who wishes to present on the first topic but that did not previously have time to prepare for it.

8.37. The Secretariat indicated the following:

8.38. Indeed, the focus of this session is really on trade monitoring and the measurement of trade, but to do that it is of course also relevant to discuss how these goods have been classified at the national level, and there is an overlap between the two topics. If there are Members that were unable to contribute to the discussion in the first session, they may of course do so in the second session, given that the issues are inter-related. Nevertheless, to make progress with the discussion and to cover the issues identified by Members, the main focus will be on trade monitoring and measurement.

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

9 ANGOLA – IMPORT RESTRICTING PRACTICES – STATEMENTS BY THE EUROPEAN UNION AND THE UNITED STATES

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

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

9.3. The European Union's concerns over Presidential Decree No. 23/19 remain as this Decree aims, in the EU's assessment, to protect domestic industries in a manner that is not compatible with WTO rules. These concerns have been raised at numerous WTO meetings since 2019, including at the Committee on Agriculture, the Import Licensing Committee, this Committee and the Council for Trade in Goods. To date, Angola has not provided any substantive reply and/or explanations on how it intends to make this Decree compatible with WTO law. The EU strongly urges Angola to review the relevant measures in order to ensure their compliance with the WTO's rules.

9.4. Irrespective of the issue of WTO compatibility, the European Union reiterates its request for Angola to provide clarification as to what process related to this decree, including what changes Angola intends to introduce, and in which areas. For example, the Decree does not provide information on how import restrictions would be implemented; notably, it is unclear if licences are to be used to manage these restrictions. The EU requests Angola to clarify these issues. Should licences be involved in the implementation of this Presidential Decree, the EU would recall that the measure should be notified under the Agreement on Import Licensing Procedures.

9.5. The European Union wishes to share a set of detailed questions with Angola and looks forward to engaging with Angola further on that basis, as follows.

- Could Angola provide additional information on the agricultural products covered by Presidential Decree No. 23/19, if possible, with the specific HS codes for each commodity, as well as a list of specific goods produced in the Special Luanda-Bengo Economic Zone that are subject to the Decree;
- could Angola elaborate on the process importers and wholesalers have to follow to be eligible for an import licence, including on the specific steps required;
- could Angola provide additional clarifications on the quantitative restrictions laid down by Article 11 of the Decree, especially on how the assessment of the existence of internal capacity for import substitution is conducted? The EU would like to better understand if and how Angola intends to implement quantitative restrictions;
- Angola previously indicated that whether the Decree would be cancelled will actually depend on the achievement of its objectives. Could Angola elaborate on the methodology and process for the assessment of the achievement of those objectives; and
- could Angola clarify whether any impact assessment study or similar evaluation is available for consultation, and whether Angolan authorities have consulted economic operators on possible adverse impacts that the measure may have on international trade, and to explore less trade-restrictive alternatives?

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

9.7. As it has expressed previously in this and other Committees, the United States continues to have significant concerns with Presidential Decree No. 32/19, which appears aimed at restricting Angola's imports. The US understands that Angola is a developing country with a reliance on imports and is looking to promote domestic production and diversify its economy. However, the measure counters the objectives of the WTO to reduce obstacles to international trade and ensure stability and fair conditions of competition among Members, thereby ensuring Angola's economic development.

9.8. The United States understands that Angola is working to address the issues raised by Members, including with respect to WTO rules. Is there any update on that review? The US also understands that Angola is undertaking an analysis of its internal market this year. Can Angola provide information on the status of that analysis and the final results?

9.9. The representative of Angola indicated the following:

9.10. Angola takes note of the statements made by the European Union and the United States regarding their concerns over Angola's import measures. Angola considers that its previous statements made in this, and other committees, remain valid. However, Angola continues to work towards adjusting the Decree to make it more comprehensive. It should be noted that imports into Angola continue to develop in a normal way.

9.11. 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 again raises this trade concern due to the restrictions adopted by Canada on the importation of cannabis and cannabis products for medical use. Colombia appreciates the willingness of the Canadian authorities to address the doubts and concerns of Colombia in bilateral settings in Bogotá, Ottawa, and Geneva.

10.4. Canada is a leading country in progressive regulations for the use of cannabis for medical purposes, and Canadian companies stand out globally in this growing and evolving market. However, Colombian companies have been experiencing difficulties in exporting to Canada cannabis and cannabis-containing products for medical, not recreational, use. Based on the review of Canadian regulations, including the Cannabis Law and its regulatory norm, Colombia found three elements where there seems to be an incompatibility with the WTO rules, to the extent that restrictions are applied to the importation of medicinal cannabis and its products. First, Canada's general policy seems to allow the importation of only a certain type of medical cannabis, that is, it only allows the importation of raw materials, and not finished products. Second, imports are restricted to certain quantities, that is, only those quantities necessary for the number of authorized plants. Third, imports are allowed only to a certain type of importer, namely those that are licence holders.

10.5. In the first case, the Canadian legislation does not detail which products are considered within the category of raw materials and the treatment applied to processed or manufactured products (those that are not considered as raw materials). Colombia asks Canada for more details on the definition of raw materials under its General Cannabis Law. In the second case, there seems to be a restriction on the quantities that can be imported, a limitation which is linked to the number of authorized plants. In this regard, Colombia asks Canada to clarify the reasons that justify this limitation, as well as to provide information on the number of authorized plants and the manner in which the said authorizations are granted. This restriction on the quantities and types of products creates a prohibition to access the ordinary commercial and distribution channels, such as pharmacies or hospitals. In the third case, imports are only allowed for new licence holders; however, the rule is not clear about who is considered to be a new licence holder, and nor does it specify how a new licence can be requested and obtained. Colombia asks Canada for detailed information on these points.

10.6. Finally, and although in practice there is a restriction on access to the Canadian medical cannabis market, Colombia draws attention to the fact that the Canadian regulation establishes that only medical cannabis that meets the requirements of the Good Production Practices (GPP) standards, which are specific to the Canadian regulatory system, can be sold or distributed, including the verification of compliance with this standard through inspection. Colombian producers have requested the recognition of GPP standards or inspection visits to obtain the GPP standard; however, these requests have been denied by the Canadian authorities. This creates a less favourable

treatment for imported products compared to national products. On this matter, Colombia asks Canada to detail the procedure to obtain the GPP certificate for foreign producers.

10.7. Regarding the Good Production Practices of Canada versus the standard of Good Manufacturing Practices of Colombia, Colombia wishes to ask Canada to undertake a "process of equivalence of standards" with Colombia's health authority (INVIMA), with the purpose of having the opportunity to demonstrate that, through the standard of the country of origin (Colombia), the guarantees and confidence of maintaining or covering the level of protection of health risk of the importing country (Canada), are provided. It is worth noting that the WTO has recommended to governments that they should recognize the measures of other Members as equivalent, even when they differ from their own, as long as they provide an equivalent level of protection.

10.8. To date, the Canadian authorities have not presented their reasons for why imports of cannabis and cannabidiol products for medical purposes are not allowed or are restricted, while domestic production and exports of the same products can be carried out, in compliance with the corresponding internal regulations. Colombia reiterates the importance of avoiding any type of unjustified trade restriction, as well as the need to have non-discriminatory treatment between national producers.

10.9. The representative of Canada indicated the following:

10.10. Canada continues to engage with Colombia bilaterally to discuss Colombia's concerns with Canada's regulation of its trade in cannabis and will respond to the specific written questions Colombia recently agreed to provide on this matter.

10.11. Since 2020, Canadian regulators have met with Colombian diplomatic officials and private companies on many occasions to discuss this issue and to provide information on Canada's regulation. 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.

10.12. 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.

10.13. 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. Members will recall what Australia said in this committee regarding the value Australia places on its strong, mutually beneficial trading relationship with China. It is why Australia is deeply concerned about the trade disruptive and restrictive measures that China continues to apply to a wide range of Australian products. These have a direct impact on Australia's market access into China. It is particularly concerning that China's official statements and articles in state media have linked China's trade actions to unrelated issues in the China-Australia bilateral relationship. Australia notes that, in January 2022, the European Union initiated a WTO dispute against China regarding disruptive and restrictive trade practices imposed on Lithuania and other exporters in the EU. The increasing use of disruptive trade measures poses a risk to all Members and undermines the multilateral trading system on which all Members rely.

11.4. Australia wishes to again register its concerns with a series of quantitative restrictions or *de facto* import bans, which appear inconsistent with China's WTO commitments and which limit Australia's market access. Australia has received multiple credible reports, including from Chinese industries, that China's 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 other Australian products, which have also been raised in other relevant committees. Australia further notes that Chinese trade data shows virtually no Chinese imports of Australian coal and copper ores and concentrates since December 2020, despite consistent historical high and consistent trade in these products and no formal measures being implemented by China on these goods.

11.5. Australia wishes to reiterate that it considers any instruction by China's authorities, whether formal or informal, not to purchase Australian products to be inconsistent with China's WTO obligations, including the fundamental WTO principle of non-discrimination. Australia calls again upon China to notify these import bans and *de facto* QRs to the WTO. China's responses to Australia's requests for advice in this Committee, and other WTO meetings, still have not adequately addressed its requests regarding China's trade measures more broadly, and formal or informal instructions from China's authorities to trading enterprises specifically. Australia stands ready and willing to engage substantively with China – in Geneva, Beijing, or Canberra – to discuss these ongoing issues.

11.6. Australia must remind itself and all Members of the value of international rules and what is at stake when they are not respected. Australia expects that all WTO Members, including China, will conduct their trade in accordance with their commitments and fundamental WTO principles. This is important for Australia's trading relationship with China, but also for Australia's confidence in, and the integrity of, the rules-based system more broadly.

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

11.8. The European Union shares Australia's concerns with regard to the matters Australia is again raising in this Committee on this occasion, as already at previous meetings of the Council for Trade in Goods. On these occasions, the European Union has made a statement outlining its concerns. On this occasion, the EU again wishes to raise the same points of principle and of law.

11.9. The European Union continues to be concerned by the sheer number of alleged measures and the cumulative product range and trade value affected. The EU is likewise concerned by the form which these measures allegedly take, and notes that the GATT rules also cover such informal measures. More importantly, informal, unpublished, and non-transparent trade regulations are *per se* at odds with the WTO's rules and spirit. WTO Members should not adopt such measures; this is not how international trade, or this Organization, should operate.

11.10. The European Union is also concerned by the alleged purpose of the measures in question. If the true reason for their adoption was an intention to punish, put pressure on, or coerce another Member because of a policy choice which lies within the rights of that Member, then in addition to the trade angle, these measures are also at odds with general international law. Within the EU, growing concerns regarding such practices have led to a legislative proposal for a so-called anti-coercion instrument. That proposal is presently being considered in the EU's legislature. In addition, the EU has recently initiated a WTO dispute *vis-à-vis* China in relation to a range of measures negatively affecting its trade with China, and where there also appears to be such a coercive intention.

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

11.12. The United States remains deeply troubled by the information provided by Australia and that it has heard from other credible sources. The US again registers its systemic concern with the broad range of restrictive measures, both formal and informal, that China has imposed on certain Australian goods in an abusive, arbitrary, and pretextual manner. In this connection, the US is concerned by reports that Chinese authorities have informally instructed importers not to purchase certain goods.

11.13. China's actions are not isolated to Australia. There are many instances of China using these harmful non-market practices against WTO Members in apparent retaliation for unconnected bilateral issues, including China's discrimination against Lithuanian goods and EU products with Lithuanian content.

11.14. China claims to uphold the "rules-based multilateral trading system", but its actions speak for themselves. China continues to exploit the rules-based system to its advantage, ignoring or breaking rules in order to inflict harm on others to advance its geopolitical and economic ends. China's failure to adhere to global trade norms and WTO principles threatens and undermines the rules-based multilateral trading system and harms relations between its Members.

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

11.16. The United Kingdom would again like to express its support for Australia's concerns about trade restrictive measures taken by China.

11.17. China must 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. It is vital that, as Members, we adhere to the fundamental principles and objectives of free and fair trade underpinning the rules-based multilateral trading system.

11.18. The United Kingdom closely monitors reports of China's trade actions being deliberately targeted against goods of some countries for political reasons. The UK also notes the remarks by the European Union regarding measures taken against one of its Members. The UK wishes to express its concern. Unfair market distorting trade practices risk undermining the integrity of, and trust in the multilateral trading system and lead directly to harmful consequences to citizens and businesses worldwide. The UK urges China to engage in good faith and, in a timely and responsive manner, to provide clarifications to the points raised by Australia and the European Union.

11.19. The representative of Canada indicated the following:

11.20. Canada shares the systemic concerns raised by Australia, as well as by the European Union, the United States, and the United Kingdom. Canada has also raised a number of specific trade concerns regarding China's application of sanitary and phytosanitary (SPS) measures that are restricting trade in food, plants and animals, and their products. Canadian agri-food exporters continue to experience a lack of transparency and predictability with respect to China's application of SPS measures, and Canada continues to experience significant undue delays in China's approval procedures.

11.21. Canada has noted a recent pattern regarding China's growing willingness to use unjustified SPS and TBT measures to block or otherwise hinder trade. The use of these trade disruptive and coercive measures challenges and destabilizes the rules-based international trading system from which China, Canada, and all WTO Members have benefited. There are troubling patterns in China's use of SPS and TBT measures that block or hinder trade, particularly in agricultural and agri-food products. For example, Canadian canola seed exports to China continue to be arbitrarily and unjustifiably restricted. This is why Canada has requested the establishment of a WTO panel on the matter.

11.22. In addition, Canada remains concerned that measures adopted by China in 2020 to temporarily suspend exports from meat and fish establishments due to China's alleged concerns regarding COVID-19 transmission remain in place despite recent findings from the FAO/WHO that point to the contrary. With no scientific evidence to support these measures, the continued suspension can only be viewed now as a tool to block trade. In this regard, Canada urges China to base its SPS measures on sound science and to take into account the updated FAO/WHO guidance that confirms that food and food packaging is not a pathway for the spread of COVID-19.

11.23. Canada also remains concerned that other new regulations in China, notably Decrees No. 248 and 249, create unjustified disruptions and delays for Canadian food exporters. Canada asks China to provide, at the very least, more clarity on these two decrees and on the online China Import Food Enterprise Registration (CIFER) system, as well as provide a transition period of

18 months to afford companies sufficient time to register and/or amend their registrations and for China to communicate how to navigate the complex registration system.

11.24. Canada encourages all WTO Members, including China, to abide by their WTO commitments.

11.25. The representative of New Zealand indicated the following:

11.26. New Zealand also shares a systemic interest in the concerns expressed on this topic. As New Zealand has repeatedly noted in a number of forums, 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 possible friction.

11.27. Given the challenges that all Members are facing as a result of the COVID-19 pandemic and other disruptions, the certainty provided by the multilateral trading system is more important than ever. If Members step away from their commitments or adopt remedies or other measures provided for under the WTO Agreements in an arbitrary manner and for dissociated purposes, this will undermine the predictability and certainty on which the system rests. It will also reflect on perceptions of the Member undertaking such actions.

11.28. The adoption of measures by WTO Members that cause widespread disruption to trade and lack transparency cause serious concern to New Zealand, including actions undertaken against a range of exports from Australia and other WTO Members. New Zealand encourages Members to comply fully with their WTO obligations, including in the application of trade remedies and the obligation to apply them in good faith.

11.29. The representative of Japan indicated the following:

11.30. Japan shares the views 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 transparent measure should be secured.

11.31. In addition, as was pointed out by Members in China's Trade Policy Review of the previous year, opaque measures taken by the China in an unofficial or unpublished manner are problematic from the perspective of China's Accession Protocol and the transparency rules in the GATT. Therefore, Japan urges China to ensure transparency in its trade measures.

11.32. If China is implementing its trade measures in an arbitrary manner, as reported, that arbitrary implementation runs counter to a free, fair, and rules-based international trading system. Japan expects China to respond to Australia's concerns in good faith and in a timely manner.

11.33. The representative of China indicated the following:

11.34. China has repeatedly provided its explanations of these trade issues raised by Australia in previous meetings of various WTO committees.

11.35. China has always honoured its commitments by actively fulfilling its WTO commitments and its obligations under the China-Australia FTA, and by reducing tariffs on imported products from Australia for six consecutive years, from 2015 to 2020. Currently, about 95% of imported products from Australia enjoy zero-tariff treatment. The relevant measures taken by the competent Chinese authorities in response to some Australian products are in line with Chinese laws and regulations, international practice, and WTO rules, as well as the relevant provisions of the China-Australia FTA. China has also notified Australia promptly.

11.36. It is inappropriate for Australia to make groundless speculation on the normal inspection and quarantine measures taken by China and the business decisions made by Chinese enterprises based on market demand. China has always believed that trade and investment cooperation between Members based on equality and mutual benefit, and in accordance with the WTO rules and market principles, is the approach most conducive to improving the well-being of people around the world.

11.37. The Committee took note of the statements made.

12 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM

12.1 European Union – Carbon Border Adjustment Mechanism – Statement by the Russian Federation (G/MA/W/172)

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

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

12.3. The Russian Federation reiterates its statements made during the previous meetings of the CMA and the Council for Trade in Goods and expresses its deep concern with regard to the proposed EU Carbon Border Adjustment Mechanism.

12.4. The Russian Federation supports international efforts aimed at combating climate change and its consequences. Russia believes that these goals may be achieved only in cooperation between all members of the international community. Russia also believes that the current provisions of the international climate agreements have not yet been exhausted. In this context, Russia wishes to note that Article 5 of the United Nations Framework Convention on Climate Change (UNFCCC) provides for the cooperation of its Parties in order "to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade." This is why Russia remains concerned about the proposed EU Carbon Border Adjustment Mechanism, which in Russia's view could result in additional trade restrictions in the EU market.

12.5. The Russian Federation notes that the European Union's institutions are currently developing proposals on amending the provisions of the Carbon Border Adjustment Mechanism (CBAM). For instance, in February 2022 the Committee on Environment, Public Health and Food Safety of the European Parliament published its proposals that imply, *inter alia*, expanding the list of products subject to the CBAM, and the reduction of the transition period without levying CBAM charges. In accordance with the EU Council proposals, published in March 2022, an accredited verifier under CBAM may be a person accredited in accordance with Commission Implementing Regulation (EU) 2018/2067, in other words, the EU's people only. This makes mutual recognition of verification between the EU and its trading partners impossible. Russia also notes that the EU Council's proposals also expand the scope of products subject to the CBAM.

12.6. The Russian Federation circulated written questions to the European Union in document G/MA/W/172 and document G/C/W/800. However, Russia has received no response. Russia urges the EU to consider these questions and provide Russia with its answers in accordance with the WTO procedures. Russia also expects that current trade rules and international climate agreements will be fully respected by the EU while developing the CBAM.

12.7. The representative of Paraguay indicated the following:

12.8. Paraguay wishes to reiterate its concern with respect to this EU measure and its subsequent regulations.²⁶

12.9. 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

²⁶ In accordance with Paraguay's request, its statement under this agenda item from the Committee's previous formal meeting is reproduced here in full. See document G/MA/M/75, paragraphs 12.12-12.13.

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.

12.10. The representative of India indicated the following:

12.11. India has been raising its concerns on the proposed rules under the EU Green Deal in various WTO forums. Environment is the global commons that we should all be worrying about the most. The world is coming together in an unprecedented manner in addressing the challenges of environment and climate change. This was demonstrated in COP-26 in Glasgow and, more recently, in the UNEP summit in Nairobi.

12.12. At Glasgow, which hosted 194 countries, the world kept the goal in reach of limiting global warming to 1.5 degrees above pre-industrial levels. India's Prime Minister announced India's NetZero plans by 2070, presented five nectars or *Panchamrit*, some with near-term 2030 commitments, and stressed the importance of the acronym LIFE – Lifestyle For Environment. In Nairobi, 175 countries came together and made possible the adoption of a landmark resolution to Beat Plastic Pollution, which is a major step forward in our efforts to make peace with nature. An agreement to create a legally binding international instrument is a historic achievement.

12.13. India considers that these efforts show collective resolve, which is what is required to solve environmental and climate problems. However, International Trade Law cannot form the unilateral basis for addressing these concerns. The principles enshrined in International Environment Law, discussion on which predates the formation of the WTO itself by more than two decades, should be fully reflected in the measures proposed under International Trade Law. Cherry-picking of environment law or measures into trade is not the right way to address the biggest challenge currently faced by humankind.

12.14. India continues to study the various provisions of the European Green Deal and, within that, the Carbon Border Adjustment Mechanism. India *prima facie* believes that these measures encroach upon the sovereign policy-making rights of WTO Members. The proposed measures also violate the basic principles of International Environment Law, such as "Common but Differentiated Responsibilities and Respective Capabilities". India remains opposed to such externalization of domestic laws as a matter of principle and continues to analyse the substantive aspect of the proposed legislation.

12.2 European Union – Carbon Border Adjustment Mechanism – Statement by Indonesia

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

12.16. The representative of Indonesia indicated the following:

12.17. Indonesia understands the high importance of protecting the environment and reducing global carbon emissions, as well as Members' rights to do so. Nevertheless, Indonesia is of the view that such action should be based on international standards, should not constitute trade barriers, and should be in accordance with the WTO's rules.

12.18. On the technical aspects, Indonesia seeks detailed explanations from the European Union regarding its proposal for the implementation of the Carbon Border Adjustment Mechanism (CBAM), mainly on the mechanism plan and implementation method, which in Indonesia's view is still difficult to understand, in particular regarding the methodology for imposing additional fees for a number of products covered by the CBAM, including iron and steel products, refineries, cement, aluminium, chemical-based materials, fertilizers, and electrical products. Indonesia would also like to know whether there will be a review process in terms of the conformity of the CBAM with WTO rules.

12.19. Indonesia has carried out preliminary calculations, where it has found that the trade barriers caused by the imposition of the CBAM have the potential to detrimentally impact efforts to reduce poverty, export growth, and increase productivity in the sectors affected by the policy. Indonesia's

exports are at risk of decreasing, which will increase the trade deficit currently estimated at USD 3.3 billion due to the implementation of the proposed CBAM.

12.20. Indonesia is worried that if the CBAM is implemented it will create import restrictions and hamper Indonesia's and other WTO Members' market access to the European Union under the pretext of environmental protection. Furthermore, Indonesia requests more relevant explanations, clarifications, and justifications from the EU regarding its policies, especially those relating to advancing trade-related environmental measures.

12.21. The representative of China indicated the following:

12.22. China would like to echo previous speakers. China believes that actively addressing climate change, strictly implementing the UNFCCC and its Paris Agreement, lowering tariffs and non-tariff barriers, and liberalizing trade and investment, are important safeguards for building a community with a shared future for mankind and promoting global sustainable development.

12.23. However, China considers that the CBAM is inconsistent with the basic principles of the UNFCCC and the Paris Agreement, such as "Common but Differentiated Responsibilities and Respective Capabilities" and the institutional arrangement of "Nationally Determined Contributions"; it also contradicts WTO principles and the concept of a free and open multilateral trading system. It will not only damage the mutual trust of the international community and the prospects for economic growth but will also be detrimental to the post-pandemic recovery of the global economy.

12.24. China hopes that the relevant legislative measures of the European Union are in line with the WTO rules and avoid the formation of new trade barriers. China stands ready to continue to work together with the EU and other Members to promote the liberalization of trade and investment in green sectors and address climate change jointly.

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

12.26. The Kingdom of Bahrain shares similar concerns to those raised by this item's proponents, and wishes to recall, in this regard, its statements made at previous Committee meetings.²⁷

12.27. The representative of Qatar indicated the following:

12.28. Qatar wishes to take this opportunity to recall its previous statements under this agenda item. Qatar compliments the European Union for its political courage in setting these objectives and for its ambition of becoming the first climate-neutral continent by 2050. Like the EU, Qatar has also signed and ratified the Paris Agreement and is equally ambitious in its climate change objectives.

12.29. However, reiterating its previous statements, Qatar wishes to seek further clarification from the European Union on its plan to introduce a CBAM. In particular, Qatar would like to seek clarification on how the CBAM will be able to be applied compatibly with fundamental WTO principles, including MFN and national treatment. Qatar finds that the different treatment of "like products" based on the carbon content of the production process would seem to go against decades of well-considered jurisprudence.

12.30. Qatar takes this opportunity to thank the European Union and looks forward to having a detailed and fruitful discussion on this matter.

12.31. The representative of Brazil indicated the following:

12.32. Brazil follows with attention the debate on the European Carbon Border Adjustment Mechanism. As stated in previous meetings of the CMA and other Committees, Brazil awaits further clarifications about the specific methodology to be adopted, as well as about the Mechanism's consistency with the European Union's commitments at the WTO and the UNFCCC.

²⁷ See, for example, document G/MA/M/75, paragraphs 12.8-12.9 and G/MA/M/74, and paragraphs 12.14-12.15.

12.33. In the absence of clarity about the methodology to be used, Brazil regards with concern the possible establishment of carbon footprint quantification standards based on the sectoral performance benchmarks of the European bloc, disregarding the reality of production in other countries. Brazil is also concerned about the possibility that the mechanism establishes an equal level of obligations for all countries in terms of eliminating carbon emissions, overlooking the principle of common but differentiated responsibilities.

12.34. Brazil calls upon the European Union to provide for the mechanism's full consistency with WTO rules, including the principles of most-favoured-nation and national treatment, and to avoid any protectionist bias in its implementation.

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

12.36. The Kingdom of Saudi Arabia wishes to thank the proponents for raising the subject matter of the CBAM. From Saudi Arabia's perspective, while the European Union said that the proposed mechanism would be in conformity with the WTO rules and the EU's other international obligations, the EU is yet to provide explanations concerning how it aims to achieve this. While the EU is intending to address the risk of investment leakage from the EU to other countries, the CBAM's main objective is in fact to maintain the competitiveness of EU industries. Furthermore, Saudi Arabia's very preliminary review indicates that the proposed mechanism raises very serious concerns due to its potential long-term negative implications on global trade, which would disturb the full value chain of trade, including goods, services, and jobs.

12.37. The Kingdom of Saudi Arabia urges the European Union to further engage in consultations with Members in order to ensure the full compliance of its CBAM with the WTO rules and agreements, and to ensure that the proposed mechanism would not create unnecessary barriers to trade or be used as a means of protectionism, or unjustified discrimination, or disguised restrictions on international trade, or be applied in a manner that constitutes protection to the EU domestic industry. Finally, Saudi Arabia looks forward to hearing further details and reflections from the EU on this proposed mechanism and stands ready to engage with the EU in this regard.

12.38. The representative of Kazakhstan indicated the following:

12.39. Kazakhstan reiterates its position, as expressed at the most recent meeting of the Council for Trade in Goods, and continues to follow developments around the European Union's CBAM. Kazakhstan again urges the EU to fully consider the CBAM's compatibility with WTO rules and regulations and to ensure that any such mechanism does not create obstacles to trade.

12.40. The representative of the Bolivarian Republic of Venezuela indicated the following:

12.41. The Bolivarian Republic of Venezuela wishes to echo the statements made by other delegations and hopes that the EU measure will not become a trade restriction.

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

12.43. The European Union thanks Indonesia, Paraguay, India, China, the Kingdom of Bahrain, Qatar, Brazil, the Kingdom of Saudi Arabia, Kazakhstan, and the Bolivarian Republic of Venezuela for their interest in this important issue.

12.44. Recently, in March, WTO Members had the opportunity to exchange views with a representative of the European Union who explained the state of the proposal on a CBAM and provided clarifications regarding the scope of the mechanism. There is an urgency to tackle climate change and we can only do this if we scale up global ambition. If we do so, keeping the 1.5°C Paris Agreement goal is still within reach. Therefore, 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.

12.45. 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. It aims to avoid EU climate action being undermined. The CBAM is only one of many components of the European Green Deal,

which sets out a path towards achieving the EU's climate targets. It aims to provide market incentives to the private sector to green their production.

12.46. The CBAM is a purely climate-oriented, environmental policy tool and it will be applied in a non-discriminatory and even-handed manner, in full compliance with WTO rules and other international obligations. The proposal is based on the actual carbon content of a product. By mirroring the existing EU Emissions Trading System (ETS), it ensures that foreign and domestic producers are treated equally.

12.47. The CBAM does not target third countries. It is addressed to companies as it 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. It also takes into account the carbon footprint of individual producers in that the CBAM will be charged according to the actual emissions of imported goods. Under the proposal, to provide third countries with legal certainty and stability, a monitoring and reporting system would apply from 2023 and be terminated at the end of 2025, giving time for the final system to be put in place. This transitional period will give trading partners time to prepare. The system will be subject to a review in 2025.

12.48. The European Union has been exchanging with the most affected companies and governments in order to limit the impact of CBAM on third countries. The proposed CBAM would start applying with revenue collection only 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 would replace the free allocation of allowances.

12.49. In terms of process, the "Fit for 55" package of proposals, including the CBAM, is currently before the EU co-legislators. In March 2022, the EU Council adopted a common approach on the CBAM proposal. The proposal is now being debated in the European Parliament. The co-legislators will analyse the package in depth and come to a joint agreement in order to adopt the different proposals. The EU is ready to engage with trade partners and international organizations to inform and, where possible, to assist them with the implementation of the measure.

12.50. 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 the United States indicated the following:

13.3. The United States, along with the European Union, Japan, and Switzerland, circulated questions in April 2021 to Gulf Cooperation Council (GCC) member State governments regarding the selective tax on beverages. While the US appreciates the information provided during the Committee's previous meeting, in October, it notes that it still has yet to receive written responses to those questions; for this reason, the US asks these Members to provide an update as to when such responses will be provided.

13.4. As the United States has conveyed before, it requests a substantive update on revisions to the GCC excise tax model and its implementation plan under the GCC Unified Excise Tax Agreement, and notes the importance of timely engagement with interested parties regarding this issue.

13.5. The representative of Switzerland indicated the following:

13.6. As stated by the United States, Switzerland would also like to receive answers to its questions and hopes to receive them soon. Once again, Switzerland is unable to report any progress on the selective tax. In October 2021, consultations between Capital and Geneva-based representatives

took place and both sides agreed to convene another meeting within two to three months. Therefore, at the beginning of January 2022, the United States, in the name also of the European Union and Switzerland, asked the Kingdom of Saudi Arabia for a meeting in the week of 25 January. Unfortunately, no answer has as yet been received, and this despite outreach on several occasions to the Saudi mission. According to the GCC statement delivered in this Committee last October, "the GCC member States are open and stand ready to any demand for consultations". Therefore, Switzerland again requests the GCC to provide a date for a meeting in the near future.

13.7. On several occasions in this Committee and in the Council for Trade in Goods (CTG), the GCC coordinator said that *a formal communication will be made to the WTO once a decision is taken at the GCC level*. In other words, Members will be informed after a decision has already been taken. As the GCC holds regular consultations with the private sector, Switzerland wishes to underscore that a similar mechanism with Government officials is necessary in order to have regular exchanges and know which elements are taken into consideration before any final decision.

13.8. In addition, based on the answers provided by the United Arab Emirates during its TPR last week, Switzerland seeks clarification regarding the status of the study on the tax reform. The UAE stated that the study was still ongoing and still at the first stage of preparations, whereas the Zakat, Tax and Customs Authority of the Kingdom of Saudi Arabia indicated that the study had been finalized and sent to the GCC members for domestic consultations on the need to come to a common position regarding the reform. Switzerland kindly requests each GCC member State to clarify whether they have started their domestic consultations and when they plan to complete them.

13.9. Turning to its long-standing request for a harmonization of the tax rate at 50% for all sweetened beverages, Switzerland notes that it remains unaddressed because the GCC said that the reform process was still ongoing. The current discrimination between energy drinks and other sweetened beverages has been in place since implementation of the tax. The UAE indicated in its TPR that the revenues collected were below the projections for energy drinks, carbonated soft drinks, and other sweetened beverages. In the absence of additional details, Switzerland is of the view that this could be the result of the very high tax rates.

13.10. Switzerland urges the GCC not to wait until the reform is implemented to address its concern. Switzerland stands ready to hold a meeting with the GCC competent authorities in the near future.

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

13.12. As in previous meetings of this Committee, as well as in the Council for Trade in Goods and in bilateral contacts, including at the most recent EU-GCC Trade and Investment dialogue, the European Union wishes to reiterate its serious concerns in relation to the GCC "Treaty on Excise Tax" of December 2016. The EU is disappointed that there has been no progress recently on this issue.

13.13. The European Union wishes to reiterate the importance of harmonizing the implementation of the Excise Tax Law and the need for a close engagement with private industry stakeholders on the process for revising the tax.

13.14. The European Union welcomes the GCC's willingness to consult with trading partners and industry stakeholders before a revised system is put in place, but would like to see that put in practice. In this regard, the EU calls upon the GCC to share their study on proposed tax rates and their expected impact with interested stakeholders for consultation prior to adopting a revised taxation model. 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.

13.15. The European Union wishes to underline the call for providing immediate relief for industry until the ongoing GCC excise taxation revision takes effect. This could be done by exempting all zero sugar beverages from the tax and harmonizing the tax rate at 50% for energy drinks and all other categories of sugar-sweetened beverages subject to the tax.

13.16. The European Union would welcome greater engagement from the GCC on this issue so as to solve this trade barrier in the near future.

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

13.18. On behalf of the United Arab Emirates, the Kingdom of Bahrain, the Sultanate of Oman, the State of Qatar, and the State of Kuwait, the Kingdom of Saudi Arabia wishes to thank the delegations of the United States, the European Union, and Switzerland for the interest they have attached to the GCC Excise Tax regime, and for their communication on the Excise Tax and carbonated soft drinks, malt beverages, energy drinks, sports drinks, and other sweetened beverages.

13.19. As for the timeline of the ongoing process of the GCC Excise Tax model and its implementation, the Kingdom of Saudi Arabia recalls once again that the revision of the Excise Tax is a complex exercise that needs great effort, extensive coordination, and comprehensive study. The GCC Working Group on Tax Issues is sparing no effort to complete this exercise in order to submit to the GCC member States appropriate results and a high standard excise tax model. Finally, appropriate procedures and timelines are adopted by the GCC member States for the revision of their excise tax regime. Once the process has been completed the relevant information will be shared with WTO Members immediately.

13.20. The Committee took note of the statements made.

14 INDIA – IMPORT POLICIES ON TYRES – STATEMENTS BY THE EUROPEAN UNION, INDONESIA, THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU, AND THAILAND

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

14.2. The representative of Chinese Taipei indicated the following:

14.3. Chinese Taipei wishes once again to register its concern on this agenda item, along with the European Union, Thailand, and Indonesia. The situation has been ongoing for almost two years since India announced its restrictive import measure on new pneumatic tyres in June 2020. Chinese Taipei has flagged its concern over this issue numerous times in previous meetings of this Committee, as well as in the Committee on Import licensing and the CTG. It is regretful that the concern has remained unchanged.

14.4. The Directorate General of Foreign Trade (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. As a result, 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 by the DGFT when compared to the average figures of the previous three years. Not only the difficulty in obtaining import licences but also the lengthy approval process has severely affected Chinese Taipei's exports to India, resulting in a sharp decrease in trade in 2020 and 2021 compared to the same period in 2019. To Chinese Taipei's understanding, India appears to issue import licences only for those kind of pneumatic tyres that are not produced domestically, and sets a limit on those imported tyres. This constitutes a ban on tyre imports. Chinese Taipei questions how the measure would be compatible with WTO rules concerning QRs.

14.5. As such, Chinese Taipei urges India to ensure that applications are fully granted, and that it implements its policy in line with WTO rules. In particular, non-automatic licensing procedures should be implemented in a transparent and predictable manner and shall not have trade-restrictive or trade-distortive effects on imports additional to those caused by the imposition of restrictions. Chinese Taipei requests India to provide the rationale that led it to implement this new measure, which by nature is restrictive and discriminatory. Chinese Taipei also requests India to provide, as a point of reference, information on its domestic practices for granting licences.

14.6. Chinese Taipei calls upon India to review the current practice and implement it in a manner that is consistent with WTO rules so that normal trade can soon be restored.

14.7. The representative of Indonesia indicated the following:

14.8. At the outset, Indonesia wishes to express its gratitude to India for their bilateral meetings held both on the sidelines of the recent TBT Committee meeting and in the Working Group on Trade and Investment (WGTI) meeting, in order to solve Indonesia's concerns regarding India's policies

on tyre imports and imported tyres from Indonesia. However, Indonesia regrets that it has not yet received an appropriate response and solution to this problem.

14.9. Indonesia is highly aware that India has imposed import restrictions on tyre products for certain types and size categories that can be produced by tyre manufacturers in India. The policy was implemented shortly after India imposed a temporary six-month import ban on tyre products to India, as stated in Notification No. 12/2015-2020, dated 12 June 2020. The implementation of this policy has hampered Indonesia's tyre exports to India considering that the variety of tyre that can be exported is very limited. The policy also has the potential to eliminate market access for Indonesian tyres in India considering the various types and sizes of tyres produced by India as one of the world's main producers. On the other hand, Indonesia wishes to inform the Committee that Indian tyre products can access the Indonesian market without encountering any trade barriers at all.

14.10. Indonesia also has concerns regarding the requirement to provide separate statements through email of import restrictions for certain tyre types and size categories, where no official provisions governing this requirement exist. The requirement has, *de facto*, hampered Indonesia's market access for tyres in India. In this regard, Indonesia would like to seek clarification as to whether such requirements apply both to imported and domestically produced tyres. In addition, Indonesia also seeks clarifications from India regarding the application of a royalty policy or marking fee on tyre products that use the Indian Standard (IS) Mark. Indonesia is of the view that the imposition of the IS Mark marking fee on tyre products to be exported to third countries has the potential to burden businesses and create unnecessary barriers to international trade.

14.11. Indonesia is of the view that the implementation of these two policies is inconsistent with the principle of non-discrimination and national treatment, and has the potential to create unnecessary obstacles to international trade as set out in the provisions of Article 2.1 and Article 2.2 of the TBT Agreement. In this regard, Indonesia requests India to provide its further clarification of these two issues. Indonesia also asks India to review the policy to ensure its conformity with the applicable provisions of the WTO Agreement.

14.12. The representative of Thailand indicated the following:

14.13. Thailand wishes to reiterate its concern regarding India's import policies on tyres and would therefore appreciate it if India could inform Members of the progress on the notification of its import policies on tyres. Additionally, Thailand wishes to seek India's detailed clarification regarding its procedures and time-frames for issuance of import permits for tyres.

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

14.15. The European Union wishes to reiterate the concerns it has been raising in this Committee since 2020 regarding the licensing regime for importation of pneumatic tyres for motor cars, buses, lorries, motor scooters and motorcycles introduced by India under Notification No. 12/2015-2020. This is now a long-standing issue. It is very worrying that, despite having been raised on multiple occasions in this and other WTO Committees, there has been no progress towards a possible resolution.

14.16. The European Union continues to be concerned about the effect of this measure on the import of tyres, which have been highly restricted since June 2020. Only a limited number of licences has been granted to EU tyre manufacturers and these licences are themselves limited in duration, quantity, and type of tyres. No licences have yet been granted, after two years, to bus and truck tyres. This represents a blatant discrimination against the EU and, more specifically, against EU bus and tyre manufacturers.

14.17. The European Union therefore urges India to reconsider and eliminate any implicit or explicit quantitative or other restrictions on the import of replacement tyres that could go contrary to WTO requirements. The EU invites India to engage in a constructive dialogue with EU member States and the Delegation of the EU in Delhi. Solving such trade irritants is key to facilitating EU-India trade, especially in view of the potential future trade negotiations between the EU and India.

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

14.19. The United States thanks those Members that continue to raise this issue on the agenda, and the US continues to share their concerns. The US would also like to thank Japan and Thailand for raising the next agenda item. The US continues to monitor all of these issues and is interested to hear how India plans to address the concerns raised.

14.20. The representative of India indicated the following:

14.21. India wishes to thank the delegations of the European Union, Indonesia, Chinese Taipei, Thailand, and the United States for their continued interest in this issue. This issue was also discussed in October 2021, in the Committee on Market Access, and India believes that it had clarified the issue on that occasion.

14.22. India wishes to reiterate that the non-automatic licensing requirements for tyres are administered in a manner consistent with the rules of the WTO Agreement on Import Licensing Procedures, including with respect to the time-frames for the granting of import licences. The licensing procedure is being administered in a fair manner. This is reflected in the fact that a number of licences have been granted after approval by the Exim Facilitation Committee. The import policy measure has been taken keeping in view the quality issues for the product. For granting licences under this non-automatic licensing procedure, India has laid down specific criteria to evaluate the applications received. The comments of the concerned administrative Ministries are also taken into account as part of this non-automatic licensing procedure.

14.23. Specifically on Indonesia's questions, India's responses provided in previous meetings of the Council for Trade in Goods and the Committee on Market Access had already clarified the technical details, as follows.

14.24. It may be clarified that the fee is not termed as a "Royalty Fee on tyres"; rather, it is termed as a marking fee. The Bureau of Indian Standards operates a Product Certification Scheme as per the Scheme-1 of the BIS (Conformity Assessment) Regulation, 2018 under BIS Act, 2016. Under the scheme, the Bureau of Indian Standards grants Product Certification licences to the domestic or foreign manufacturers as per BIS (Conformity Assessment) Regulation, 2018. The manufacturer is required to pay BIS the necessary fee, which includes a marking fee for each product. The marking fee for a product is specified as: (i) minimum marking fee per annum; and (ii) unit and unit rate. The manufacturer is required to pay a minimum marking fee in advance for the validity period of the licence. The actual marking fee for each year is calculated by multiplying the unit rate with the quantity (units) marked with an ISI mark during the year by the manufacturer. 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, and the marking fee is chargeable on all production of tyres carrying an ISI mark.

14.25. India requests the proponents of this agenda item to share their specific data on applications submitted and any other substantiating information. India remains committed to addressing these issues bilaterally.

14.26. The Committee took note of the statements made.

15 INDIA – IMPORT RESTRICTION ON AIR CONDITIONERS – STATEMENTS BY JAPAN AND THAILAND

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

15.2. The representative of Thailand indicated the following:

15.3. Thailand wishes to reiterate its concern regarding India's import prohibition on air conditioners with refrigerant. Thailand is of the view that the measure at issue may be inconsistent with the WTO principle of national treatment since domestic producers are allowed to inject refrigerant into domestically manufactured air conditioners. Therefore, Thailand requests India to amend the measure to ensure its compliance with India's commitments under the WTO.

15.4. The representative of Japan indicated the following:

15.5. Japan again reiterates its concerns, as expressed previously in this and other WTO bodies, regarding India's import ban on air conditioners including refrigerants, introduced by Notification No. 41/2015-2020. This is a measure that unreasonably imposes a restructuring of corporate supply chains. Japan is strongly concerned that this measure is likely to be inconsistent with Article XI:1 of the GATT, and Article 2.1 of the TRIMs Agreement.

15.6. Thus far, India has explained that the measure is consistent both with India's obligations under the Montreal Protocol and with its regulations on hydrochlorofluorocarbons (HCFCs). However, this import ban is still thought to be superfluous and irrational in that it covers a wide range of air conditioners that use refrigerants. Furthermore, Japan reiterates that these air conditioners are subject to neither India's reduction and elimination obligation under the Montreal Protocol nor India's domestic regulations for freon gas. In this respect, Japan expects India to provide prompt responses to Japan's written questions submitted to the TRIMS Committee last September. In the previous CMA meeting, India had responded that it was open to bilateral discussions, but Japan believes that it is crucial to receive answers from India in good faith in order to start a constructive discussion.

15.7. With regard to the IS Mark certification based on the Quality Control Orders for air conditioners and their related parts, Japan acknowledges that the scheduled implementation date has been extended from January 2022 to January 2023. Japan welcomes this extension. However, Japan requests India to ensure that the factory testing for foreign manufacturers is conducted smoothly by the Bureau of Indian Standards. Otherwise, Japan calls upon India to consider introducing some alternative procedures in case its officials face difficulty in traveling overseas.

15.8. The representative of India indicated the following:

15.9. India wishes to thank the delegations of Japan and Thailand for their continued interest in this issue. This is an issue previously raised in the meetings of the Council for Trade in Goods of 31 March and 1 April, and 1 and 2 November 2021, at which India explained the rationale for its measure.

15.10. Having addressed this issue in earlier meetings, India wishes to reiterate that this measure has been taken to reduce risk to human, animal and plant life and for health reasons. As per the Ozone Depleting Substances (Regulation and Control) Amendment Rules, 2014, import of air conditioners containing Group VI substances (hydrochlorofluorocarbons) is prohibited since 1 July 2015. India's measure was necessary for the application of standards and regulations in line with its commitment to the Kigali Amendment to the Montreal Protocol.

15.11. The Committee took note of the statements made.

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

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

16.2. The representative of Indonesia indicated the following:

16.3. Indonesia expresses its appreciation to India for their bilateral meetings held on the sidelines of the recent meeting of the TBT Committee, as well as in the Working Group on Trade and Investment (WGTI) meeting, to discuss the issues around India's implementation of its 2020 Plain Copier Paper (Quality Order) policy. However, since the enactment of the regulation, Indonesia has not been able to export to India due to strict factory visit requirements, which remain impossible due to travel limitations.

16.4. India has been one of the important partners for the export of Indonesian paper products, meaning that the absence of plain copy paper exports to India since December 2020 has resulted in considerable losses for Indonesian exporters. Furthermore, the in-person inspection requirement is a burdensome procedure during the current COVID-19 situation, which at the end could hinder market access to India for Indonesian paper.

16.5. According to a statement delivered by the Indian delegation at the most recent meeting of the TBT Committee, in March 2022, sufficient capacity testing for plain copier paper products is very important for laboratories recognized by the BIS, where accredited laboratories must refer to ISO/IEC 17025, and where the accreditation body is a full member of the APAC/ILAC as an initial requirement for laboratory recognition under the BIS Quality Control Order 2020. Decisions regarding laboratory recognition by BIS will then be considered through Mutual Recognition Agreements (MRAs) between countries.

16.6. Indonesia urges India to refer to Article 6.1 of the TBT Agreement on accepting conformity assessment results, and also to consider remote assessments, or other policy relaxations, in conducting factory visits. Therefore, Indonesia requests India to accept the test results from Indonesian conformity assessment bodies accredited under the international accreditation signatory framework. In this case, an MRA can be carried out to ensure that the test results from an accredited conformity assessment agency in Indonesia can be accepted by the BIS.

16.7. Indonesia hopes that India may reconsider its 2020 Plain Copier Paper (Quality Order) policy in order to allow to industry a sufficient transition time to comply with the regulation, and to cooperate in terms of trade facilitation for the plain copy paper product.

16.8. The representative of India indicated the following:

16.9. India wishes to thank the delegation of Indonesia for its continued interest in this issue. There is no provision in the Bureau of Indian Standards (Conformity Assessment) Regulations, 2018 for remote assessment or any other means of inspection. The government is considering alternatives for in-person inspection, but due to the ongoing global sanitary situation, this discussion remains in its preliminary stages.

16.10. Factory inspections were on hold due to the restrictions on international travel because of the COVID-19 pandemic. This position is not discriminatory against any individual Member. Currently, the nomination of Bureau of Indian Standards officers is being considered for carrying out the factory inspection for applications received from foreign manufacturers. Currently, this planning is going on for the Members where the country to be visited facilitates the visit of fully vaccinated Bureau of Indian Standards officers who carry negative RT-PCR test reports, without any restrictions like quarantine and RT-PCR test upon arrival. India remains committed to a discussion of this issue bilaterally and to arriving at a mutually acceptable conclusion.

16.11. The Committee took note of the statements made.

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

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

17.2. The representative of Australia indicated the following:

17.3. QRs on India's importation of various pulses have been a long-standing agenda item in this Committee, and Australia's concerns about this are well known. Despite welcoming India's temporary suspension of certain QRs, it does not address Australia's underlying concerns and its continued requests for QRs to be permanently removed.

17.4. 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 tool to flexibly manage imports in response to changing domestic circumstances. Australia understands the previous temporary suspension of the QRs and the imposition of domestic stock limits for all pulses had been to address concerns about inflation of pulse prices. This reinforces Australia's concerns about how India is using the QRs. Australia also notes that India continued to increase the minimum support prices for a range of pulses at the same time.

17.5. Australia and the co-sponsors of this agenda item have submitted numerous formal requests to India in various WTO forums, including the Council for Trade in Goods and the Committee on

Agriculture. It is important that India provide detailed answers to explain the market and other conditions behind its decisions, including the temporary suspensions, and to explain how they believe these measures are WTO-consistent. While the WTO Agreements contain exceptions, the onus is on the Member implementing the measure to explain how such exceptions may apply.

17.6. 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 influence the global pulses market. India's current suite of measures on pulses, including significant and increasing levels of market price support, high tariffs on some pulses, and QRs, continue to have a negative impact on the stability and predictability of the global pulses market, which is to the detriment of all producers and consumers, including those in India.

17.7. Australia asks India to clearly explain the status of all its QRs on pulses. In particular, Australia asks that India identify the QRs on the import of any pulses, including yellow peas and moong. Australia also requests that India provide an update on whether urad and tur will be "free" beyond 31 March 2022. India needs to provide certainty and stability to exporters, traders, and the global pulses market, which will not be achieved by continuing to implement "temporary suspensions" to what were claimed to be "temporary measures" that have now been in place since August 2017. Australia requests that India permanently remove the QRs.

17.8. The representative of Canada indicated the following:

17.9. As previously noted in this and in other Committees and Councils, Canada continues to be concerned with the trade restrictive measures implemented by India, including QRs, minimum import prices, restricting imports to one seaport, and uncertainty introduced by constant changes on tariffs on imports of pulses, in particular for dried peas.

17.10. Canada continues to question India's justifications for these trade restrictive measures and calls upon India to immediately implement alternative, trade facilitative measures for the import of pulses.

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

17.12. The European Union fully supports the interventions from Australia and Canada. As mentioned before, the EU remains concerned by India's import restrictions for certain pulses. The EU urges India to provide certainty and stability when it comes to the import regime for pulses.

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

17.14. The United States supports the statements under this agenda item just delivered by other Members. The US remains concerned with India's use of domestic support policies, multiple increases in tariff rates, and the application of import restrictions for pulses, including pigeon peas, mung beans, black gram lentils, and peas. The US repeats its previous requests for information on how the measures reflect India's WTO commitments, and when and how the measures will be ended.

17.15. The representative of India indicated the following:

17.16. India wishes to thank the delegations of Australia, Canada, the European Union, and the United States for their continued interest in this issue. As addressed in previous meetings of the Committee on Market Access and the Council for Trade in Goods, the measures adopted by India remain temporary and are undertaken for the purpose of maintaining food and nutritional security. This is an area of great importance to India's economy and the policies on imports are regularly reviewed and updated.

17.17. Notification No. 63/2015-2020, made by the Directorate General of Foreign Trade on 29 March 2022, on the free import policy of urad (HS code 07133110) and tur or pigeon peas (HS code 07136000), has been extended until 31 March 2023. India's notification on QRs in document G/LIC/N/3/IND/21, made against the Section 7.3 notification requirement and circulated on 20 January 2022, clearly calls out these measures with full transparency, while also giving their background.

17.18. Furthermore, India's notifications in documents G/LIC/N/2/IND/18, G/LIC/N/2/IND/19, and G/LIC/N/2/IND/20, made under Section 5.1 to 5.4 of the Agreement on Import Licensing, clearly demonstrate its transparent communication on this issue. These notifications also show that the process of review of import restrictions is agile, dynamic, and continuous. India continues to review the measures.

17.19. The Committee took note of the statements made.

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

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

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

18.3. Indonesia's import restrictive policies and practices are a long-standing item in several WTO Committees. The European Union is deeply concerned as the number and scope of Indonesian restrictions has expanded over time, with negative impacts on trade flows further compounded by the pandemic. The EU would therefore like to refer to some worrisome recent developments with regard to Indonesia's increased focus on import substitution.

18.4. Among others, the European Union has serious concerns over reported plans by the Indonesian Ministry of Industry to achieve, by 2022, a reduction of imports equivalent to 35% of the value of its 2019 import potential. These plans would be achieved through a range of measures, including expanding local content requirements and the mandatory use of Indonesian national standards ("SNI"), as well as the further promulgation of cumbersome import licensing procedures.

18.5. The implementation of this approach seems to be already under way through a variety of initiatives, for instance with the adoption of import restrictions on medical devices through the "freezing" of several foreign devices in the Indonesian e-catalogue for public procurement, preventing their purchase by government health institutions. The many implemented import restrictive measures negatively affect EU operators across a variety of sectors. These measures will also hamper the post-pandemic economic recovery of Indonesia, which cannot be achieved through export promotion alone.

18.6. The European Union would therefore like to ask Indonesia to clarify four issues, as follows: (i) the reported plans for an import substitution programme and its underlying rationale; (ii) the introduction of the "commodity balance" system as the basis for issuing import and export approvals; (iii) the implementing measures that it intends to take; and (iv) how Indonesia would ensure that such measures will be compliant with its WTO obligations.

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

18.8. The United States continues to share the European Union's concerns regarding the Indonesian government's recent statements that it will suppress imports with the goal of "substituting 35 percent of imported products" in 2022. Does Indonesia have any updates on this item? If Indonesia is proceeding with an import substitution programme, will it make the draft measures that it is developing publicly available and hold a notice and comment period to ensure that affected parties have the opportunity to provide input?

18.9. The United States urges Indonesia to share further information on its recent statements, and strongly urges Indonesia to rethink this counter-productive and trade-disruptive goal.

18.10. The representative of India indicated the following:

18.11. India remains concerned with the Indonesian import substitution programme, which will aim to reduce access to the Indonesian market. Indonesia is maintaining a number of restrictions on imports as well as exports, which is affecting Indian businesses, both in terms of impact on exports as well as in terms of supply chain disruptions.

18.12. Firstly, Indonesia has been applying an annual quota system on the importation of bovine meat. Indonesia reduced the quota in 2021. Apart from the quota system, there are port restrictions on imports which have led not only to difficulties, but also to increases in costs for India's exports. Secondly, Indonesia has suddenly stopped the issuance of Horticultural Products Import Recommendations (RIPHS) in respect of agricultural products, such as onions and potatoes, without assigning any reason for the same. This is impacting India's exports of horticultural products. For this reason, India requests Indonesia to immediately resume the issuance of RIPHS and to remove the quotas on RIPHS for these products. Thirdly, India also requests Indonesia to lift restrictions on exports of ginger. Fourthly, Indonesia imposes QRs on imports of automobile and components thereof. Fifthly, these policies remain a concern for Indian chemicals and pharmaceutical products. Lastly, on the exports side, India would like to inform the Committee that Indonesia has put in place a high export duty and export levy on palm oil and adopted export curbing procedures, which is pushing up palm oil prices and prices of edible oils in India. In this regard, India requests Indonesia to take necessary action in order not to resort to increasing the reference price of palm oil.

18.13. All these issues have been discussed bilaterally with Indonesia, but so far with no clear response. In conclusion, India urges Indonesia not to adopt trade restrictive measures but instead to constructively and transparently engage on these proposals.

18.14. The representative of Switzerland indicated the following:

18.15. Like previous speakers, Switzerland shares the important concerns expressed regarding Indonesia's objective of reducing its imports by 35% by the end of the current year. Switzerland also wishes to hear Indonesia's clarifications and answers to the questions raised.

18.16. The representative of Indonesia indicated the following:

18.17. Indonesia thanks the European Union, the United States, India, and Switzerland for their interest in Indonesia's import substitution programme. As stated in Indonesia's interventions at previous meetings of the CMA and CTG, its import substitution programme is not intended to hinder imports from other Members. The purpose of the programme is mainly an effort to reduce the dependence of Indonesia's domestic industry, as well as to maintain the supply of domestic needs, especially for raw and auxiliary materials. This purpose is particularly associated with the possibility of a future global crisis, including a pandemic, which could disrupt international trade supply chains and stability.

18.18. Indonesia wishes to inform the Committee that the issuance of import licences and the Indonesian National Standard (SNI) is not related to the import substitution programme. One of the purposes of issuing import licences is to provide better data on imported products. Likewise, the labelling of the Indonesian National Standard (SNI) is to ensure that products that are placed on the Indonesian market fulfil the aspects of domestic consumer protection, including in terms of safety, security, and health. Furthermore, this policy is applied indiscriminately to both domestic and imported products.

18.19. In addition, Indonesia always strives to comply with the principle of transparency, by notifying its every implementation of mandatory SNI regulations, and other technical regulations, to the WTO. Indonesia is open to discussing this programme further with interested Members.

18.20. The Committee took note of the statements made.

19 INDONESIA – CUSTOMS DUTIES ON CERTAIN TELECOMMUNICATION PRODUCTS – STATEMENTS BY THE EUROPEAN UNION AND THE UNITED STATES

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

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

19.3. The United States notes its ongoing concerns with Indonesia's continued application of tariffs at the border on select ICT products that appear to exceed its WTO bound tariff commitments. Furthermore, the US continues to be disappointed that Indonesia has not responded to its specific

questions, nor otherwise addressed US concerns. The us has been raising this issue repeatedly with Indonesia for more than two years, along with other Members, including in this and other WTO Committees, as well as bilaterally.

19.4. 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. The United States understands that US companies have also engaged the Indonesian government directly on this issue, seeking clarification of Indonesia's application of these tariffs. Despite their efforts, they too have yet to receive a satisfactory response from Indonesia.

19.5. The United States urges Indonesia to engage constructively on this issue and finally to address these long-standing concerns to ensure the integrity of its market access commitments.

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

19.7. The European Union echoes the comment made by the United States. Despite the EU's requests and calls for aligning 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 of 10% on products classified under tariff line 8517.62.49. The EU has not heard any explanation from Indonesia yet, although the EU had raised it in both the Market Access and the ITA Committees.

19.8. In this particular category of products (tariff item 8517.62.49) the European Union has recorded a significant drop of exports to Indonesia. The EU has observed a 60% drop in the value of its exports in 2020 compared to 2019, and a 21% drop in 2020 compared to 2018.

19.9. The European Union therefore reiterates its calls to bring the tariffs in this tariff subheading down to zero. The EU seeks further clarification as to why Indonesia continues to apply tariffs that are not in line with its WTO bound commitments.

19.10. The representative of Japan indicated the following:

19.11. Japan appreciates the European Union and the United States' inclusion of this item on the agenda. Regarding the imposition of 10% customs duties on certain telecommunications products, previously in this Committee, and in the ITA Committee, Indonesia has explained that certain products may have been affected by the splitting and merging process during transposition. Indonesia also explained that it did not intend to take action beyond its commitments or obligations under the ITA Agreement. To facilitate careful consideration of the facts, Japan urges Indonesia to provide further details on the aforementioned customs duties, including information on a possible way forward.

19.12. The representative of Indonesia indicated the following:

19.13. Indonesia expresses its gratitude to the United States, the European Union, and Japan for their continued interest in the issue of import duties for telecommunications products. As Indonesia has stated in its statement delivered at various meetings of various bodies, including at the CMA, the ITA Committee, and the CTG, Indonesia continues to strive to comply with all the WTO Agreements, including its commitments under the ITA Agreement.

19.14. Indonesia wishes to inform this Committee that, according to the 2022 Indonesian Customs Tariff Book, the products concerned are listed as 0% tariff, which is in accordance with Indonesia's commitments under the ITA Agreement.

19.15. The Committee took note of the statements made.

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

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

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

20.3. The United States would like to reiterate its concern with the 2021 announcement by Mexico's National Council for Science and Technology (CONACYT) recommending an import quota on glyphosate and glyphosate-containing products, as well as the January 2022 statement by CONACYT recommending quota quantities.

20.4. These announcements come after Mexico implemented a *de facto* import ban on glyphosate-containing products by rejecting all applications for import permits for those goods. Since CONACYT issued these recommendations, Mexico has not provided an opportunity for public comment, submitted notification to the WTO of these QRs, or provided scientific evidence for the import permit rejections. Can Mexico explain how the quota level was determined and later reduced? 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? How does Mexico justify these measures in light of its GATT obligations, including Article XI of GATT 1994?

20.5. The representative of Canada indicated the following:

20.6. 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 an update on the work of its agencies and a justification for the imposition of this measure.

20.7. The representative of Mexico indicated the following:

20.8. Mexico thanks the United States and Canada for their interventions. Regarding the Decree published in the Official Journal of the Federation on 31 December 2020, and as Mexico indicated earlier, the work of the agencies responsible for its implementation has not been completed and is still in progress.

20.9. Mexico is aware of the concerns raised by the United States and Canada and has maintained a constant dialogue on these issues in various forums, such as the Committee on Sanitary and Phytosanitary Measures of the Treaty between Mexico, the United States, and Canada (T-MEC), and the Working Group for Cooperation on Agricultural Biotechnology of the same Treaty.

20.10. 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 as prescribed, and taking into consideration Mexico's international obligations and commitments.

20.11. The Committee took note of the statements made.

21 NEPAL – IMPORT BAN ON ENERGY DRINKS – STATEMENT BY THAILAND

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

21.2. The representative of Thailand indicated the following:

21.3. The Government of Thailand has been informed by Thai exporters that they have not been able to export caffeinated mixed energy drinks to Nepal since 2019 due to the implementation of the Government of Nepal's measure on import prohibition of caffeinated mixed energy drinks and flavoured synthetic drinks. There has not been any official notification from Nepal regarding the information or justification of the measure under the WTO's rules and regulations, and Thailand is deeply concerned about the said measure as it significantly affects Thailand's exports of energy drinks into Nepal's market.

21.4. In addition, Thailand wishes to recall Nepal's statement delivered at the previous two meetings of the CMA, in April and October 2021, at which Nepal justified its action regarding the import prohibition measure on energy drinks as a matter of balance of payment and foreign exchange reserves. Moreover, Nepal informed the Committee that it would provide an official

notification to further clarify to WTO Members the precise WTO legal basis justifying the temporary adoption of such measure, as well as discussing with the relevant organizations to consider its implementation.

21.5. The Government of Thailand wishes to request Nepal to report on its progress concerning its official notification to WTO Members and its consideration to eliminate the said measure. Lastly, Thailand would welcome bilateral consultations with Nepal to find a mutually acceptable solution.

21.6. The representative of Nepal indicated the following:

21.7. Nepal thanks Thailand for its statement and continued interest in Nepal's trade policy measures. Nepal wishes to refer to its statements delivered at the meetings of this Committee held in June and November of 2020, and in April and October of 2021, and reiterates all the justifications presented during those meetings with a view to them being considered positively and as part of this statement.

21.8. Nepal's export-import ratio of trade in goods reached 1:15.3 in 2017/2018, from 1:2.5 in 2004/2005 after its accession to the WTO, resulting in a huge trade gap. Such an import surge posed severe challenges to the entire economic development process of the country. The main legal basis of this measure is Section 3(1) of the Export and Import (Control) Act 1957, which allows Nepal to take necessary measures under certain conditions, such as to safeguard the external financial position and balance of payments, to address a serious decline in foreign currency reserves, and others. This Act was being implemented during the Nepal's process of accession and had been notified to the WTO at that time.

21.9. The measure is not focused on any specific area and trade restriction of only a few products; rather, it broadly covers trade regulation and facilitation aspects of Nepal's international trade. This is applied as part of the Export and Import (Control) Act 1957 on a temporary basis, and fully complies with WTO rules and is applied on an MFN basis. The Government of Nepal is assessing the measure and may periodically review and revise it based on the study findings and consultations. Due to COVID-19 pandemic, it may take some time.

21.10. Regarding the notification, Nepal is coordinating with the Secretariat and the Capital-based agencies concerned to finalize its technical part, including the HS code and other aspects. Nepal extends its sincere appreciation to the Secretariat colleagues who are directly involved in this technical work.

21.11. The Committee took note of the statements made.

22 PERU – TAX TREATMENT OF PISCO – STATEMENT BY THE UNITED KINGDOM

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

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

22.3. The United Kingdom wishes to express its concern on Peru's tax treatment of Pisco. Notwithstanding the strength of the UK's trading relationship, and some recent progress that has been made in bilateral discussions on this issue, the UK remains concerned that Peru's tax exemption for Pisco creates a discriminatory environment for trade, protecting and promoting Peru's domestic production of spirits at the expense of imported spirits.

22.4. The United Kingdom wishes to request that Peru provide information on how this measure is consistent with their WTO obligations and what specific actions Peru plans to take to ensure a non-discriminatory trade environment.

22.5. The representative of Mexico indicated the following:

22.6. Mexico thanks the United Kingdom for including this item on the agenda. Mexico wishes to express its support to the concerns expressed by the UK on domestic taxes applied by Peru on distilled spirits. This is a topic that has been discussed between delegations for a certain period of

time but to date without result, including in Mexico's case. Mexico stands willing and ready to continue to work with Peru with a view to finding a solution to this situation as quickly as possible.

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

22.8. The European Union wishes to join the United Kingdom in raising concerns around Peru's tax exemption in favour of Pisco. The EU is concerned that the existing tax regime undermines the ability of EU spirits to compete on a level playing field on the Peruvian market. The EU also wishes to request Peru's clarification on how this measure is consistent with its existing WTO obligations, in particular the obligation not to discriminate against imported spirits. The EU looks forward to Peru's suggestions as to how to solve this issue promptly.

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

22.10. The United States supports the United Kingdom's intervention on Peru's excise taxes for distilled spirits, specifically the "Impuesto Selectivo al Consumo". The United States has expressed concerns in the past that domestically produced pisco appears to be subject to far lower specific minimum excise tax rates than the specific minimum or *ad valorem* rates applied to all other distilled spirits in Peru.

22.11. The Ministerial Resolution (No. 021-2022 EF/15) issued by the Ministry of Economy and Finance in January appears to exacerbate the disparate rates between pisco and all other products. Could Peru explain why there is a discrepancy in the rates applied to pisco versus all other distilled spirits?

22.12. The representative of Peru indicated the following:

22.13. With regard to the United Kingdom and other Members' statements, Peru wishes to clarify that the selective tax applied to distilled spirits does not establish any distinction affecting the UK or any other WTO Member. This measure is applied to all distilled spirits in the context of a tax system that does not establish a differential treatment based on the product's origin. Therefore, this treatment is not aimed at protecting domestic production. Peru takes note of the statement made by the UK and the other Members and invites them to discuss this issue with Peru bilaterally.

22.14. The Committee took note of the statements made.

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

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

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

23.3. The European Union reiterates its concerns with the import restrictions imposed by Sri Lanka, in various forms, since April 2020. The measures have now been in place for two years. Sri Lanka has still not complied with its obligation to notify the import restriction and enter into consultations with other WTO Members. During the last session of consultations organized under the EU's bilateral framework, the Joint Commission, Sri Lanka committed to consult with the EU on its draft notification shortly. Unfortunately, this did not happen. The measures that Sri Lanka adopted have not reached the stated objective, namely improving Sri Lanka's economic situation. On the contrary, the trade deficit has continued to increase, and the macro-economic situation is deteriorating.

23.4. Selective import restrictions have not solved the current account difficulties and lack of foreign currency, nor the challenges to secure long-term sustainable financing and pursue debt restructuring. The European Union does not believe that this situation is sustainable in the absence of international macro-economic assistance, while continued restrictions of imports are hurting EU interests and significantly affecting EU exports. The EU welcomes the recent decision of the Sri Lankan government to request technical assistance from the International Monetary Fund (IMF). To conclude, the EU urges Sri Lanka to provide clear indications as to when it intends to remove the

ban that has been in place for two years now. The EU stands ready to continue working together with Sri Lanka in a constructive manner.

23.5. The representative of Australia indicated the following:

23.6. Australia thanks Sri Lanka for the updates provided in relation to its series of import restrictions, including in this Committee and at the Council for Trade in Goods in October and November 2021, respectively. Australia continues to appreciate the challenging circumstances that Sri Lanka faces as a result of the impacts of COVID-19 on its economy and external sector. Nonetheless, Australia continues to emphasize the important role that transparency, predictability, and stability play towards a well-functioning global trading system, and ultimately, towards a global economic recovery from the pandemic.

23.7. Australia therefore continues to share the concerns of other WTO Members with respect to the various measures imposed by Sri Lanka since April 2020. While modifications have been applied since then, Australia remains concerned about the cumulative impact of all the measures, and the disruption caused to trade by uncertainty. Australia notes the IMF report on its Article IV consultation with Sri Lanka, which recommended a phasing out of import restrictions and improvements to the broader business and investment climate. The announcement of import licensing arrangements imposed on an additional 367 items, including agricultural goods, on 9 March 2022, from the Sri Lankan Ministry of Finance's Gazette Notice 22710/18, is inconsistent with the IMF's subsequent recommendation.

23.8. Australia is seeking clarification from Sri Lanka on its rationale for implementing the additional restrictions, advice on whether these measures are temporary in nature, and when the measures would be lifted. Australia again reiterates its request for Sri Lanka to notify these measures as soon as possible and to provide the WTO basis of these measures. Sri Lanka has previously provided updates regarding its work with the Secretariat to appropriately notify the WTO. Australia welcomes this collaboration and requests an update from Sri Lanka on the progress of this work. As previously stated, Australia remains open to engaging with Sri Lanka on this issue, including through the suggested briefing with interested Geneva delegations.

23.9. The representative of Thailand indicated the following:

23.10. Thailand wishes once again to urge Sri Lanka to notify to the WTO such measures as its temporary suspension of imports, imports on credit basis, import control licence, and import ban. In addition, Thailand wishes to request Sri Lanka to update the Committee on the impacts that those measures have had in relieving its foreign exchange reserve shortage. The aforementioned measures have greatly impacted Thai exporters and Thailand was unable to export small passenger vehicles to Sri Lanka in 2021.

23.11. In this connection, Thailand is of the view that the measures may be more restrictive than necessary. Therefore, Thailand requests Sri Lanka to reconsider the adoption of these measures and the possibility of withdrawing the import ban. In addition, and as a follow-up to Sri Lanka's response at the Committee's previous meeting, in October 2021, Thailand would very much appreciate Sri Lanka informing Thailand of the progress it is making on the withdrawal of the import on credit basis measure.

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

23.13. On 9 March, Sri Lanka introduced 367 import restrictions on what were deemed to be "non-essential goods", including apples, grapes, butter and other dairy items. The new regulations establish a licensing process by which the government may allow some traders to continue importing the items, which delays imports. This action is the latest in a series of import restrictions. While the United States understands Sri Lanka's balance of payment concerns, it is concerned about the lack of transparency, consultation, and notifications with respect to these measures. Additionally, the US asks when Sri Lanka plans on reversing these restrictions.

23.14. The representative of Japan indicated the following:

23.15. Japan echoes the concerns expressed by Australia, the European Union, Thailand, and the United States. 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 the BOP should not be introduced unless it is carried out with utmost caution and due consideration for the substantive and procedural requirements in the WTO Agreement. At the Committee's previous meeting, in addition to the BOP, Sri Lanka explained that it had taken into account the impact of the measures for some automobiles and chemicals on the domestic environment. In this regard, Japan wishes to request Sri Lanka to specify which contents constitute measures that take into account the domestic environment. 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.

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

23.17. The United Kingdom wishes to echo the concerns raised by other Members. Sri Lanka's import bans are significantly affecting the UK's trade to Sri Lanka. The UK appreciates the difficult circumstances of Sri Lanka's domestic situation. However, a well-functioning multilateral trading system requires transparency from all Members, including Sri Lanka. Sri Lanka has now had almost two years to notify these measures, consult with fellow WTO Members and provide an explanation for their WTO basis. The UK therefore requests that Sri Lanka provide an update on when they intend to notify these measures and consult with other WTO Members, as well as indicate a time-schedule for when they see an end date for these temporary measures.

23.18. The representative of Sri Lanka indicated the following:

23.19. Sri Lanka wishes to thank the delegations of Australia, the European Union, Thailand, the United States, Japan, and the United Kingdom, for their continuous interest in Sri Lanka's trade policy measures introduced to curb the adverse impact of the COVID-19 pandemic on its economy.

23.20. As it has already stated at previous CMA meetings, Sri Lanka has taken an array of steps progressively to relax most of its import restrictions, which were initially imposed by Sri Lanka's authorities through Regulation No. 01 of 2020, pursuant to Gazette No. 2171/05 of 16 April 2020, Regulation No. 02 of 2020, pursuant to Gazette No. 2176/19 of 22 May 2020, Regulation No. 03 of 2020, pursuant to Gazette No. 2182/10 of 30 June 2020, and Regulation No. 04 of 2020, pursuant to Gazette No. 2184/21 of 16 July 2020.

23.21. Pursuant to Sri Lanka's import Regulation of No. 04 of 2020, introduced through Gazette No. 2184/21 of 16 July 2020 and incorporating all the previous Regulations, around 21% of HS Codes at 8-digits had been brought under so-called "temporary suspension". As Sri Lanka has stated in its previous statements, these measures did in no way aim to impose a complete ban on the importation of these items; rather, these items were permitted to be imported under pre-defined payment terms by issuing instructions to all local and foreign commercial banks based in Sri Lanka as to how the foreign exchange could be released. As previously stated, Sri Lanka notified to the WTO these measures in relation to terms of payments for imports already in 2014.

23.22. After seeing modest improvements in its balance of trade account during 2020, Sri Lanka arranged a large-scale relaxation of these import measures through Regulation No. 10 of 2021, introduced through Gazette No. 2231/18 dated 11 June 2021, which was introduced in place of Regulation No. 04 of 2020 of Gazette No. 2184/21 of 16 July 2020. Accordingly, the list of items consisting of 21% of HS codes at 8-digits, which were permitted to be imported on a credit basis and other pre-defined terms of payments, were totally removed by permitting their importation under normal payment terms. However, Sri Lanka would like to inform the Committee that certain automobiles and parts are still not permitted under normal payment terms. As these are non-essential items, the measures imposed on these items had resulted and will result in saving much limited foreign currency reserves to import essential items, including food and medicines.

23.23. Furthermore, Sri Lanka also wishes to flag that imports of motor vehicles have been witnessing volatile situations even during the period of 2017/2019 due to Government of Sri Lanka's decision on the relaxation and suspension of duty-free car permits from time to time. 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 normal course of trade" (within the meaning of the WTO rules) and accordingly the trading partners cannot presume that the trade flows taking place under "non-normal course of trade" to be the general norm and claim that Sri Lanka's imports of motor vehicles from its trading partners have been effected due to the trade restrictive measures imposed by Sri Lanka. Due to the comparatively high c.i.f. prices of motor vehicles made in certain exporting countries, in the absence of duty car permits, the demand for such vehicles is not expected to surge in tandem with the relaxation.

23.24. Even though Sri Lanka did not intend to prolong its import restrictions further, the challenges posed by the third wave of the COVID-19 pandemic and the current global situation have compelled it to do so. Sri Lanka has taken due note of the concerns expressed by delegations regarding delays in the notification of its measures to the WTO. Sri Lanka will coordinate with its Capital to take action in this regard.

23.25. The Committee took note of the statements made.

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

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

24.2. The representative of Indonesia indicated the following:

24.3. Indonesia had informed the Committee in previous meetings that Sri Lanka's Department of Export and Import Control had issued an Operating Instruction, No. 08/2021 dated 5 April 2021, temporarily to suspend the importation of palm oil products as set out in its annex, which are HS code 15.11 (1511.10.00; 1511.90.00; 1511.90.10; 1511.90.20; 1511.90.30; and 1511.90.90). In addition to this instruction, Sri Lanka had also issued import and export control regulations No. 4 of 2021, on 7 April 2021. Under that regulation, as explained by Sri Lanka in previous meetings, certain palm oil products are prohibited, and others are subject to an import licensing regime.

24.4. Indonesia acknowledges that discussions between Indonesia and Sri Lanka's Capitals have taken place, and it has been informed that its palm oil has managed to enter into Sri Lanka's market again. In this respect, Indonesia highly appreciates the efforts made. However, Indonesia recognizes that the legislation remains in force. On this occasion, Indonesia wishes to seek Sri Lanka's clarification regarding the expected duration of the implementation of the said legislation given the claim that the measure was being applied temporarily. Indonesia also wishes to receive information from Sri Lanka regarding when its legislation will be notified to the relevant WTO Committees.

24.5. The representative of Sri Lanka indicated the following:

24.6. Sri Lanka wishes to thank the delegation of Indonesia for its continuous interest in the trade policy measures introduced by Sri Lanka with regard to the importation of palm oil.

24.7. Sri Lanka had delivered detailed statements at the CMA on 11 October 2021, and at the CTG on 1 November 2021. No changes on palm oil importation have been introduced since then. Therefore, Sri Lanka's explanations and details provided during the said meetings are still valid. Nevertheless, Sri Lanka wishes to present the following information for the purpose of offering a better understanding of its import policy measures relating to palm oil.

24.8. Sri Lanka, through Gazette No. 2222/31, dated 6 April 2021, introduced a trade policy measure by imposing a ban on crude palm oil under HS 1511.10.00, Palm oil imported in packing of 210L and below under HS 1511.90.20, and palm oil products other than RBD palm oil falling under HS 1511.90.90. All other palm oil products, namely palm stearin under HS 1511.90.10, Crude palm olein under HS 1511.90.30, and RBD palm oil falling under HS 1511.90.90 have not been banned and can be imported after obtaining a licence with a fee of 0.4% of c.i.f. value.

24.9. The main palm oil product imported into Sri Lanka is Crude palm olein falling under HS 1511.90.30, and this single product accounts for about 75% of the total importation of palm oil products into Sri Lanka. This product is not banned; it is only under import licence. Sri Lanka imports significant quantities of RBD oil, which is not banned either, and which can likewise be imported

under licence. As these items can be imported after obtaining import licences, Sri Lanka has not closed its doors to foreign exporters of these major palm oil products.

24.10. As per Sri Lanka's national statistics, the two main products which are subject to the ban, namely, crude palm oil under HS 1511.10.00 and Palm oil imported in packing of 210L and below under HS 1511.90.20, account for approximately 7% to 15% of Sri Lanka's total imports of palm oil products. Therefore, the actual impact of the ban is insignificant when one considers Sri Lanka's total importation of palm oil products. Furthermore, Sri Lanka's ban on a few palm oil products, imports of which are insignificant, is purely due to SPS reasons relating to Aflatoxin and mycotoxin, which are carcinogenic materials. The Sri Lanka Standard Institute (SLSI) has already adopted standards for palm oil products that have been notified to the WTO.

24.11. Sri Lanka considers that it is important to note that crude palm oil is actually not intended for human consumption because it contains heavy metals and Mycotoxin. The only product that is intended for human consumption is the RBD palm oil, which Sri Lanka has not banned. Finally, Sri Lanka has taken due note of the concerns expressed by the delegation of Indonesia, which will be conveyed to Capital-based authorities for their observations.

24.12. The Committee took note of the statements made.

25 THE PHILIPPINES – SPECIAL SAFEGUARD ON INSTANT COFFEE – STATEMENT BY INDONESIA

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

25.2. The representative of Indonesia indicated the following:

25.3. Indonesia wishes to draw Members' attention to the Philippines' special agricultural safeguard measure on instant coffee from Indonesia (HS 2101.11.10). Indonesia has also previously registered the issue at meetings of the Committee on Agriculture.

25.4. The Philippines has been applying the measure in question since 2018. In the four years from the measure's initial application until now, Indonesia's exports of instant coffee to the Philippines have significantly declined. With this declining export trend within the period of the application of the special safeguard measure (SSG), Indonesia assumed that its market share and the price of Indonesian instant coffee in the Philippines market would fall as well. Given these changes, Indonesia is of the view that the Philippines might need to update the operation of the measure, including the method used to respond to these changes, in accordance with Article 5.7 of the Agreement on Agriculture (AoA).

25.5. With this in mind, Indonesia is of the view that the Philippines should follow its transparency obligations in applying this SSG, as it has already underlined at meetings of the Committee on Agriculture (CoA). Furthermore, Article 5.7 of the AoA indicates that Members should refrain from undertaking an SSG measure where the volume of imports of the products concerned is declining. Without any update taking the changes into consideration, Indonesia does not believe that the SSG on instant coffee from Indonesia applied by the Philippines would be compatible with its substantive aspect, as required by Article 5 of the AoA. The applied tariff imposed as a result of the application of the SSG might also, from a certain perspective, be seen as inconsistent with the Philippines' tariff commitments as enshrined under Article II of the GATT 1994.

25.6. Furthermore, Indonesia believes that the application of an SSG should be temporary in nature or otherwise it would undermine the tariff commitments made by the Philippines and the legitimate expectation of other WTO Members regarding its tariff liberalization. With already four years of application of this SSG on instant coffee, and without any indication of the duration of the measure, Indonesia does not consider the application as temporary. In this regard, Indonesia seeks the Philippines' further clarification of this matter. Finally, Indonesia hopes that the Philippines could immediately stop the application of its SSG on Indonesian instant coffee.

25.7. The representative of the Philippines indicated the following:

25.8. The Philippines thanks the delegation of Indonesia for its statement on the Philippines' Special Safeguard on Instant Coffee. The Philippines looks forward to also receiving a copy of this statement in writing so that Indonesia's comments may be conveyed to Capital in detail. The Philippines notes that Indonesia has also raised this matter in the Committee on Agriculture, where the Philippines has provided its preliminary responses. The Philippines stands ready to further discuss this issue with Indonesia and remains committed to addressing it in the appropriate forum.

25.9. The Committee took note of the statements made.

26 UNITED STATES – DISCRIMINATORY QUANTITATIVE RESTRICTION ON STEEL AND/OR ALUMINIUM IMPORTS – STATEMENT BY CHINA

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

26.2. The representative of China indicated the following:

26.3. China took note of the most recent development regarding the US Section 232 tariffs, where the US will adopt tariff-rate quotas (TRQs) for products previously covered by Section 232 tariffs from the European Union, Japan, and the United Kingdom. China wishes to know if and when the United States intends to notify the CMA of these measures. China would also like to know what the legal basis is for these trade measures under the WTO rules.

26.4. In addition, China wishes to raise the following concerns. First, any measures that bring in new quotas, maintain tariffs above the ceiling binding, or discriminate between WTO Members seem difficult to reconcile with the WTO rules, including with Article I, Article XI, and Article XIII of the GATT. Indeed, for the Member that had just concluded such an arrangement with the United States, it issued a separate statement, calling "these duties incompatible with World Trade Organization rules".

26.5. Second, raising tariffs on dubious national security grounds and then reducing them for selected trading partners constitutes a dangerous precedent. This is exactly the sort of arbitrary and discriminatory trade policy that is contrary to both the letter and the spirit of the WTO rules, as well as the history of the multilateral trading system. Indeed, the arbitrariness and discriminatory character of such arrangements are of such a nature that even the signatories to such arrangements are treated differently, for example, in terms of the base periods.

26.6. Last but not least, the fact that these trade-restrictive and discriminatory arrangements were concluded between major Members of the WTO, and that an ongoing WTO dispute case regarding the legality of such tariffs had been suspended as part of the arrangement, is deeply worrisome. The example provided by these Members, that national expedience could be pursued at the cost of the rules-based multilateral trading system at large, does not bode well for the institution.

26.7. China notes that it has been almost four years since the US implemented its Section 232 tariffs on aluminium and steel. Steel prices have remained elevated, and trade has been disrupted. Instead of selectively removing tariffs on certain partners, the United States should correct its course by removing these tariffs and quotas altogether, as required by the letter and spirit of the WTO rules. As the saying goes, it is up to the doer to undo what he has done, and better late than never.

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

26.9. The United States takes note of China's comment regarding its TRQs. The national legal basis for these TRQs is the Trade Expansion Act of 1962, Section 232 (19 U.S.C. 1862) and the Presidential determinations, pursuant to that statute, that Section 232 tariffs are necessary to adjust imports of steel and aluminium articles so that such imports will not threaten to impair the national security.

26.10. The proclamations imposing the Section 232 tariffs recognize "shared concern about global excess capacity, a circumstance that is contributing to the threatened impairment of the national security", and provide that "[a]ny country with which we have a security relationship is welcome to discuss with the United States alternative ways to address the threatened impairment of the national security."

26.11. In Proclamation 10328, recalling those statements, President Biden stated that "[t]he United States has successfully concluded discussions with the EU ... on satisfactory alternative means to address the threatened impairment of the national security." He stated that "[t]he United States will implement a number of actions, including a tariff-rate quota." Similar statements are included in Proclamation 10327 adjusting imports of aluminium from the European Union. The WTO justification and grounds for these TRQs is Article XXI of the GATT 1994. Information regarding these TRQs is available on the US government's websites, including those of the Office of the US Trade Representative and the US Department of Commerce.

26.12. The Committee took note of the statements made.

27 OTHER BUSINESS

27.1 Possible derestriction of the Uruguay Round negotiating materials

27.1. The Chairperson recalled that this Committee had started discussing the possible derestriction of the Uruguay Round (UR) negotiating material in January 2021, more than one year before. The bilateral negotiating materials of seven rounds of negotiations under the GATT had already been derestricted and, at present, only the bilateral negotiating materials of the Uruguay Round remained restricted. Additional information and all the derestricted documents were available on the WTO website.

27.2. He further recalled that the objective of the derestriction was to enhance transparency, in line with the WTO's efforts in this regard, and to make available to the public documents and materials of historical and research value. The objective was therefore not to have a blanket derestriction of all these documents and Members would keep the right to decide if certain information should remain classified. In this regard, in February 2021, the Secretariat had circulated the list of documents concerned by the UR derestriction exercise and Members originally had until 31 October 2021 to review these documents before the Committee could take a decision about their derestriction. At the request of some Members, this deadline had been extended twice, first until 30 November 2021, and then subsequently until 28 January 2022.

27.3. At the Committee's informal meeting of 1 February 2022, Members had agreed to the overall derestriction process. However, some Members had requested more time to review the documents and had estimated that it was premature for the Committee to take a decision about the UR derestriction process at this formal meeting. Some delegations had also asked the Secretariat to prepare a background note explaining the process in more detail in order to help Members take an informed decision. Following that request, the Secretariat would prepare a background note providing more information about the derestriction process. In addition, it would also circulate a first draft of the derestriction decision and the list of documents to be derestricted so that Members would have all the information pertaining to this subject for their review and consideration. He clarified that no document would be derestricted until the Committee had taken a decision in this respect.

27.4. The Chairperson proposed that the Committee resume its discussions on the UR derestriction process, based on the documents prepared by the Secretariat, at its next informal meeting, which was scheduled to take place on 27 June 2022.

27.5. It was so agreed.

27.2 Training session for Geneva-based delegates

27.6. The Chairperson recalled that the Secretariat had planned to organize the first training session for Geneva-based delegates on 27 January 2022. However, due to the sanitary restrictions in place at the beginning of the year, the training had been postponed. He informed the Committee that the Secretariat had tentatively scheduled Wednesday 6 July 2022 to deliver this in-person training. The Secretariat would reach out to those delegates that had already expressed an interest in the training in order to confirm the date and time and share the programme.

27.7. The Committee took note of the statement.

27.3 Dates of the next meetings

27.8. The Chairperson asked the Committee to take note of the following arrangements. The next formal meeting of the Committee was scheduled to take place on 18 and 19 October 2022. However, before that, there were a number of meetings and activities organized by the Committee. The next informal meetings for the HS multilateral review and other issues, as appropriate, were scheduled to take place on 27 June and 23 November 2022. In addition, the Committee also planned to organize three experience-sharing sessions on trade in COVID-19 goods, which were tentatively scheduled to take place on 26 April, 20 June, and 16 September 2022. He reminded the Committee that each session would be confirmed if there were enough speakers and encouraged delegates to propose speakers for the session on 26 April 2022. Furthermore, as mentioned under the previous item, the first training session for Geneva-based delegates on CMA issues was scheduled to take place on 6 July 2022.

27.9. The Chairperson also reminded Members that they could upload their statements delivered at this meeting on the eAgenda platform. As requested by Members, the Secretariat had extended the time-period to upload statements to the system. Therefore, Members had until Wednesday, 13 April 2022 to upload their statements on the eAgenda platform if they wished to do so.

27.10. The Committee took note of the statement.

28 ELECTION OF THE CHAIRPERSON

28.1. The Chairperson recalled that the rules of procedure for the Committee stated that a Chairperson shall be elected at the end of the first meeting of the Committee every year. However, as Members were aware, the Chairperson of the Goods Council had been holding consultations with Members on a slate of names to chair the CTG's subsidiary bodies, and a list would be considered at a subsequent CTG meeting. Consequently, the appointment of a chairperson for the Committee had been delayed. He therefore suggested to proceed as in 2020, namely that, as soon as there was consensus on a slate of names, the Secretariat would circulate an email with the name of the proposed Chairperson for the CMA for 2022. If no objection was received within the time-frame indicated in that email, the candidate would be deemed to have been elected by the Committee by acclamation. The Secretariat would send a second email by way of confirmation.

28.2. The Committee took note of the statement.

28.3. The meeting was adjourned.
