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Committee on Market Access Original: English

MINUTES OF THE COMMITTEE ON MARKET ACCESS 18 AND 19 OCTOBER 2022

CHAIRPERSON: MR KENYA UEHARA (JAPAN)

The Committee on Market Access (CMA, or the Committee) adopted the agenda as reproduced in document WTO/AIR/MA/17/Rev.1, with the inclusion of the following item under Other Business: "United States – Trade-Distorting Export Control Measures on Semiconductor Equipment and the Global Supply Chain". An annotated agenda had been circulated in document JOB/MA/156.

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

1.2. The United States would like to raise a systemic concern with several items on the meeting's agenda. There appear to be a number of items, specifically Items 12, 16, 24, and 42 that more appropriately belong in other committees, where the substantive expertise on these issues resides. Therefore, the US urges Members to take greater care in evaluating where substantive issues should be taken up so that committees with the appropriate terms of reference address the issues for which they have been created.

1.3. The representative of Canada indicated the following:

1.4. Canada would like to add its voice to the concern expressed by the United States. In reviewing the agenda there seem to be trade concerns which, at first glance, do not seem to fall within the terms of reference of the Committee on Market Access, that is, "market access issues not covered by any other WTO body". This is only an observation, as Canada is not yet familiar with the substance of these concerns. Canada wishes simply to mention here that the Committee has a terms of reference, contained in document WT/L/47, which was decided by the General Council in 1995.

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

1.5. The Chairperson recalled that the full versions of the Secretariat's reports and presentation regarding the various transpositions of Schedules had been made available as room documents[1] and on eAgenda[2]; these documents would also be incorporated into the meeting's minutes.

1.6. The Secretariat (Mrs Alya Belkhodja) informed Members that a revised version of the report on the overall "Status of HS Transpositions", document G/MA/W/158/Rev.5, 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 3 October 2022, and had taken into account the results of the most recent HS multilateral review, which had been held on 27 June 2022.

- HS96 (WT/L/6905)

1.7. 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]

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

- HS2002 (WT/L/605 AND WT/L/807)

1.9. The Secretariat (Mrs Alya Belkhodja) recalled that a revised written report 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 27 June 2022 was as follows: 116 files had been certified or were in the process of certification; one draft file had been completed and sent to the Member for its first review. Finally, 18 Members had not been affected by the transposition, as eight Members had acceded to the WTO with a Schedule of concessions in HS2002, another eight Members in HS2007, and two Members in HS2012.

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

- HS2007 (WT/L/673 AND WT/L/830)

1.11. The Secretariat (Mrs Alya Belkhodja) recalled that a revised written report had been issued as document JOB/MA/104/Rev.30, dated 24 June 2022. The status of the HS2007 transposition files after the multilateral review of 27 June 2022 was as follows: 112 files had been certified or were in the process of certification; four draft files had been completed and sent to Members for their first review; two files had been released for multilateral review but would be examined at the next meeting; and seven draft files remained to be prepared. Finally, 10 Members had not been affected by the transposition as eight Members had acceded to the WTO with a Schedule of concessions in HS2007 and two Members in HS2012.

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

- HS2012 (WT/L/831)

1.13. The Secretariat (Mrs Alya Belkhodja) recalled that a revised written report had been issued as document JOB/MA/129/Rev.16, dated 24 June 2022. The status of the HS2012 transposition files after the multilateral review of 27 June 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 by the transposition as they had acceded to the WTO with a Schedule of concessions in HS2012.

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

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[1] Documents RD/MA/104 and RD/MA/106.
[2] https://agenda.wto.org/en/cma
[3] Ongoing separate procedures, GATT document L/6905.

- HS2017 (WT/L/995)

1.15. The Secretariat (Mrs Alya Belkhodja) recalled that a revised written report had been issued as document JOB/MA/143/Rev.7, dated 24 June 2022. The status of the HS2017 transposition files after the multilateral review of 27 June 2022 was as follows: 76 files had been certified or were in the process of certification; four files had been released for multilateral review and had received comments from other Members; thirteen files had been released for multilateral review; three draft files had been completed and sent to Members for their first review; and 39 draft files remained to be prepared.

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

2 HS-RELATED WAIVERS

2.1 EXTENSION OF THE HS-RELATED WAIVERS

2.1. The Chairperson recalled that the General Council had agreed to extend the relevant waivers for the introduction of the HS changes into WTO Schedules of concessions for a number of Members on the basis of a "collective decision". The most recent waivers were: HS2002 (WT/L/1124); HS2007 (WT/L/1125); HS2012 (WT/L/1126); and HS2017 (WT/L/1127). He noted that these waivers would expire on 31 December 2022 and that the Members concerned had yet to complete their relevant transposition procedures. Therefore, the Chairperson proposed that the Committee extend all of these collective waivers until 31 December 2023. He proposed to the Committee to forward the draft collective waiver decisions granting such an extension, as contained in documents G/C/W/815, G/C/W/816, G/C/W/817, and G/C/W/818, to the General Council, through the Council for Trade in Goods (CTG), for appropriate action.[4]

2.2. It was so agreed.

2.2 HS2022 WAIVER – DRAFT DECISION (G/MA/W/180/REV.1)

2.3. The Chairperson recalled that, on 12 September 2022, the Secretariat had circulated the draft waiver decision for the "Introduction of the HS2022 Changes into WTO Schedules of Concessions" (hereinafter the "HS2022 waiver decision"). The draft HS2022 waiver decision closely followed the waivers that had been used for previous HS amendments. He informed the Committee that, following the circulation of the draft waiver decision, Members had had until 7 October 2022 to contact the Secretariat to provide comments on the document and request to be included in the draft waiver. By that deadline, 14 Members had requested to be covered by the draft HS2022 waiver decision and a revised version of the draft decision, listing in the annex all the Members that had requested to be covered and their respective dates of implementation of the HS2022 amendments, had been circulated in document G/MA/W/180/Rev.1.

2.4. The Chairperson announced that, since the circulation of the revised HS2022 draft decision, four additional Members had contacted the Secretariat to be included in the waiver. He also clarified that, as provided in the draft waiver decision, any Member that was not listed in the Annex could be included at any time by making a request to the Committee through the Secretariat and indicating the date of domestic implementation of the HS amendments.

2.5. The representative of Paraguay indicated the following:

2.6. Paraguay requests to be included in the HS2022 draft waiver.

2.7. The Chairperson proposed that the Committee proceed with the adoption of the draft HS2022 waiver decision, as contained in document G/MA/W/180/Rev.1. The Secretariat would prepare a second revision to add the names of those Members that had requested to be included in

[4] The General Council Decisions were adopted on 20 December 2022 and circulated in documents: WT/L/1160 (HS2002); WT/L/1161 (HS2007); WT/L/1162 (HS2012); and WT/L/1163 (HS2017).

it[5]. The draft HS2022 waiver decision would then be forwarded to the General Council, through the Council for Trade in Goods, for appropriate action.[6]

2.8. It was so agreed.

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

3.1. The Chairperson welcomed Ms Gael Grooby, Deputy Director of Tariff and Trade Affairs at the World Customs Organization (WCO), and Mr Álvaro Fernandez Ácebes, Chairperson of the Harmonized System Committee (HSC) of the WCO, and then invited them to present their report on the meeting of the Harmonized System Committee that had been held on 19 September 2022.

3.2. The representative of the WCO Secretariat (Ms Gael Grooby) indicated the following:

3.3. Thank you for welcoming us again to the Committee on Market Access. We really do appreciate the cooperation that has emerged so well between the CMA and the HSC. At the last HSC meeting, the CMA Chairperson spoke to the WCO delegates about the letter that was sent from this body to the HSC. He also noted that the HS was a powerful tool to facilitate trade and collect statistics and hence that it was of great importance to both bodies.

3.4. There was a high level of willingness among the HSC delegates to look at the CMA proposals or suggestions within the letter; as a result, there will be ongoing discussion at the next meeting of the HSC on issues such as possible ways to look at how we can organize work in the circumstances of a pandemic, or other ways to address the concerns raised by this Committee about decision-making in global emergencies. This is a difficult topic, which the HSC is willing to reflect upon to see if there is some method whereby, we could take some additional action. It would be a difficult issue for many reasons, primarily around ensuring the status of any decisions that came out because the HSC needs a quorum for any meeting to make an official decision, and it is not something that we would normally do outside of an official meeting. But we are certainly going to take the comments on board and see what can be done.

3.5. In terms of the practical ideas around COVID-19-related goods, we have already drafted documents for the next HS Review Sub-Committee with respect to ambulances, mobile clinics, and face masks. We have also undertaken to continue looking at the remaining proposals and at other goods that have been highlighted in the work of the WCO and the WTO as being of interest in relation to the COVID-19 pandemic and any similar future events. This will now form part of our ongoing work within this review cycle, including taking these proposals to the HS Review Sub-Committee for members' consideration.

3.6. Overall, the HSC responded to the CMA communication in a spirit of openness. The HSC recognized that the WTO did not have the mandate to make proposals through the CMA. However, the natural interest it takes in the HSC was certainly understood given that it forms the basis of the bound tariffs and therefore of the work of the CMA itself to a large extent. For this reason, the HSC looks forward to receiving updates from the CMA whenever there is a relevant issue on its agenda. And the HSC certainly looks forward to greater activity between the two organizations to ensure that there is an understanding of their respective roles and what is needed on both sides.

3.7. The representative of the WCO Secretariat (Mr Alvaro Acebes) indicated the following:

3.8. First, I wish to thank the CMA Chair and the Secretariat for inviting me here as the Chairperson of the HSC to present the most significant outcomes of the 70th Session of the Harmonized System Committee, which took place on 12-23 September 2022. Allow me first of all to say that, like other sessions, WCO Council members that are Contracting Parties to the Convention, and that have a voice and a vote, are invited to the HSC. Council members that are not Contracting Parties and that

[5] The representative of Colombia included a statement on eAgenda to request to be covered by the HS2022 waiver, as per document G/MA/W/180/Rev.1, and indicated that the dates of entry into force of the three WCO decisions would be communicated to the Secretariat in writing.

[6] The General Council Decision was adopted on 20 December 2022 and circulated in document WT/L/1164.

have observer status, international organizations, and the private sector represented by the International Chamber of Commerce, are also invited.

3.9. In this session, 101 members (100 countries plus the European Union) participated, along with the following international organizations: International Chamber of Commerce (ICC); Organisation for the Prohibition of Chemical Weapons (OPCW); Secretariat of the Basel, Rotterdam and Stockholm Conventions; United Nations Secretariat of the International Narcotics Control Board (INCB); Southern African Customs Union (SACU); and the WTO.

3.10. I would like to recall that the HSC is assisted by the following three sub-committees or working parties that support the work of the Committee, despite having no decision-making power since they do not take votes and work based on consensus to submit proposals to the HSC: (i) the pre-sessional Working Party, which is responsible for refining the texts of the Classification Opinions and ensuring that the two official languages of the Convention, English and French, are properly aligned; (ii) the Review Sub-Committee, which usually meets twice a year and prepares proposed amendments to HS texts and consequential amendments to the Explanatory Notes; and (iii) the Scientific Sub-Committee, which assists the Committee with biological, chemical and pharmaceutical matters and meets once a year.

3.11. During the 70th Session of the HSC, numerous proposals were discussed that had been prepared by the Review Sub-Committee and, conversely, questions and clarifications were sent from the Committee to the Review and Scientific Sub-Committees. At the HSC meeting, the Secretariat invited delegates to take note of the many capacity-building activities carried out in countries that had requested the WCO Secretariat's assistance, mainly in the field of tariff classification, customs laboratories, and binding tariff information programmes. Information was provided about the WCO Secretariat's cooperation with numerous international organizations, including the World Health Organization (WHO), the INCB, and, of course, the WTO, and about the positive results obtained in the past. Topics such as the WCO Green Customs Initiative and how the Harmonized System (HS) can be an instrument to help members establish policies to protect the environment and combat climate change were also covered. In this regard, an overview was given of a series of conferences and symposia that the WCO Secretariat has been organizing with the leading experts in the field.

3.12. The HSC approved two new non-binding recommendations by the WCO Secretariat to open, at the national or regional level, subheadings beyond the six-digit HS level for certain products controlled under the Basel Convention for waste oils containing polychlorinated biphenyls and under the Rotterdam Convention for waste. An OPCW recommendation was also discussed but, before it was adopted, it was decided to refer the matter to the next session of the Scientific Sub-Committee for analysis, given its complexity. In any case, the Council is expected to approve the three recommendations in its June session. The rationale behind the recommendations is for countries to have an instrument for controlling these products from now until the HS amendment enters into force on 1 January 2027, when there will be subheadings for these products at HS level. As I have said, these are non-binding recommendations since the WCO mandate does not extend beyond the six-digit level.

3.13. Six classification opinions, which had previously been agreed by the HSC and drafted by the pre-sessional Working Party, were approved. Without mentioning all of them, these opinions referred to products as varied as cough lozenges, bamboo panels, and edible collagen materials used for making foodstuffs. Thirteen reservations, which are issues that had already been voted on and provisionally agreed in previous HSC sessions but that were subject to reservations by one or more countries, were re-examined. Reservations are an instrument for Contracting Parties to request re-examination of the Committee's provisional decision on a matter. There is a two-month time-limit in which to enter a reservation, and the number of reservations that can be entered for each decision has been limited to two. There was no limit in the past, which led to major delays in the adoption of classification decisions. The products subject to these reservations have included smartwatches, rooibos tea, coffee machines for industrial use, food in liquid form, and vehicles for the transport of goods, to mention but a few.

3.14. The HSC has also discussed and occasionally reached agreement on the classification of new products or the amendment of Explanatory Notes. There are approximately 40 agenda items for a very wide range of products, such as nicotine-free vaping devices, steam stones for water pipes, instant beverages, and LED strip lights. The discussed amendments to the Explanatory Notes were

intended either to provide additional clarification, such as regarding immunological products, for example, or simply to correct linguistic misalignment between the English and French versions. It is important to remember that the two official languages of the HS are English and French, and that it is essential for there to be perfect linguistic alignment. Otherwise, any misalignment would be transferred to the other language versions around the world, which would lead to different interpretations of the HS and, subsequently, divergences in tariff classification.

3.15. At the proposal of the Review Sub-Committee, the HSC provisionally adopted amendments to HS 2027 for certain products, such as the creation of new provisions (specific headings/subheadings) for self-tapping screws under heading 7318, portable solar lamps under heading 8513, new headings for fresh and frozen cranberries, illuminated bands under heading 9405, and pesticides controlled under the Rotterdam Convention. It should be noted that these decisions were taken unanimously by the HSC and votes were not required. Should votes have been held, a two-thirds majority would have been needed, unlike classification decisions which require only a simple majority. It should also be pointed out that provisionally adopted decisions must be approved again by the Committee in its last session before the end of the review cycle, in March 2024, and then by the Council of Customs Directors in June 2024, and finally go through the six-month reservation period, in which all Contracting Parties have a veto. In other words, the amendment could not be considered definitively adopted until January 2025. The Committee also noted that the Sub-Committee would continue discussions on other draft amendments to the legal texts, which are expected to be presented to the Committee for approval in future sessions. Some examples include the creation of headings or subheadings for equipment for the manufacture of illegal drugs, potential dual-use products for the preparation of chemical weapons, certain sub-species of shrimp, bamboo products, non-germinating seeds, plastic waste controlled under the Basel Convention, and baby corn cobs.

3.16. Lastly, the HSC addressed several general items. An amendment to the Rules of Procedure to make them more gender-inclusive, by using the term "Chairperson" instead of "Chairman", for example, was discussed and referred to the Contracting Parties for approval. Discussions were held on what the threshold should be, expressed in millions of dollars per year in trade volume, for trade under a heading or subheading to be considered low volume. Currently, these thresholds are USD 100 million per year for total world trade under a heading and USD 50 million per year for world trade under a sub-heading. In each review cycle, the WCO Secretariat and the Committee conduct a study with a view to potentially deleting headings or subheadings that fall short of that threshold. This does not mean that they are deleted automatically because, regardless of trade volume, there are sensitive products that must not be deleted. It was agreed to maintain the current thresholds for the 2027 review cycle and continue the study on potential increases of these thresholds in future review cycles (that is, starting in HS 2032). Aside from the amendments that are regularly made to the Convention, generally every five years, the Secretariat has embarked upon an ambitious long-term project to revise the Harmonized System to make it a more modern and versatile instrument with a greater capacity to adapt to changes in trade. This process has just begun.

3.17. With respect to the potential amendments to the HS with respect to certain medical products contained in the communication by the Committee on Market Access, according to both the comments published in the forum set up by the WCO Secretariat before the Committee's session, and the session itself, there was unanimous support in the HSC to collaborate with the CMA on certain medical products of particular importance in times of emergency. The delegates who took the floor stressed the need for detailed and specific information on the products to be discussed for the classification. The topic is interesting and worthy of discussion, but it must be a fact-based discussion.

3.18. The HSC therefore gave the WCO Secretariat a mandate: (i) to include the mechanism for organizing *ad hoc* meetings in cases of emergency as an agenda item; (ii) to consider the CMA's proposals and submit specific proposals to the Review Sub-Committee for examination; and (iii) to find further examples of medical products to refer to the HSC for examination. The latter will be discussed again in the upcoming sessions of the Review Sub-Committee and the HSC.

3.19. The Chairperson thanked the WCO representatives for informing the Committee of the discussions that had taken place at the last meeting of the HSC in relation to the CMA communication, and for outlining the expected next steps.[7]

3.20. The representative of Canada indicated the following:

3.21. I just want to thank the WCO for its continued participation and collaboration in this Committee. I think this specific instance here has actually allowed me to build my rolodex of contacts within the Canadian government as we have now established contacts with our border services agencies who sit on the HSC and the subcommittee itself, and actually I have a call planned with them in the coming week to have some further discussion on how the HSC meeting went. I will certainly share the reports provided here today and speak to them about how we can collaborate and coordinate ourselves in the Canadian government in terms of our interventions and contributions to the work at the WCO and here at the WTO.

3.22. I would also like to point out that this is really helpful, and I know it will be going forward as we continue our informal conversations about the impact of the COVID-19 pandemic, including on the measures that Members took in terms of our efforts to address the crisis, and any improvements that we can envisage, even if these are simply observations about good practices and ways to approach things, and if there are any further exchanges that we can have with the WCO in terms of what would help us in the future should we be faced with a similar such crisis.

3.23. The representative of Ecuador indicated the following:

3.24. First of all, I would like to thank the representatives from the WCO for their reports. I recognize the work that they are doing and the possibility of collaboration between the CMA and the HSC. As mentioned by the HSC Chair, very often the problem is not a lack of specific positions in the HS, but the lack of information or detailed descriptions of products. Who has responsibility for providing the information that could facilitate the work of the WCO?

3.25. The representative of the WCO Secretariat (Mr Alvaro Acebes) indicated the following:

3.26. I am grateful to Ecuador for this important question. It is important to stress that, in 99% of cases, the problem is not that we do not have a position in the HS to classify a product, as a product can be classified in a specific or under a more general heading, but rather it is the lack of information about the given product, as was the case for some COVID-19-related products. On the question of who is responsible for providing that information, if it is an issue presented by a country that has difficulties classifying a product, then the information needs to come from the source of that problem, namely the country that is contacting the committee, which should be providing all of the information that it can. Of course, the WCO Secretariat can also make additional efforts to try to find information on the internet or the archives, but the main responsibility lies with the country that is submitting the request. However, if it is a conflict on classification that has arisen between different countries, then it would be up to the countries party to the dispute to provide the information.

3.27. The representative of the WCO Secretariat (Ms Gael Grooby) indicated the following:

3.28. As our Chairperson has explained, for some of these proposals the WCO Secretariat has taken on the responsibility of finding examples in order to move these ideas along and put them as concrete proposals to the HSC. But these were general proposals. At the same time, the WCO Secretariat is currently working on the proposals from the CMA. Certainly, on everyday work for customs administrations, it is the responsibility of the importer or their broker to provide information; likewise, as our chairperson explained, proposals coming to the WCO are generally the responsibility of the proposing country.

3.29. I would just like to stress that every good already does have a classification. There is no such thing as a good that does not have a position in the HS, even if it is in the "Other-Other-Other"

[7] The Chairperson's report on item IX:9 (CMA letter) of the 70th Session of the Harmonized System Committee of the WCO is reproduced in item 4 below and was circulated in document JOB/MA/155.

position. But to determine the correct position requires a thorough understanding of the goods so that Members can make a clear decision on classification.

3.30. The Chairperson looked forward to continuing and strengthening the collaboration between the two organizations and Committees. He proposed that the Committee take note of the reports and the statements made.

3.31. The Committee took note of the WCO reports and statements made.[8]

4 REPORT BY THE CHAIRPERSON ON ITEM IX:9 (CMA LETTER) OF THE 70TH SESSION OF THE HARMONIZED SYSTEM COMMITTEE OF THE WCO

4.1. The Chairperson recalled that, on 30 May 2022, the former Chairperson had sent a written communication, on behalf of the Committee, to the WCO Harmonized System Committee, which had been circulated in document G/MA/406. The communication had highlighted some of the pressing issues that had been raised by certain Members during the first and second experience-sharing sessions organized by the CMA on trade in COVID-19 goods in relation to the customs classification of those medical goods that were considered to be essential to combatting the pandemic.[9]

4.2. As the Chairperson had indicated in his communication of 27 June 2022, the CMA letter had been included on the agenda of the 70th Session of the WCO Harmonized System Committee, under Agenda item IX.9 – "New Questions", and as Chair of the Committee, he had been invited, together with the Secretariat, to attend that meeting. The Chairperson had thanked the HSC Chair and the WCO Secretariat for having invited the WTO to attend the HSC meeting, and for the opportunity to address that important audience on behalf of the Committee. The Chairperson's intervention at the HSC had been reproduced and circulated to Members in document JOB/MA/155.

4.3. The Chairperson noted that the CMA communication had highlighted that, while the HS was considered to be a powerful tool for facilitating international trade and collecting trade statistics, it had not always been an easy tool for Members to use when considering the products that had been of critical importance in the context of the COVID-19 pandemic, including in relation to how to identify and classify those products in the corresponding commodity codes. For many WTO Members, this still represented a challenge in terms of the formulation of trade policy measures as part of the pandemic response; more importantly, this challenge might prove to be even more relevant to future crises. As indicated in the HSC Chair's reply (document G/MA/406/Add.1), divergences or misclassifications in the HS were very often a consequence of the absence of information about the products under consideration, rather than because the HS lacked clarity. He stressed that it was for these reasons that the CMA had turned to the WCO and, in particular, the HSC, to seek guidance about how to improve the classification of COVID-19 essential goods, especially as the CMA had recognized that the HSC was the body with the relevant knowledge and expertise on these issues.

4.4. As indicated in his statement to the HSC, the Chairperson considered it important that the WTO and the WCO, through their respective memberships, found ways to work together to build resilience and improve preparedness for future crises. In his view, it was therefore encouraging to see that there was a general willingness in the HSC to cooperate with the CMA on the improved classification of certain medical goods of special importance in times of emergency. Since the CMA did not have the mandate or expertise to submit concrete classification proposals, it had been a positive outcome that the HSC had given a mandate to the WCO Secretariat to further study the suggestions included in the CMA communication and to present specific proposals for examination to the Sub-Review Committee's next meeting.

4.5. The Chairperson stressed that such cooperation between the CMA and the HSC did not in any way prejudge Members from submitting proposals to the HSC directly through their representations to the WCO. On the contrary, this was an additional contribution to the discussions. For this reason, he invited CMA delegates to keep coordinating with their customs officials in view of the upcoming meetings at the WCO. The Chairperson also noted that it was encouraging to see that the HSC had shown flexibility in accepting the CMA suggestion to explore the possibility of creating a mechanism whereby the WCO Secretariat could hold *ad hoc* consultations with the HSC to issue, in collaboration with other relevant international organizations, such as the WTO, classification guidelines in

[8] The European Union addressed this item in its intervention under Agenda Item 5.
[9] Documents JOB/MA/152 and JOB/MA/152/Add.1.

emergency situations. As indicated in the CMA letter, while WTO Members had benefitted from non-binding guidance for the HS classification of these products by the WCO and other international organizations, there were limitations as to the type of assistance that could be provided by the WCO due to the absence of specific processes or procedures for such guidance, especially in emergency situations.

4.6. The Chairperson observed that one of main lessons learned from the COVID-19 pandemic was that the international community could not rely on a "business as usual" approach in times of emergency; for this reason, it was of the outmost importance to strengthen the dialogue between the WTO and the WCO. He urged the HSC and the WCO Secretariat to continue informing the Committee of any new development. To this end, he invited the WCO to continue regularly reporting to the Committee on its activities.[10]

4.7. The Committee took note of the report.

5 REPORT BY THE CHAIRPERSON ON THE EXPERIENCE-SHARING SESSIONS IN RELATION TO TRADE IN COVID-19 RELATED GOODS

5.1. The Chairperson reported to the Committee on the experience-sharing sessions on trade in COVID-19 related goods that the Committee had organized in 2022. He recalled that the first such report had been made by the Committee's previous Chairperson at the Committee's March formal meeting following its first experience-sharing session on this theme, which had taken place on 4 March 2022.[11]

5.2. The Chairperson reported that, since March 2022, the Committee had held three additional experience-sharing sessions based on the topics identified by Members at the beginning of 2022. The dates of these sessions were as followed: 26 April; 18 July; and 16 September 2022. For each of these sessions the Secretariat had prepared a summary report circulated under the document series JOB/MA/152.

5.3. Regarding the second experience-sharing session, which took place on 26 April, Members shared their practices on monitoring and measuring trade in goods essential to combatting the COVID-19 pandemic, and on improving data collection. The discussions focused on the challenges relating to trade data monitoring and data collection faced by Members, and lessons learned. During the session, representatives from the following five Members participated as speakers: China; European Union; India; Thailand; and the United Kingdom. A WCO representative also participated in the session and provided written contributions. The Secretariat provided a summary of the discussions, including a compilation of all the documents and presentations relating to the session, in a report circulated in document JOB/MA/152/Rev.1.

5.4. Following the first and second experience-sharing sessions, and based on the discussions held by Members in relation to classification and trade monitoring of COVID-19-related goods, on 12 May 2022 an email was sent to Members proposing to address a written communication to the WCO's Harmonized System Committee to bring its attention to issues raised by Members in relation to the HS classification of COVID-19-related goods, and to suggest certain improvements in that regard. As reported under the Committee's previous two agenda items, the CMA communication, circulated in document G/MA/406, had been sent to the WCO on 30 May 2022. The written reply from the Chairperson of the Harmonized System Committee was circulated in document G/MA/406/Add.1.

5.5. The third experience-sharing session took place on 18 July 2022. This session focused on Members' practices regarding measures aimed at easing trade in COVID-19-related goods. Specifically, Members discussed various tax-related measures, including the following: reductions, suspensions, or elimination of customs duties and internal taxes; waivers and deferrals of payments and refunds; and non-tariff measures, such as streamlined customs procedures. Finally, Members shared their lessons learned from this experience. Australia and the Dominican Republic participated as speakers, while nine other Members took the floor to share their practices. Among the latter, Uruguay provided an overview of the work carried out on measures aimed at easing trade in COVID-19-related goods by the Committee on Agriculture, Cameroon did so for the Committee on

[10] The European Union addressed this item in its intervention under Agenda Item 5.
[11] Document G/MA/M/76, item 8.

Sanitary and Phytosanitary Measures, and Canada did so for the Committee on Trade Facilitation with respect to. The Secretariat provided a summary of the discussions, including a compilation of all the documents and presentations relating to the session, in a report circulated in document JOB/MA/152/Add.2.

5.6. Finally, the fourth-experience-sharing session, that took place on 16 September, focused on Members' practices and experiences with respect to export restrictions during the pandemic. Members shared their views on different types of measures used to restrict trade in "essential" goods. The discussions also focused on the rationale behind those measures, and on the specific factors that determined the termination or non-renewal of certain measures. Also, some Members shared their views on the effectiveness of these measures. Finally, Members drew some conclusions and lessons learned. At this session, Canada, Colombia, the European Union, the Kyrgyz Republic, the United Kingdom, and the United States participated as speakers to exchange their practices on this topic, and six additional Members took the floor to share their views and experiences. The Secretariat report summarizing the discussions held at this session, including all the relevant documents and presentations, will be circulated in document JOB/MA/152/Add.3.

5.7. The Chairperson thanked Members for their active engagement and for sharing their valuable experiences during the four experience-sharing sessions. The Chairperson also thanked the CMA team for the extra work and effort that they had put into organizing the sessions.

5.8. The exercise had been launched at the beginning of the year because Members had expressed an interest in receiving information and updates about any COVID-19-related work being undertaken that was of relevance to the Committee. Members also called on the Committee to provide a forum to exchange views and experiences at the technical level in relation to these issues.

5.9. The Chairperson stated that, based on his personal assessment, the series of experience-sharing sessions had been extremely useful: (i) to improve Members' understanding of the main challenges faced during the pandemic; (ii) to share information about how those challenges had been addressed in practice by Members, including what specific actions or measures had been taken; and (iii) to share knowledge about which solutions had worked well, and what lessons had been learnt that could help Members to be better prepared for any future crisis.

5.10. The Chairperson informed Members that, given the comments and suggestions heard at the last experience-sharing session regarding the importance of ongoing technical discussions and information sharing in the Committee, he had sent to Members, on 19 September 2022, an email summarizing the two main concrete suggestions on how best to move forward that had been raised at the meeting. These were: (i) to organize a fifth session, focusing mainly on the lessons learnt across each topic identified during previous sessions. Some delegations also expressed an interest in hearing the views of other stakeholders impacted by the pandemic, including those of the private sector, academia, other international organizations, and NGOs; and (ii) to task the Secretariat to prepare a compilation of the main practices and lessons learnt during the pandemic, based on the information provided by Members during the experience-sharing sessions.

5.11. As the Chairperson had communicated in his email of 28 September 2022, no delegation had opposed the proposed way forward. Accordingly, the Chairperson informed Members that the fifth experience-sharing session, focusing on lessons learnt, was to take place on 21 November 2022, from 12:00 to 15:00, in a hybrid format, in order to allow for participation from Capitals. In preparation for the session, the Secretariat had prepared a compilation of the main lessons learnt under each of the topics discussed, which would subsequently be integrated into the discussions held at the fifth session. As pointed out by several Members, the participation of the private sector, and other stakeholders affected by the pandemic, would provide substantia additional input into the work of the Committee, affording it a global and holistic picture of the overall situation.

5.12. Therefore, the Chairperson encouraged Members to think about potential speakers for the fifth experience-sharing session, both from the public and private sectors, including other non-state actors, such as NGOs or academia, and enquire whether they would be willing to contribute to the session. The participation of various stakeholders offering diverse perspectives and backgrounds would be of great benefit to the activity. The deadline to propose speakers was set as 7 November 2022. The Chairperson requested Members already to take note of this date, although the Secretariat would follow-up with a written communication to confirm it.

5.13. The representative from the European Union, addressing Agenda Items 3, 4, and 5, indicated the following:

5.14. The European Union thanks the colleagues from the WCO Secretariat for their update on the activities of the HS Committee. The EU agrees that such updates are very useful in order for Members to be kept abreast of what is happening at the WCO. In addition, as Canada mentioned, such updates also increase WTO Members' internal discussions and coordination. Therefore, the EU thanks the WCO for its update on its ongoing work on COVID-19. The EU is also very encouraged by the positive feedback to the Committee's letter, both on the issue of classification and that of closer cooperation in the case of emergency situations. The EU looks forward to an update of the thinking and the work going forward on this issue. At the same time, the EU has taken the point that this needs to be a two-way process between the Committee on Market Access and the HS Committee, with the support of their respective Secretariats.

5.15. On Agenda Item 5, the European Union thanks the Secretariat and Chairperson for all their work thus far, including on the very comprehensive report of the various experience-sharing sessions that the Committee had held in relation to the COVID-19 pandemic. The EU very much agreed with the Chairperson that these sessions had been informative, and very useful, to better understand Members' challenges and responses when confronted with the need to facilitate the movement of essential goods across borders.

5.16. The European Union fully recognizes the importance of easing trade in essential COVID-19-related goods to combat the pandemic. The EU has heard that Members have done so through different channels, notably through reducing, suspending, or eliminating customs duties and taxes, waiving or deferring payments, and simplifying customs procedures and processes. The EU definitely sees value in continuing these discussions. Indeed, the EU is supportive of the next steps as outlined by the Chairperson, including a fifth information-sharing session engaging more closely with stakeholders, and circulation of a report containing all the technical sessions into a single document, thereby helping to capture the main lessons learned.

5.17. The European Union stressed that, unfortunately, one could not rule out any future pandemic or crisis, and that shortages might then concern different types of goods. In this regard, the EU considered that Members should reflect on how they could best use the existing WTO mechanisms in order to be able to quickly react to, and engage with, other Members in response to any future crisis.

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

5.19. The United Kingdom welcomes the Chairperson's summary, together with the report on the latest information-sharing session. The UK has found the presentations shared by Members at these sessions to be really stimulating, and these, together with the Secretariat reports, have been useful as the UK has continued to reflect, alongside other Members, on its own trade responses to the COVID-19 pandemic. The breadth of engagement and input through this process has really underlined its value to the UK, including the importance of information sharing as a key pillar of this Organization. The UK thanks the Secretariat for its efforts to provide opportunities for all Members to feed in through the trade policy survey, and encourages other Members to complete it as the UK finds analysing it very helpful.

5.20. The United Kingdom also welcomes the Secretariat's work taking forward issues that have emerged during these sessions, especially in writing to the WCO on classification issues, as we have heard about earlier. It has been promising to see the positive reaction to the letter at the HSC, including the pragmatic next steps to consider possible HS reform for critical medical goods that have been difficult to distinguish in the HS. The UK thanks the Chairperson of the HSC for being here at the meeting, and for the pragmatic link being formed between the Committees on technical issues. The UK hopes that this work can become a template for future collaboration.

5.21. The United Kingdom also looks forward to the fifth information session in November. This can be an opportunity to reflect on the lessons learned and how momentum can be maintained in 2023. In the UK's view, there are further areas for exploration, including how policy makers have taken account of developing country interests in trade policy design, and how we can work effectively across supply chains. The UK also welcomes an opportunity to hear from stakeholders, who will have

wider perspectives. A further session could be used to explore the nature and scope of such engagement. The UK looks forward to working closely with all Members and the Secretariat as this process continues to evolve into 2023.

5.22. The representative of Colombia indicated the following:

5.23. Colombia wishes to thank past and current Committee Chairpersons, interested Members, and the Secretariat, for their efforts in organizing experience-sharing sessions until now. It has been a constructive exercise, which has allowed Members to learn from one another about their practices and policies in the context of a crisis. Colombia had an opportunity to present its own experience at the last session, when it discussed the overall framework of its adopted trade measures, trade facilitation measures, and export-restricting measures. Colombia is of the view that there are important conclusions and lessons learned from all the sessions, which can benefit all Members in a cross-cutting way. Regarding the Chairperson's report, Colombia supports holding a fifth session, with the participation of interested parties who can assist us with the analysis, especially as Members will benefit from a plurality of views. In this regard, Colombia will propose the names of certain organizations that could provide inputs. Colombia supports the proposal for the Secretariat to prepare a document compiling the main practices, policies, and lessons learned in response to the pandemic. The documents containing the conclusions of each experience-sharing session could serve as a basis for such a compendium. Colombia considers it important for this document to be practical in nature, and to include recommendations with which Members can easily identify. In Colombia's opinion, the document should serve as a reference for policymakers in addressing future or potential crisis situations. For example, the document could underscore the importance of voluntary notifications of trade facilitation measures, and indicate the procedure to be followed to implement such notifications. It could also stress the importance of maintaining channels of communication among Members' authorities, and to identify successful mechanisms. In Colombia's view, this need not be a binding or prescriptive document, but more of a roadmap to help Members better address any crisis that may arise in future.

5.24. The representative of Ecuador indicated the following:

5.25. Ecuador welcomes the report that has been submitted on the exchange of experiences in the face of the COVID-19 pandemic. Ecuador sees great value in the analysis carried out so far, in which Ecuador has actively participated, as well as in the next steps proposed by the Chairperson, such as the fifth session, and the document on lessons learned. It is important to highlight that one of the results of this exercise was precisely the letter sent to the WCO, to which we have received very positive feedback at the current meeting.

5.26. Ecuador looks forward to an exchange with other relevant actors that will allow us to have a clearer idea of the overall impact of the measures adopted. This will also contribute to our objective of having a practical guide to be better prepared for future crises.

5.27. The representative of Thailand indicated the following:

5.28. Thailand wishes to thank the Chairperson and the Secretariat for the comprehensive report on the experience-sharing sessions, and for having organized the four experience-sharing sessions, which have set a good example for other Committees to follow, and that were, of course, the origin of the proposal to the WCO that we were discussing earlier. In this regard, Thailand wishes to thank its colleagues from the WCO for providing us with their updates. Thailand would also like to thank the Chairperson for giving us an opportunity to make a presentation in the second experience-sharing session.

5.29. At the same time, Thailand believes that Members have not yet reached the stage where a concrete outcome has been achieved based on the four experience-sharing sessions. Therefore, it is important for the Membership to continue to work together. Thailand is looking forward to participating in the fifth experience-sharing session.

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

5.31. The Kyrgyz Republic wishes to thank the Chairperson for his report and summary on the experience-sharing sessions on trade in COVID-19 related goods. The Kyrgyz Republic very much

agrees with the Chairperson's statement that these experience-sharing sessions have been informative and useful for WTO Members. The Kyrgyz Republic also thanks all those Members that have shared their valuable experience in trade measures adopted as a response to the pandemic. Indeed, it has been an efficient platform for sharing and exchanging information and views on this matter. As noted by the Chairperson, this in turn contributes to countries being better prepared for any future crisis. The Kyrgyz Republic also appreciates all of the Secretariat's efforts in organizing the last four sessions. The Kyrgyz Republic supports the involvement of other stakeholders in the next session, the fifth session, and very much looks forward to participating in it.

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

6 OPERATION OF THE INTEGRATED DATA BASE (IDB) AND THE CONSOLIDATED TARIFF SCHEDULES (CTS) DATABASE

6.1. 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. He recalled that a full version of the Secretariat's report and the presentation had been made available as room documents[12] and in the eAgenda and would be incorporated into the minutes of the meeting.

6.1 Status of implementation of the 2019 IDB Decision

6.2. The Secretariat (Ms Adelina Mendoza) reported that additional projects had been undertaken relating to the implementation of provisions indicated in document G/MA/367. Based on the user-interface consultant's final report, a prototype with sample web pages was under development. Furthermore, another consultant would begin the calculation of indicators that would be published in the new portal.

6.3. On the automatic transmission of data (paragraph 8 of document G/MA/67), an agreement had been finalized with Mauritius and initial meetings/consultations had taken place with other Members. The current status of ongoing engagements with Members was as follows: (1) for Norway, an API-based data extraction for MFN and other applied tariffs was planned by Capital; (2) for Mexico, some issues with the data on imports were being sorted out; (3) for Paraguay, a follow-up meeting with technical, capital-based officials would be scheduled; (4) for Singapore, an initial meeting had been held with Ministry of Trade and Geneva delegates. Meanwhile, the other parallel project related to ADN for members using ASYCUDA was progressing. The projects were already ongoing with Côte d'Ivoire, Madagascar, and Togo, as reported in previous meetings. Discussions also continued with Uganda. Development of the module to automate some of the tasks relating to data receipt, validation, integration, updating of the information system, data transformation, and final dissemination of data, was continuing.

6.4. The representative of Mauritius indicated the following:

6.5. Mauritius is pleased to inform Members that it has recently entered into an agreement with the WTO Secretariat for the automatic transmission of data to the IDB. Since such agreements are being made on a case-by-case basis, and include terms and conditions in which the required data will be obtained from Members, Mauritius has been working with the WTO Secretariat since the beginning of the year to finalize the agreement. Mauritius takes this opportunity to thank the WTO Secretariat, in particular the IDB Unit, for the successful completion of this agreement. Mauritius' capital-based officials will automatically upload applied tariff data and import statistics directly, as per the agreed timeline, onto the cloud server of the WTO. Mauritius is confident that the automatic transmission of data to the IDB will lessen the notification burden on Members and reduce bureaucracy.

6.6. The representative of Canada indicated the following:

6.7. Canada thanks Mauritius for taking this voluntary step. Canada has spoken a lot about this process in the Committee, and the rich information that Mauritius is providing, on a voluntary basis, is great, and to be applauded. Such information helps to maintain the various databases, the

[12] Documents RD/MA/104 and RD/MA/106.

IDB itself, and also helps the rest of the business world to understand the prevailing business conditions, including the sizable sector of our economies comprising MSMEs. Canada continues to encourage Members to reach out to the Secretariat to discuss and determine if a voluntary process to upload tariff and trade data to the IDB would be of use to them, especially in terms of lessening their notification burden.

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

6.2 Status of IDB notifications

6.9. The Chairperson drew Members' attention to the Secretariat's report on tariffs and imports of Members that had been circulated in document G/MA/IDB/2/Rev.56.

6.10. The Secretariat (Ms Adelina Mendoza) recalled that the cut-off date used in the report had been 28 September 2022, more than one month ahead of the deadline for 2021 imports notification, which falls on 31 October 2022. Hence, the latest datasets due from Members are 2022 tariffs, for which the deadline was 30 March 2022 while for imports, the latest outstanding year remains 2020, the datasets for which were due on 31 October 2021. The electronic copy of document G/MA/IDB/2/Rev.56, for all years from 1996, was also available for download from the site https://IDBFileExchange.wto.org. A "call to notify" email for 2021 imports, with a comprehensive list of all outstanding data, was sent to the Members concerned in early September 2022. For the statistics cited below, the cut-off date was 7 October 2022.

6.11. For 2022 applied tariffs, 55% (75 of 136 expected notifications) are already available. Based on all expected yearly notifications of Members from 1996, applied tariffs data are 82% complete. Of the 75 notifications for 2022 applied tariffs, 58 were official submissions, while the other 17 had been collected by the Secretariat from approved "framework sources". As to the inclusion of other applied tariffs, notably preferential rates, 52 submissions (or 69% of received notifications) included non-MFN duty schemes. Furthermore, four notifications had contained the optional additional import taxes. Overall, 50 Members, representing 37% of all notifying Members, now had a complete notification record on MFN applied tariffs. However, there remained 45 Members (33%) with six or more years of outstanding applied tariff data.

6.12. The 2021 imports were not yet due, hence the statistics below were still based on the notification of 2020 imports**,** due in October 2021. There were 61 notifications available, which represented 45% of the 136 expected notifications. All of these were notified as no framework dataset for 2020 was collected yet. Of these datasets, 41 of the expected 30% had been submitted by the 31 October 2021 deadline. Of the data on imports required for submission from notifying Members for the years 1996 to 2020, 75% were complete. For all data on imports due for those years, 47 Members, or 35% of notifying Members, had submitted their complete data. The number of Members with six or more years of data which were yet to be submitted was 52, representing 38% of notifying Members. On a positive note, there were already 28 Members that had notified their 2021 imports ahead of the deadline.

6.13. The number of recomposed tariffs, as provided for 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 35 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 the 30 March 2022 tariff deadline 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).

6.14. Overall, as of the same data cut-off point, 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 eight acceding countries (Algeria, Bahamas, Belarus, Bhutan, Comoros, Equatorial Guinea, Iran, and Serbia) have notified their data in the IDB, and this data has been disseminated via the online portals TAO and WTODATA.

6.15. The Automatic Data Notification Agreement with WTO Members is expected not only to lessen Member's notification burden, but also, simultaneously, to improve the timeliness and completeness of the IDB data. Furthermore, the Secretariat's data integration process can also be made more efficient through streamlined processes. The ASYCUDA modules on data extraction and integration are versatile enough and can easily be adapted for use in the customs offices of other WTO Members using ASYCUDA. The Secretariat would welcome discussion of this ADN-ASYCUDA model, which is already operational in a few countries, with other interested Members using ASYCUDA.

6.16. On PTA-TM data (Table 1), which are considered as required IDB notification, based on document G/MA/367, the 24 notifying Members (the EU-27 and the UK are counted separately from 2021 for tariffs, and Switzerland and Liechtenstein count as one) of the PTA, 17 Members have notified the required applied tariffs (MFN plus the PTA preferences), one Member notified only MFN without the preferential tariffs, and six Members have no applied tariff notification yet for 2022. On imports data with breakdown by the PTA-TM required duty scheme, there were 15 received out of 24 expected for 2020 (UK notifies imports separately from 2020) of which 2 Members had submitted just the regular imports data without the breakdown by PTA-TM duty scheme, and 7 Members had not yet submitted any of their data on imports. As stipulated in paragraph 5 of the new IDB decision, and to avoid multiple processing of data, the Secretariat will await the complete PTA-TM datasets (tariffs or imports) before integrating the notifications.

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

	Number			Per cent (%)		
	Applied MFN Tariff + PTA Preferences					
Data Notified	**2020**	**2021**	**2022**	**2020**	**2021**	**2022**
MFN Only	0	2	1	*0*	*8*	*4*
MFN + GSP/LDC (incl. Other PTAs) + Other Duty Schemes	21	18	17	*91*	*75*	*71*
No Notification	2	4	6	*9*	*17*	*25*
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	5	4	2	*22*	*17*	*8*
With PTA-TM breakdown	17	16	15	*74*	*70*	*63*
No notification	1	3	7	*4*	*13*	*29*
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. From 2021, UK tariffs were notified separately. The UK also made its own submission for its 2020 imports.

6.17. After the data cut-off point for document G/MA/IDB/2/Rev.56 on 28 September 2022, the following additional notifications had been received until 7 October 2022, excluding those indicated as preliminary, and when annual values could not be calculated from the data submitted: Nicaragua (2021 imports); and Panama (2022 MFN tariffs). One important information on the statistics calculated from data on imports published in the related IDB dissemination portals is that trade notified with invalid HS codes, specifically those starting with HS 98 or 99, are not included in the calculation of disseminated totals. Each country/year dataset is coherent and complete, in terms of the HS classification for both tariffs and imports if the latter is available. It has been noted that, for a few cases, the share of total trade for these HS codes outside of the standard HS chapters can be substantial, and at least 30%. Another related issue is when the partner economy or the source of the imported products is unidentified. For these cases, the totals include the imports from these unknown partners, although doing market access analysis on the main suppliers would pose

problems. A few of the Members with whom this issue has been raised have claimed national data secrecy laws (new or existing) that prohibit them from notifying data for eventual publication for which the individual enterprise engaged in importing the product could be identified.

6.18. Since the last meeting of the Market Access Committee, on 30 March 2022, the Secretariat had participated in the following technical assistance activities (regional and national) concerning the IDB/CTS data and related topics:

- eRTPC for Asia-Pacific Region on 16 June;
- ATPC – English (in-person) on 20-23 June;
- Programme du Cours d'introduction à la politique commerciale de l'OMC pour les PMA – French on 23 September;
- Paraguay on the HS2007 transposition file on 11 March;
- Cuba on the HS2017 transposition file on 16 May;
- Ecuador on tariff quotas in their CTS file on 25 May; and
- Sri Lanka – 2 meetings with Ambassador and capital experts on the HS2017 transposition file on 17 and 23 August.

6.19. The 2022 edition of the World Tariff Profiles was launched in July 2022, with special topics on preferential rules of origin in international trade and the use of NTMs on "green" and "brown" energy products. The number of downloads for the last two months since it was launched on 29 July is more than 43,600. The previous year's edition, WTP 2021, had been downloaded close to 178,000 times.

6.20. The representative of Canada indicated the following:

6.21. Canada has a question relating to Section 8 of the IDB decision, which is the framework for overcoming significant gaps in information. Is there any context or background that could be provided for the number of Members that have not submitted information in six years or more (e.g., the 45 number and 52 number in the chart), and any sort of effort that you have undertaken to try to close this gap? Canada assumes that six years would be a significant gap, but perhaps not for all. Canada would appreciate receiving any updates in this regard.

6.22. The representative of the WTO Secretariat (Ms Adelina Mendoza) replied that the Secretariat sent a "call to notify" to Members at least twice per year, including a list of their outstanding notifications. In addition, the Secretariat also looked at other available sources, such as the United Nations Comtrade Database. If data was available from that source, the Secretariat informed the Members concerned and requested their authorization to use it. If the Member agreed, the Secretariat could then source the data from such a "framework source". If Members did not reply, the Secretariat could not reproduce the data that was available in Comtrade and use it as the Member's official notification to the IDB. Indeed, the Secretariat had concluded certain framework agreements with Members whereby, once data was available from a framework source, it could be used by the Secretariat as an official IDB notification. The problem with significant gaps was that some of the data was not recent (i.e. "historical" data), and Members had already informed the Secretariat that they could not complete their notification. In these cases, while the data remained part of the statistics, the Secretariat removed it from the "call to notify" letter because Members were not able to provide the data.

6.23. The representative of Canada indicated the following:

6.24. Canada appreciates the Secretariat's efforts to identify sources of information. Canada also wonders if this is another example for Members that seem to have difficulties in submitting data. Maybe there is a way for further discussions to come back to the IDB decision about voluntarily having the Secretariat get the data via the internet. Canada has seen presentations about paragraph 8 of the Decision, and the way that the Secretariat is able to "scrape" the information from Members' available data sources to help them to produce the information required by the IDB decision. Canada encourages Members to reach out to the Secretariat, especially those that are having trouble in submitting their information, and those with six or more missing years. Again, this information is highly useful to all Members in terms of our analysis of trading patterns, to our own stakeholders, and to MSMEs in terms of the market access requirements that they may face in other markets, including that of your neighbours. The Secretariat is a great source of support for helping Members to access this information, And Canada encourages the Members concerned to reach out

to see if there are ways that they can be supported, especially with regard to the IDB data, which is essential to us all.

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

6.26. The United States echoes the comments that Canada has made, and wonders, in terms of context, if the Secretariat would comment on the reporting, including how it changes, and how compliance has changed since the more recent IDB decision versus the prior decision. The US' recollection is that the Decision was intended to help to facilitate improvements in reporting, and wonders about how this is going.

6.27. The representative of the WTO Secretariat (Ms Adelina Mendoza) replied that, indeed, compliance with the IDB notification had really improved under the 2019 Decision, especially for the most recent years. As mentioned previously, the big data gap was for the earlier years that were still included in the notification requirement. The Secretariat needed help to look up or complete the historical data from certain Members, as at that point, they probably had no technical capacity to look for their ancient data and notify them to the IDB. For the next meeting, the Secretariat might consider showing a reduced data period from, for example, 2008, or 1996, to have a better understanding of how the notification compliance had really improved, even if this also formed part of the trade policy report for which the Secretariat and Members had yearly data from 1996.

6.28. The representative of Namibia indicated the following:

6.29. Namibia's comment, or question, is more closely aligned to that raised earlier by Canada, specifically on the frequency in terms of the notification reminders that the Secretariat has to make to member States. Namibia considers that it is very important that this be done in order to remind Members to submit their outstanding notifications. Namibia wished also to comment on the Comtrade. In this regard, Namibia's worry is that there are institutions that are mandated to supply statistics; for example, Namibia has the Namibia Statistics Agency, with the mandate to supply data both on import/export as well as other economic figures or indicators. Namibia wishes to know to what extent the Secretariat normally uses the Comtrade data. In Namibia's view, this data is mostly mirrored and does not represent the actual import figures for member States. For this reason, Namibia wished to seek the Secretariat's clarification on this point.

6.30. The representative of the WTO Secretariat (Ms Adelina Mendoza) clarified that, whatever data was included in the IDB was officially approved by the Member concerned. In other words, even if the source was Comtrade, the Secretariat did not include any data that had not been officially approved by the Member itself. If the data was from Comtrade, the Secretariat still sent out a letter to the Capital, through the mission in Geneva, informing them that the data had been sourced from Comtrade, that it mostly reflected imports, and if the Member wished to comment. In fact, the Secretariat did not include anything that the Member had indicated was not representative, or that did not reflect the import data of that Member. Therefore, everything that was in the IDB had been officially approved by the Member insofar as no comment had been received by the Secretariat within 30 days of it having sent out its letter. After this deadline, the data became public and was disseminated. She also mentioned that the automatic data notifications pursuant to paragraph 8 of the IDB Decision had proven to be quite successful for those Members that had agreed it, and it had really lessened the burden on Capitals, as well as ensuring the timely availability of data. Furthermore, it added significant value to the IDB, as well as to other stakeholders that depended on the database for their analytical needs.

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

6.3 List of Members' official websites with tariff information and import statistics

6.32. 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 seventh revision of this document had been prepared by the Secretariat. In this regard, the Secretariat had consulted

with Members informally prior to circulating this seventh revision, in document G/MA/IDB/W/13/Rev.7, which was also available on the WTO website.[13]

6.33. The Secretariat (Mr Simon Neumueller) thanked Members for providing updates to the document. This information was also included in the WTO webpage and could easily be found and accessed by everybody. He encouraged Members to inform the Secretariat of any change so that this information could be kept up to date.

6.34. The Chairperson reminded delegations to test the links and inform the Secretariat as soon as possible of any change, in particular where information was missing, so that the information could be kept up to date.

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

6.4 Status of the CTS database

6.36. The Chairperson drew the Committee's attention to the Secretariat's report on the status of the CTS database. A full version of the Secretariat's report and presentation had been made available as room documents[14] and on eAgenda and would be incorporated into the minutes of the meeting.

6.37. The Secretariat (Ms Alya Belkhodja) reported that the Secretariat had made CTS files available to all Members on the TAO.[15] Out of the 135 CTS files, 62 had been made available in HS2017, 41 in HS2012, 17 in HS2007, 13 in HS2002, and two remained in HS96. All legal instruments were available through the Goods Schedule e-Library (https://goods-schedules.wto.org/).

6.38. 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 the Uruguay Round Schedule of concessions. An updated version of the CTS Excel files had been posted to TAO on 4 October 2022.

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

6.40. The Committee took note of the Secretariat report.

7 DERESTRICTION OF THE URUGUAY ROUND NEGOTIATING MATERIALS – DRAFT DECISION

7.1. The Chairperson reminded Members that the Committee had started discussing the possible derestriction of the Uruguay Round bilateral negotiating material in January 2021. The documents proposed for derestriction had been circulated by the Secretariat on 26 April 2021, and Members had originally been given until 31 October 2021 to review the documents before the Committee could take a decision regarding their derestriction.

7.2. At the Committee's informal meeting of 27 June 2022, Members had indicated that they were in favour of the overall derestriction and had agreed to proceed on the basis of the "Procedures for the Uruguay Round Derestriction process", circulated in document G/MA/W/176/Rev.1. Based on these procedures, Members had been given until 23 September 2022 to review the documents and inform the Secretariat of which documents, if any, should remain restricted. After the deadline, the Secretariat had updated the draft Decision to reflect in the Annex only the documents that Members had authorized for derestriction. The revised draft decision with the final list of documents proposed for derestriction had been circulated in document G/MA/W/177/Rev.1.

7.3. The Chairperson noted that, after circulation of the revised draft decision, the Secretariat had been contacted by one delegation that requested that certain documents remained restricted. The

[13] https://www.wto.org/english/tratop_e/markacc_e/tariffandimpofwebsites_e.htm
[14] Documents RD/MA/104 and RD/MA/106.
[15] https://tao.wto.org

Secretariat would therefore proceed to issue a second revision of the draft decision before it was sent to the General Council, through the Council for Trade in Goods, for appropriate action. He clarified that no document would be derestricted before the General Council had adopted the draft decision.

7.4. The Chairperson therefore proposed that the Committee adopt the draft decision on the derestriction of the Uruguay Round negotiating materials on the basis of document G/MA/W/177/Rev.1. After the meeting, the Secretariat would prepare a second revision to remove the documents of the concerned delegation and would send it by email to all Members, indicating a time-period in which Members could review the document and submit their comments. In the absence of any comments from Members within the deadline indicated by the Secretariat in its communication, the revised decision would be circulated as document G/MA/W/177/Rev.2 and forwarded to the General Council, through the Council for Trade in Goods, for appropriate action.

7.5. The representative of Canada indicated the following:

7.6. Yes, it can be agreed from Canada's perspective. Nevertheless, Canada will probably join that other delegation in requesting a document or two to be removed from the list of those documents to be included. Canada will communicate this to the Secretariat separately.

7.7. The representative of South Africa indicated the following:

7.8. Along the same lines as Canada, South Africa requests the Chairperson to make a slight amendment to his conclusion by saying that any Member may submit any request prior to the GC meeting, and that such request would also be taken into account in the final version.

7.9. The WTO Secretariat (Ms Roberta Lascari) clarified that, before going to the General Council, the draft decision, if approved by the CMA, would then go to the Council for Trade in Goods for appropriate action. As the CTG was scheduled to meet on 24-25 November 2022, she requested Members to send any request for modification of the documents listed in the Annex of the draft decision to the Secretariat by 23 November 2022.

7.10. The WTO Secretariat (Mr Roy Santana) reminded Members that GC meetings were very complicated and encouraged them not to leave such requests up to that moment because it became very difficult to handle them at that point, and ran the risk of actually prolonging the meeting scheduled to take place on 19 and 20 December. But if it could be agreed before then it would be easier to handle for everyone.

7.11. The representative of India indicated the following:

7.12. India has confirmed that it does not have any objections to the derestriction of the Uruguay Round negotiating materials and the process adopted for this draft decision.

7.13. The representative of Indonesia indicated the following:

7.14. Indonesia wishes to join the decision but expresses its support to the document being open for endorsement at later stage by Members who may still need more time to conduct their internal consultations on this matter.

7.15. The Chairperson proposed that the Committee adopt the decision as reproduced in document G/MA/W/177/Rev.1.

7.16. It was so agreed.[16]

[16] The General Council Decision was adopted on 20 December 2022 and circulated in document WT/L/1159.

8 NOTIFICATIONS PURSUANT TO THE DECISION ON NOTIFICATION PROCEDURES FOR QUANTITATIVE RESTRICTIONS

8.1. The Chairperson drew Members' attention to the notifications of quantitative restrictions (QRs) from 20 Members, of which two were first-time notifications, and noted that many of these notifications related to full notifications for the biennial period 2022-2024. He thanked those delegations that had sent their notifications by the deadline of 30 September 2022, as well as those that had sent their notifications after the agenda of the meeting had closed, for complying with this important transparency obligation. 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 26 October 2022 to inform the Secretariat accordingly.

8.1 Notifications

– *Argentina (G/MA/QR/N/ARG/3)*

8.2. The Chairperson drew Members' attention to a new complete notification from Argentina for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/ARG/3. The notification contained information on a temporary suspension of a measure introduced in response to COVID-19.

8.3. The Committee took note of this notification.

– *Australia (G/MA/QR/N/AUS/5/ADD.4, G/MA/QR/N/AUS/6)*

8.4. The Chairperson drew Members' attention to two new notifications from Australia that had been circulated in documents G/MA/QR/N/AUS/5/Add.4 and G/MA/QR/N/AUS/6. The latter notification was Australia's complete notification for the biennial period 2022-2024.

8.5. The Committee took note of these notifications.

– *Cambodia (G/MA/QR/N/KHM/1/ADD.1)*

8.6. The Chairperson drew Members' attention to a new notification from Cambodia that had been circulated in document G/MA/QR/N/KHM/1/Add.1 and related to the termination of measures introduced in response to COVID-19.

8.7. The representative of Canada indicated the following:

8.8. Canada thanks Cambodia for providing this notification of their termination of measures. That is one of the discussions that we have been having over the past years about the use of export restrictions, in this context regarding the use of QRs, and the importance not only just of notifying them when they are put into effect, but also providing information when they are rescinded or taken out. It is a very good practice.

8.9. The Committee took note of this notification.

– *Canada (G/MA/QR/N/CAN/4/ADD.3, G/MA/QR/N/CAN/5)*

8.10. The Chairperson drew Members' attention to two new notifications from Canada that had been circulated in documents G/MA/QR/N/CAN/4/Add.3 and G/MA/QR/N/CAN/5. The second notification was Canada's complete notification for the biennial period 2022-2024.

8.11. The representative of Canada indicated the following:

8.12. Canada is a strong advocate for enhancing transparency by improving notification compliance. As such, I would like to share with the Committee Canada's experience in updating its quantitative restriction notification for the 2022 cycle. Our objective continues to be to provide the most useful information possible for Members and other users of the notifications. In that respect, I would like

to thank the Secretariat for its ongoing support, including the tools and databases it presented to Committee delegates during the workshop in September 2021. My colleagues in Ottawa used them extensively as they worked with a number of other Canadian Ministries on an extensive exercise to improve Canada's QR notification.

8.13. This work included: Using the QR and multilateral environmental agreement (MEA) databases provided by the WTO, we compared Canada's prior notification to those submitted by other Members, such as New Zealand, Australia, Singapore, and the EU, with an eye to copying the best practices from each. This process guided some of our decisions to separate or consolidate certain items, and to remove SPS-based restrictions that were previously included as QRs. In the first instance, following the practice of other Members, Canada combined into one item restrictions on: the exportation of certain industrial chemicals; the importation of certain toxic substances; and the importation of unapproved pest control products. For this, we also considered that the three measures had the same WTO justification, and that there was a significant overlap of HS codes for products subject to restriction. In the second example, we deleted references to restrictions on human pathogens and on food for human consumption because they are SPS restrictions that we did not believe should be considered as QRs and therefore should not be part of this notification.

8.14. The second part of this work included using the WCO Interconnection Table to identify items within the scope of MEAs like the Rotterdam, Stockholm, and Basel Conventions, as well as the Montreal Protocol. This database helped Canada to identify and list all affected HS codes, improving transparency as opposed to simply indicating "various" as is a common practice that many Members, including Canada, have used in the past. This process also led us to include in the notification several new measures based on international agreements and MEAs, such as the three individual UN Conventions on Narcotics, Psychotropics, and Precursors; the Convention for the Conservation of Anadromous Fish Stocks; the Convention for the Conservation of Atlantic Tuna and Swordfish; and the Commission for the Conservation of Antarctic Marine Living Resources.

8.15. Lastly, Canada conducted extensive consultations with relevant departments in the government. Following the initial work to update and improve Canada's QR notification, Global Affairs Canada used its interdepartmental network to share the notification broadly asking for review and further input. This coordination with other departments brought several new and necessary changes to light that otherwise would not have been identified. For example, we deleted the reference to Canadian steel safeguards, and we were able to provide additional detail on the supporting domestic legislation for certain restrictions, and clarified the scope of several other restrictions, including those on diamonds, industrial chemicals, hazardous waste, ozone depleting substances, and mercury compounds.

8.16. Canada looks forward to continuing to engage on this initiative and encourages Members to review, improve, and submit their quantitative restrictions notification in a timely manner. The process to review and update the notification was challenging and took almost a year and a half to complete. But we are convinced that this effort was worth it. We believe it has resulted in an improvement in both the quality and the comprehensiveness of the information Canada provides. A number of challenges ranged from the identification of relevant officials in the various government ministries that needed to be engaged, to explain what was required to be done, and why, and to convincing them to make our requests a priority. We recognize that preparing notifications requires time and a significant effort from a number of ministries and agencies. In the end, however, it is clear that the coordination required within and across organizations contributes to better information sharing and can increase policy coherence. Even in submitting our fifth full notification, we are aware of a few areas where further improvements can be made and will be working on them before submitting our sixth full notification. We will also continue to consider how best to keep our domestic contact lists up to date and ensure we notify all new restrictions as well within the six-month period as provided in the QR Decision.

8.17. The Committee took note of these notifications.

– *China (G/MA/QR/N/CHN/6)*

8.18. The Chairperson drew Members' attention to a new complete notification from China for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/CHN/6.

8.19. The Committee took note of this notification.

– *European Union (G/MA/QR/N/EU/6)*

8.20. The Chairperson drew Members' attention to a new complete notification from the European Union for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/EU/6.

8.21. The Committee took note of this notification.

– *Hong Kong, China (G/MA/QR/N/HKG/5/ADD.1)*

8.22. The Chairperson drew Members' attention to a new notification from Hong Kong, China that had been circulated in document G/MA/QR/N/HKG/5/Add.1.

8.23. The Committee took note of this notification.

– *Israel (G/MA/QR/N/ISR/2)*

8.24. The Chairperson drew Members' attention to a new complete notification from Israel for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/ISR/2.

8.25. The Committee took note of this notification.

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

8.26. The Chairperson drew Members' attention to two new notifications from the Republic of Korea in documents G/MA/QR/N/KOR/3/Add.3 and G/MA/QR/N/KOR/4. The second notification was Korea's complete notification for the biennial period 2022-2024.

8.27. The Committee took note of these notifications.

– *Kyrgyz Republic (G/MA/QR/N/KGZ/1/ADD.16, G/MA/QR/N/KGZ/1/ADD.17)*

8.28. The Chairperson drew Members' attention to two new notifications from the Kyrgyz Republic that had been circulated in documents G/MA/QR/N/KGZ/1/Add.16 and G/MA/QR/N/KGZ/1/Add.17.

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

8.30. The Kyrgyz Republic wishes to inform the Secretariat that the QR measures contained in notification G/MA/QR/N/KGZ/1/Add.16 on certain types of agricultural products outside of the customs territory of the Eurasian Economic Union and outside the territory of the Kyrgyz Republic expired on 19 September 2022, after being in force for six months, in accordance with the decree of the Cabinet of Ministers of the Kyrgyz Republic No. 140.

8.31. The Committee took note of these notifications.

– *Macao, China (G/MA/QR/N/MAC/6)*

8.32. The Chairperson drew Members' attention to a new complete notification from Macao, China for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/MAC/6.

8.33. The Committee took note of this notification.

– *Mali (G/MA/QR/N/MLI/2)*

8.34. The Chairperson drew Members' attention to a new notification from Mali that had been circulated in document G/MA/QR/N/MLI/2. On behalf of the Committee, he congratulated Mali for its efforts to provide a comprehensive and improved notification as compared to its first QR notification circulated in 2013.

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

8.36. The European Union thanks all Members that have submitted both *ad hoc* notifications and their biennial notification for 2022-2024. Many thanks to Canada for sharing its experience, acknowledging both the challenges in preparing a QR notification, but also highlighting the benefits associated with that. We would like to express particular appreciation to Mali and Nepal, who have provided a notification for 2022-2024 which also includes information covering prior biennial periods. Acknowledging their status as LDCs, we are particularly grateful for this transparency effort. Lastly, we would like to thank the Secretariat as the team has been helpful to the EU as it prepares its own notification for 2022-2024. The EU would encourage Members with questions, or who need assistance, to prepare their notification and to contact the Secretariat as the Secretariat team is a very useful source of advice and support.

8.37. The Committee took note of this notification and the statement made.

– *Mauritius (G/MA/QR/N/MUS/6)*

8.38. The Chairperson drew Members' attention to a new complete notification from Mauritius for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/MUS/6, and which contained measures introduced in response to COVID-19.

8.39. The Committee took note of this notification.

– *Moldova, Republic of (G/MA/QR/N/MDA/2/ADD.3)*

8.40. The Chairperson drew Members' attention to a new notification by the Republic of Moldova that had been circulated in document G/MA/QR/N/MDA/2/Add.3, and which related to the termination of measures introduced in response to COVID-19.

8.41. The Committee took note of this notification.

– *Nepal (G/MA/QR/N/NPL/1)*

8.42. The Chairperson drew Members' attention to a new notification from Nepal in document G/MA/QR/N/NPL/1. On behalf of the Committee, he thanked Nepal for its first notification and for complying with this important transparency obligation.

8.43. The Committee took note of this notification.

– *The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (G/MA/QR/N/TPKM/5)*

8.44. The Chairperson drew Members' attention to a new complete notification from Chinese Taipei for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/TPKM/5.

8.45. 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, 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, G/MA/QR/N/THA/2/ADD.7)*

8.46. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by Thailand 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 three new notifications, which had been circulated in documents G/MA/QR/N/THA/2/Add.5- G/MA/QR/N/THA/2/Add.7. Addendum 6 contained measures introduced in response to COVID-19.

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

8.48. As noted in previous meetings, Thailand's import licensing requirements for feed wheat should have been included in Thailand's QR notification. In the EU's view, these requirements are indeed non-automatic licensing requirements. The EU encourages Thailand to provide its next biennial QR notification as soon as possible.

8.49. The European Union also reiterates its long-standing deep concerns on the import procedures for feed wheat, including the local corn purchase requirement, introduced by Thailand in 2016. These have been in place for more than six years, although they are presented as being of "temporary nature", and remain despite the increase in average domestic corn prices over recent years. The EU refers to the detailed points raised in the last meeting of the Committee on Import Licensing and encourages Thailand to address the concerns that the EU has repeatedly expressed.

8.50. The representative of Thailand indicated the following:

8.51. Thailand thanks the European Union for its continued interest in Thailand's import policies on feed wheat. Thailand takes good note of the concerns raised by the EU today, as well as those raised in the last meeting of the Committee on Import Licensing, of 7 October 2022, which have already been conveyed to Capital. Thailand wishes to refer to its statement delivered at the most recent meeting of the Committee on Import Licensing, and reiterates that the reviews on feed wheat import measures are still ongoing. Thailand would also like to take this opportunity to inform Members, and the Secretariat, that it submitted its biennial QR notification for 2022-2024 on 30 September 2022, which also covers the previous biennial period. Thailand requests the Secretariat to reflect this under this agenda item.

8.52. The Chairperson asked the European Union to clarify whether it had comments on the most recent addenda submitted by Thailand, which had been circulated in documents G/MA/QR/N/THA/2/Add.5-G/MA/QR/N/THA/2/Add.7, and if the Committee could take note of them at its present meeting, or if it should revert to them at the next meeting.

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

8.54. The European Union will discuss these issues with the Secretariat.

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

– *Ukraine (G/MA/QR/N/UKR/5/ADD.2, G/MA/QR/N/UKR/5/ADD.3, G/MA/QR/N/UKR/5/ADD.4, G/MA/QR/N/UKR/5/ADD.5, G/MA/QR/N/UKR/5/ADD.6, G/MA/QR/N/UKR/5/ADD.7, G/MA/QR/N/UKR/5/ADD.8, G/MA/QR/N/UKR/5/ADD.9, G/MA/QR/N/UKR/6)*

8.56. The Chairperson drew Members' attention to nine new notifications from Ukraine, which had been circulated in documents G/MA/QR/N/UKR/5/Add.2- G/MA/QR/N/UKR/5/Add.9, and document G/MA/QR/N/UKR/6. The latter notification was Ukraine's complete notification for the biennial period 2022-2024.

8.57. The representative of Ukraine indicated the following:

8.58. Ukraine would like to inform Members of its activity on these issues. Ukraine remains transparent on its measures through the WTO. Despite Russia's ongoing war of aggression against Ukraine, our country continues to fulfil its notification obligations to demonstrate its commitment to the fundamental rules of this Organization and to ensure the transparency of measures adopted by the Government of Ukraine under martial law.

8.59. The introduction of restrictions on exports of certain agricultural and other products was a step necessary to ensure national food and economic security. At the same time, such export restricting measures are regularly reviewed and, to the extent possible, replaced by less restrictive ones, or abolished altogether. At present, there are no quantitative restrictions on major items of Ukraine's agricultural exports, such as sunflower oil, corn, rape, wheat, sunflower seeds, poultry, soybeans, and barley.

8.60. The "grain corridor" established by the Black Sea Grain Initiative allowed Ukraine to resume sea grain exports. Since its launch in August 2022, 350 vessels, with almost 7.8 million tonnes of food onboard, left Ukrainian seaports destined for Asia, Europe, and Africa. Ukraine continues working with the UN World Food Programme, and other partners, to increase the amount of food sent to those countries that need it most. Ukraine has also decided to provide humanitarian aid to Ethiopia and Somalia, sending them an additional amount of grain. Ukraine believes that the extension of the Black Sea Grain Initiative will contribute to the stabilization of food prices, thereby counteracting the threat of global hunger.

8.61. Ukraine is grateful to the 143 states that supported the UN General Assembly Resolution that condemns Russia's annexation of four regions of Ukraine, for the overwhelming and unwavering support for Ukraine at the UN and beyond, and for the strong solidarity in resolute opposition to Russia's ongoing war against Ukraine and its people. Ukraine is also very grateful to all Members that stand with it in this most distressing time, and for the comprehensive economic, military, humanitarian, and financial support it has received in countering the Russian military invasion and contributing to the efforts to end this war.

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

8.63. The United States reiterates its condemnation of Russia's brutal, unprovoked, and unjustified war of aggression against Ukraine. In particular, we condemn Russia's most recent horrific strikes against Ukrainian civilian targets. Russia has specifically targeted playgrounds, universities, and apartment buildings, intending to destroy Ukraine's power grids and heating infrastructure.

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

8.65. The Russian Federation wishes to raise a point of order because, in its view, the US delegation's remarks have nothing to do with both the Terms of Reference of the present Committee, and nor with the meeting's agenda.

8.66. The Chairperson explained that it was not possible to ask a Member to stop their intervention, and requested the United States to continue.

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

8.68. The Russian Federation wishes to ask the Chairperson if he then agrees that the US delegation's remarks fall under the Terms of Reference of the Committee on Market Access. As Russia has stated numerous times, discussions on the situation in Ukraine, security concerns, and UN Charter enforcement or compliance, evidently go beyond the Terms of Reference of the Committee on Market Access. And Canada's delegate reminded us earlier today that there is such a document called the "Terms of Reference of the Committee", and that we need to be mindful of it. I think that we need to be mindful of this document not just at the beginning of the meeting, but also throughout the meeting itself.

8.69. The Chairperson explained that the United States had requested the floor under Agenda Item 8 in respect of the QR notifications of Ukraine. The Russian Federation had taken the floor to recall the terms of reference of the Committee. In this respect, he recalled that the Committee's terms of reference included "conducting the updating and analysis of the documentation on quantitative restrictions". For this reason, he returned the floor to the United States to hear if they had comments with respect to the notifications of Ukraine.

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

8.71. The United States would like to commend Ukraine on its QR notifications. We applaud Ukraine for the transparency that is provided through these notifications as a result of the measures it was forced to impose in response to Russia's brutal, unprovoked and unjustified war of aggression against Ukraine and despite the horrific barrage of Russian missiles raining down on civilian infrastructure, far from the front lines of that war. Russia is solely responsible for the catastrophic loss of life and human suffering in Ukraine, and for raising threats to food security around the world, particularly in developing countries. Russia is responsible for the measures that Ukraine notified in these QR notifications. The United States will continue to support Ukraine's courageous effort to defend

itself, uphold its territorial integrity, and protect its population, and we applaud Ukraine for its commitment to transparency in this body, in light of all that it faces.

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

8.73. The European Union also acknowledges and commends Ukraine for its effort and commitment to transparency, including through submitting several *ad hoc* notifications, and submitting its latest biennial notification. This, even at a time when the country continues to suffer daily from Russia's unprovoked and unjustified aggression. We would like to express again the full solidarity of the EU and its member States with Ukraine and its people. This commitment to transparency and to following the WTO's rules, even in these extremely difficult circumstances, also highlights the continued and fundamental importance of the rules-based international trading system, based on the international law, which Russia continues to undermine every day with its war of aggression.

8.74. The representative of New Zealand indicated the following:

8.75. New Zealand acknowledges the points made on keeping in mind the relevance of the discussion to the work of this committee. We do believe it is in the rights of Members to respond to this agenda item and express solidarity for Ukraine in view of the current circumstances that they face in meeting their WTO obligations. We cannot ignore the impact of Russia's invasion on Ukraine's ability to participate in global trade, nor can we exclude this fact in assessing Members' trade notifications and policies here at the WTO. It is relevant that we can acknowledge the context in which Members are notifying their trade measures.

8.76. In this regard, New Zealand would like to thank Ukraine for its recent QR notifications, and its efforts to maintain its WTO obligations, despite the devastating impacts and ongoing disruptions from Russia's illegal war in Ukraine, which New Zealand continues to condemn in the strongest possible terms. It is important to hear here Ukraine's endeavours to refrain from imposing restrictions on necessary commodities such as agricultural goods, and efforts to regain access to ports to ensure necessary goods are able to get to places where they are needed the most. We continue to call on Russia to do their part and uphold international obligations by ceasing its invasion of Ukraine, withdrawing its troops, and returning to diplomatic negotiations as a pathway to a resolution of the conflict.

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

8.78. The United Kingdom would like to commend and thank Ukraine for its continued efforts to notify its quantitative restrictions to this Committee, especially given the incredibly difficult and challenging circumstances of the last eight months, since Russia's illegal invasion and more recently annexation of parts of Ukrainian territory. We would like to highlight the impact for market access for Ukraine, and for the rest of the world, resulting from these illegal actions. We will revert with further comments on this under another agenda item.

8.79. Given the important transparency element of QR notifications that we have been discussing, we do feel that it is important and relevant to commend Ukraine's submission, which we welcome. The United Kingdom will continue to support Ukraine to counter this invasion, and work with other like-minded countries on this. We thank Ukraine again for its adherence to transparency.

8.80. The representative of Canada indicated the following:

8.81. Canada thanks Ukraine for its updated quantitative restriction notification and the report on the circumstances affecting its participation in the multilateral trading system. In this regard, Canada condemns Russia's most recent missile strikes against civilian infrastructure and cities across Ukraine in the strongest possible terms. Russia's unprovoked and unjustifiable invasion of Ukraine is not only a blatant violation of international law and the rules-based international system, it is a constant threat to Ukraine's participation at the WTO and is therefore germane to any discussion regarding Ukraine. Canada stands in our unwavering support for Ukraine's right to defend itself against Russia's war of aggression.

8.82. The representative of Norway indicated the following:

8.83. Norway would also like to thank Ukraine and commend them for fulfilling their notification obligations despite the very difficult circumstances created by Russia's ongoing aggressive military annexation. Norway continues to condemn Russia's miliary aggression against Ukraine in the strongest possible terms. I reiterate Norway's unwavering support for Ukraine's sovereignty and territorial integrity within its internationally recognized borders.

8.84. The representative of Switzerland indicated the following:

8.85. First of all, the statement of my delegation is in accordance with the mandate of this committee and linked to Ukraine's notifications. Some measures of Ukraine have been liberalized and many countries had to receive agricultural products that they depend on. We thank Ukraine for its transparency efforts with its recent notification despite current difficulties. Similar to other delegations, we condemn the illegal military aggression of Russia against Ukraine in a very firm manner. This military attack is a violation of international law, in particular, the ban on using force and the principle of the territorial integrity of states.

8.86. Switzerland calls upon Russia to take military de-escalation measures to cease hostilities and to immediately withdraw its troops from Ukrainian territory. In addition, Switzerland calls on all parties to abide by international law, in particular, international humanitarian law. Attacks against civilians or civilian infrastructure are banned and must cease immediately. Lastly, Switzerland will in no case acknowledge the illegal referendums that were recently organized. These referendums are a violation of Ukraine's territorial integrity.

8.87. The representative of Japan indicated the following:

8.88. Japan thanks Ukraine for its notification and for sharing its information. Given that this effort is relevant to the work of this committee, we appreciate Ukraine's commitment to transparency despite the current circumstances. We would like to echo our colleagues in condemning Russia. Japan has condemned Russia's aggression against Ukraine in the strongest terms, as it clearly infringes upon Ukraine's sovereignty and territorial integrity, constitutes a serious violation of international law prohibiting the use of force, and is a grave breach of the United Nations Charter. Japan has also strongly urged Russia to cease the attack and withdraw its forces back to Russian territory immediately. Together with the international community, Japan stands in solidarity with Ukraine and its people.

8.89. The representative of Australia indicated the following:

8.90. Australia would like to thank Ukraine for its notification and its update to the Committee. We acknowledge the challenging and difficult circumstances in which Ukraine has submitted its notifications and shown its commitment to WTO transparency. We also want to note, in particular, of Ukraine's update on its engagement with the World Food Programme, and its aid to Somalia and Ethiopia.

8.91. In this broader context, Australia would like to echo others and reiterate our condemnation of Russia's illegal invasion of Ukraine, which is a gross violation of international law, including the Charter of the United Nations. Australia strongly supports Ukraine's sovereignty and territorial integrity, and again calls on Russia to cease its attacks. Russia's war on Ukraine is exacting a catastrophic humanitarian toll, in addition to the food crisis. Australia also joins other Members in condemning Russia's illegal annexation of the regions of Luhansk, Donetsk, Kherson, and Zaporizhzhia in Ukraine.

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

8.93. The Republic of Korea thanks Ukraine for its QR notifications and its statements today. In particular, Korea would like to commend Ukraine for making its upmost effort to enhance transparency by submitting its notifications under a devastating situation. Korea also wishes to echo several previous speakers. Russia's invasion of Ukraine aggravates the global supply chain situation in many areas, posing a significant threat to the rules-based global trade order under the WTO. The way to end all of this is obvious, namely for Russia to stop its military action in Ukraine.

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

8.95. It is symptomatic that delegations that have just taken the floor once again decided to violate the Rules of Procedure and the Terms of Reference of the present Committee to remind the membership that the WTO is a rules-based system and about their position on the special military operation in Ukraine.

8.96. In this regard I kindly remind you, Mr Chairman, about your right – that you keep ignoring – stipulated by Rule 17 of the Rules of Procedure to call the speaker to order if their remarks are not relevant for the meeting. I would also like to recall that Rule 27 of the Rules of Procedure prescribes that delegates should avoid repetition of statements on issues that have already been raised before. The positions of the delegations on the situation in Ukraine have been voiced multiple times and have not changed. Repeating them over and over again in this body detracts from our joint work. Once again, discussions on the situation in Russia, security concerns, UN Charter enforcement or compliance evidently goes beyond the Terms of Reference of the present Committee. Russia is ready to discuss, and is discussing, issues around its special military operation in Ukraine in the specialized UN bodies and agencies.

8.97. Regarding the allegation on food, fertilizer, and the energy crisis, as Russia stated numerous times on various occasions, the significant contributing factor to the current global price level is unilateral trade restrictive measures introduced against Russia. Contrary to the regional security situation, unilateral trade restrictive measures fall under the Terms of Reference of the Committee on Market Access. This is why we decided to introduce a dedicated agenda item on this issue. We will explain this in more detail under the dedicated item that Russia placed on the agenda of our current CMA meeting. On the issue of referenda, we expressed our position clearly during the recent meeting of the General Council.

8.98. The Committee took note of the notifications and the statements made.

– *United Kingdom (G/MA/QR/N/GBR/1/ADD.2, G/MA/QR/N/GBR/1/ADD.3, G/MA/QR/N/GBR/2)*

8.99. The Chairperson drew Members' attention to three new notifications from the United Kingdom that had been circulated in documents G/MA/QR/N/GBR/1/Add.2-G/MA/QR/N/GBR/1/Add.3 and G/MA/QR/N/GBR/2. The second notification was the UK's complete notification for the biennial period 2022-2024. Both notifications contained information on a modified measure in relation to COVID-19.

8.100. The Committee took note of the notifications.

– *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/QR/N/USA/6, G/MA/W/116, G/MA/W/127)*

8.101. 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-G/MA/QR/N/USA/5/Add.3. Since then, the United States had submitted its complete notification for the biennial period 2022-2024, which had been circulated in document G/MA/QR/N/USA/6. 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.

8.102. The representative of China indicated the following:

8.103. As mentioned in previous CMA formal meetings, China has concerns about the import quotas on steel and aluminium products under Section 232 which has been reflected in the notification circulated as documents G/MA/QR/N/USA/4 and G/MA/QR/N/USA/5. China believes that such measures are inconsistent with the provisions of Article XI and Article XXI of the GATT 1994. China had requested the US to provide detailed information and clarification of these measures, but there has been no substantial response from the US.

8.104. Even more regrettable, such measures also appeared in the latest notification document G/MA/QR/N/USA/6. We would like to reiterate our prior request that the US provide details

on the import quota measures, including the volume of quotas received by Members such as the Republic of Korea, Argentina, and Brazil, as well as the conditions for obtaining quotas. We also want the US to explain how quotas can address the so-called "national security" concerns.

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

8.106. We take note of the comments and questions raised by China regarding the WTO consistency of the Section 232 quotas on steel and aluminium. The United States has been evoking Article XXI(b) of the GATT 1994, and the actions are therefore wholly consistent with the WTO. Regarding the questions related to the operations of the quotas, we refer Members to the relevant proclamations issued under Section 232 and to the quota implementation information published on the website of US Customs and Border Protection. Furthermore, we note that China has raised this issue separately on the agenda, where we can provide a further statement.

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

8.2 Report from the Secretariat

8.108. The Chairperson drew Members' attention to document G/MA/QR/12 entitled "Status of Notifications under the Decision on Notification Procedures for Quantitative Restrictions", where the Secretariat had summarized the status of QR notifications as of 13 October 2022. The document showed that the situation had slightly improved with respect to previous years, in particular for the biennial periods 2018-2020 and 2020-2022. The submission of notifications relating to COVID-19 restrictions partly explained this increase. However, he observed that the overall compliance with the QR notification requirement remained relatively low.

8.109. Even though the number and quality of notifications had improved over the past years, the vast majority of Members had not yet, or had never, provided information on the different trade restrictions that they maintained. There were also several Members that had notified measures introduced in response to the COVID-19 pandemic, and which had indicated that they would submit a complete notification with all measures at a later date, although many of them had not yet done so.

8.110. Given the benefit of enhanced transparency in the context of the COVID-19 pandemic, and how the information provided under the QR decision could help Members to have a clearer understanding of the related trade, he encouraged Members to comply with the QR Decision and contact the Secretariat in case they needed technical assistance to do so. Additional tools and resources, such as the QR database, the Secretariat reports, or training options, also played an important role in improving the notification compliance.

8.111. The representative of Hong Kong, China indicated the following:

8.112. We have submitted our QR notification for the biennial period of 2022-2024 but this is not reflected in the report. We will follow up with the Secretariat after the meeting to see if the report will be updated.

8.113. The representative of Canada indicated the following:

8.114. Please take these comments in the context of my delegation's sincere and thankful appreciation for the efforts that the Secretariat and all its employees do to provide these reports and do the work, day to day, that keep us informed, and help us to do our job. I know that there is a lot going on these days. This is one of a few reports on the agenda today that were issued yesterday. I am not looking to lay any fault or blame here because, as I just said, I know that there is a lot going on and a lot of Members have a lot of other work going on. I just want to raise it as a point of systemic concern, and it applies to Members as well because they are not always timely in terms of submitting their documentation in advance of meetings. I raise it today to call attention to a discussion that is starting in the Council for Trade in Goods. This is one of those items that I suspect we will hear about during that discussion in terms of helping and empowering delegates to do the best that they can in terms of their work and the continuum of their work to contribute to substantive discussion in these committees. I don't have any specific comments, I have not read

the document, but I did want to mention this, more to raise it as a concern, but also to highlight the need for Members to participate in that CTG process and speak and think of ways that we can all improve, Members and the Secretariat, in terms of providing information in time so that delegates have a chance to examine it, consult with capital, and provide substantive comments here, as appropriate. Again, I share my great appreciation of the work that the Secretariat does, helping us delegates here to do our work. I do not want it to be taken in any other light.

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

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

9.1. The Chairperson recalled that there were three issues listed under this agenda item. The first issue concerned the updated list of all notifications and communications relating to the COVID-19 pandemic, which had been submitted by Members to this Committee as of 12 October 2022, and as contained in document G/MA/W/157/Rev.5. The second item concerned the revised summary report on export restrictions and prohibitions and trade easing measures relating to the COVID-19 pandemic, which had been circulated in document G/MA/W/168/Rev.3. The third item related to two communications submitted by Canada, which had been circulated in documents G/MA/W/178 and G/MA/W/179.

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

9.3. The latest revision of the document only contained very few changes when compared to the previous version. Since the Committee's previous formal meeting, in the spring of 2022, four export restrictions had been phased out. The Secretariat thanked those Members that had taken the time to review the information provided in the annex, and for the updates that they had communicated to the Secretariat. In addition, information on 14 additional trade-easing measures was contained in this revision. These measures were not necessarily new, they simply had not been monitored in the past. On export restrictions, it seemed that there were still 27 measures in force as of 12 October 2022. The Secretariat encouraged Members to verify this information and to notify any changes through a QR notification. In terms of the type of products subject to export restrictions, PPE seemed to remain less of a restricted category, while pharmaceuticals, medical devices and equipment, and vaccines had seen smaller changes since the start of the pandemic. The report noted that the percentage of measures currently "in force" had been reduced from 41% in October 2021 to 27% in October 2022.

9.4. In terms of trade easing measures, the report contained information on 182 measures. One additional communication by Canada (G/MA/W/178), which had announced the termination of some measures, had been circulated since the spring meeting in 2022. The vast majority of these measures had been communicated through the trade monitoring exercise, although structured information was not available in many cases. As a result, information on the duration of the measure was missing for 88 of the measures, and for almost 50% of the measures it was not known whether the measure was still in force. In total, only 13% seemed to be still in force in October 2022.

9.5. The Secretariat also gave an update about the work it had presented at the previous formal meeting, in March 2022, on the preliminary analysis on the impact of export restrictions on trade values. At this point, no substantive advances had been made in this workstream, mainly due to data availability regarding these measures in the Committee, and because of the resource constraints of the Secretariat team.

9.6. The Chairperson thanked those Members that had contacted the Secretariat about updating the information contained in the document in order to provide an accurate picture of the current situation. The slides of the presentation were available in document RD/MA/107.

9.7. The delegate of the Kyrgyz Republic indicated the following:

9.8. The report noted that the export restriction measures on medicines and medical products adopted by notification G/MA/QR/N/KGZ/1/Add.14 are still in force. We would like to inform the Secretariat that the measures remained in force for six months, in accordance with Government Decree No. 14, adopted on 14 January 2022, and that they expired on 9 August 2022.

9.9. The delegate of the European Union indicated the following:

9.10. The European Union thanks the Secretariat for the updates. The various reports (G/MA/W/168 and its revisions) have made an important contribution to the effort of enhancing transparency around COVID-19 trade measures. They are also useful to inform Members' consideration of how transparency could be improved. As the latest report (G/MA/W/168/Rev.3) was circulated very recently, we will analyse it in detail. We reiterate that G/MA/W/168/Rev.2 presented important findings. According to the report, as of 25 March 2022, 98 measures that prohibit or restrict exports as a result of the COVID-19 pandemic have been adopted by Members. It is also unfortunate that 30 out of the 98 measures have not been notified under the QR Decision. We note that more than a third of these measures have taken the form of full bans or prohibitions. Most of the measures were introduced at the beginning of the pandemic in 2020, but for a large number of them, the envisaged duration of the measures is unclear. Although Members do not provide underlying reasons for the maintenance of the measures, the report assumes that this may be an indication of global shortages of pharmaceuticals, medical products, or COVID-test kits. Yet, without an appropriate analysis of demand and supply, which is beyond the scope of the report, one cannot conclude with certainty that the form of the measures (e.g. full ban) is chosen in proportion to the seriousness of the experienced shortages. The report states that 35 Members have provided notifications related to the imposition of export restrictions during the pandemic. The pandemic has been with us already for two years – considering the current situation one would expect that export restrictions would be withdrawn or at least considered for withdrawal by Members. It would be interesting to hear from Members who maintain the restrictions, even in the most extreme form, such as prohibitions, why they consider such measures necessary. As we have stated on numerous occasions before, while such measures may be justified and necessary in a situation of a critical shortage of essential products, the measures should always be proportionate, targeted, and time bound. If a Member considers that a situation of critical shortage exists, and provides explanations, as a community we should consider how we can assist the relevant Member in reducing that critical shortage. The findings of the report suggest that, in terms of transparency, there is still a great margin for improvement. We welcome the efforts of other Members to voluntarily notify measures that facilitate trade during the pandemic. We invite the Membership to engage further on the work on this issue. We also thank the Secretariat for the update today on the analysis on the impact of measures and invite the Secretariat to keep Members abreast of the thinking and work on this issue.

9.11. The delegate of Thailand indicated the following:

9.12. Thailand would like to join the European Union in commending the Secretariat for compiling such a comprehensive and detailed report. This exercise, which has been conducted since April last year, has shed light on the evolution of trade measures related to the COVID-19 pandemic in a way that I personally never imagined. The report is comprehensive, as it takes into account all the available information on the relevant measures. However, having read the report with great interest, I would like to point out that there is actually an information gap between the QR notifications under the 2012 QR Decision and the measures collected as part of the WTO's Trade Monitoring Exercise and listed under the heading "COVID-19: Measures affecting trade in goods". According to the current report, 30 measures introduced by 19 Members and collected through the WTO's Trade Monitoring Exercise have not been notified under the QR decision and, therefore, did not cite any WTO justification. Moreover, 88 measures have no information about duration, as was mentioned by the Secretariat. In addition, measures collected through the Trade Monitoring Exercise are not in a standardized format, and thus are not directly comparable.

9.13. If there is just one thing that could be reported to the Council for Trade in Goods about this exercise as part of the MC12 mandate on the response to the pandemic, we would propose to include this information gap in the report and a suggestion to improve data collection in the Trade Monitoring Exercise so that the collected trade measures relating to COVID-19, or any future pandemic, can be compared directly.

9.14. The Chairperson suggested that, based on the comments made, and given that some of the measures seemed to be still in force, the Secretariat could be requested to continue updating this report based on the inputs received by Members, as well as on additional information coming from the Trade Monitoring Exercise. In this regard, he encouraged delegations to verify the information provided in Annex 1 of the Secretariat report, specifically in the column "current status", and to inform the Secretariat about whether these measures were still in force, or if they had been terminated, and if so, to indicate the relevant dates. This was particularly important for those

measures for which there was no information about their duration, and it would help the Secretariat to prepare a more accurate analysis of these measures in the future.

9.15. The delegate of Canada indicated the following:

9.16. We wanted to provide an update on Canada's actions related to the importation of medical supplies, including personal protective equipment, in the context of the COVID-19 pandemic. We believe that, in a time of crisis, enhanced transparency is an important contribution to our collective understanding of the ongoing situation we face in relation to addressing that crisis. As Canada has shared with the Committee in early 2020 information on the tariff easing measures taken to support efforts to address the situation, we have shared in document G/MA/W/158 information regarding the decision to end that tariff relief as of 7 May 2022. The second document on the agenda is a contribution to the COVID-19 experience sharing sessions, which was discussed at the 16 September meeting, and I suspect will be reported on in document JOB/MA/152/Add.3. While Canada did not impose any COVID-19 related export restrictions, we thought it useful to support the Committee's work by sharing some background research we have been doing on Article XI of the GATT and the different ways Members have examined its use since 1947. Much of it builds on the interventions Canada made at the CMA and CTG meetings in 2021. One aspect of particular interest is from the 1970s, which indicated, and considering the concerns of some Members that the rules were "less complete as compared to import restrictions", and here I am speaking of export restrictions, Members came to a point where a Draft Understanding on the use of export control measures was discussed, but was eventually not adopted. As the informal work of the Committee continues, and you foreshadowed that this morning, Chair, we continue to be interested in hearing from Members who did decide to implement export restrictions during the COVID-19 pandemic. Similar to the comments from the European Union just a moment ago, we are particularly interested in why they chose a specific measure over another, the ways in which they implemented the restriction, the effectiveness of the measures, at least to the extent they've examined that, what factors they considered before its removal, and finally any lessons learned that they can share. I think that this whole process that we are undertaking is a really important contribution from us here in the CMA to preparing for, if it happens, hopefully not, another crisis like the one we seem to be going through.

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

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

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

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

10.3. As we have 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 United States 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. We understand that Angola is working to address issues raised by Members, including with respect to WTO rules. Further, we understand that Angola is undertaking an analysis of its internal market this year. The United States asks if Angola can provide any updates.

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

10.5. This issue has been raised in this Committee, the Committee on Agriculture and the Council for Trade in Goods multiple times. The European Union remains concerned about the compatibility of Presidential Decree No. 23/19 with the WTO's rules. We would welcome more information and substantive engagement, which would be determinant to informing our further approach. We would also like to understand better whether licences will be required in the implementation of this Presidential Decree; if this were the case, we would recall the notification requirements under the

Import Licensing Procedures Agreement. The EU also invites Angola to provide clarifications on the process related to this decree, as well as whether any changes - and, if so, which ones – are planned. The EU strongly urges Angola once again to review the relevant measures in order to ensure their compliance with WTO rules.

10.6. The representative of Angola indicated the following:

10.7. Angola thanks the European Union and the United States for the issues raised and maintains the same position as in the Committee on Import Licensing. More than declaring that the country does not apply restrictive measures, we affirm that the objective of the Angolan State with the implementation of this Decree is to diversify exports. We know that it is a long-term process, however, we have been working to gradually change the paradigm by promoting the increase in domestic production, stimulating the consumption of national products, without forgetting that Angola is firmly committed in a transparent way to the commitments it assumed within the scope of the WTO Agreements. More than simply making a statement, relevant statistical data were presented at the recent meeting of the Committee on Import Licensing, on 7 October 2022, on imports from the member States of the European Union and the United States.

10.8. We would like to underscore that Angola is a country with great potential, namely: arable land, rich in mineral resources, and with a young population. It is a fact that we face several social challenges, such as the need to qualify human resources. More than importing, we count on the support of other Members for Angola's development. For this reason, we appeal to the Members present in this session to look at Angola, on the one hand, as a strategic partner, and, on the other hand, as a destination for investment in the agricultural, economic, educational, industrial, health, mining, and technology sectors.

10.9. The Committee took note of the statements made.

11 AUSTRALIA, CANADA, EUROPEAN UNION, JAPAN, NEW ZEALAND, SWITZERLAND, UNITED KINGDOM, AND THE UNITED STATES – UNILATERAL TRADE RESTRICTIVE MEASURES AGAINST RUSSIA – STATEMENT BY THE RUSSIAN FEDERATION

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

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

11.3. Today we wish to reiterate deep concern regarding the illegal and unjustified trade restrictive measures imposed by certain WTO Members in respect of Russia. These measures include, but are not limited to, the following restrictions on the trade in goods:

- By Australia: import ban on Russian oil, oil products, coal, gas, additional tariff of 35% for all imports from Russia, prohibition on export of aluminium ores and concentrates.

- By Canada: import ban on petroleum originating from Russia; additional tariff of 35% for all imports from Russia; export ban on goods used for oil exploration and production.

- By the European Union: import ban on Russian crude oil and petroleum products, prohibition on transfer or transport to third countries of Russian crude oil and petroleum products obtained from Russian crude oil, or sales to purchasers in third countries, prohibition on technical assistance, brokering services or financing or financial assistance, related to the transport to third countries of crude oil or petroleum products which originate in Russia, or which have been exported from Russia.

- By Japan: import ban on certain alcohol products, wood and wood products, electric machines; export ban on semiconductors, integral circuits, analog-to-digital converters, solar cells, resistors, marine and aviation safety equipment, diesel engines, computers and their parts, oil refining equipment, navigation equipment and others.

- By New Zealand: announced application of additional 35% tariffs to all imports from Russia, export prohibition on industrial products such as ICT equipment and engines.

- By Switzerland: import ban on coal, oil and petroleum products, as well as quantitative restrictions on imports of fertilizers, prohibition to provide technical assistance, brokering services or financial assistance in connection with the transportation outside Switzerland and the European Union of crude oil or petroleum products originating in or coming from Russia.

- By the United Kingdom: prohibition on export of oil refining goods and technology, iron and steel products; an import ban on cement, wood and articles of wood, mineral or chemical fertilizers, as well as application of additional import duty of 35% for cereals, oil seeds, meat, products of the milling industry, soybean oil.

- By the United States: imposition of additional import duty of 35% for certain chemical products; wood and wood products, iron and steel, tractors and other products.

11.4. This is just a fraction of the measures adopted and enumerated by those WTO Members named in the agenda item . For the sake of time, we are not specifying all the restrictions. However, these measures have already immensely impacted trade in goods. Moreover, these measures are coupled with restrictions on trade in goods, restrictive measures imposed on the Russian largest banks, as well as on insurance agencies, transportation companies, export support agencies, industrial companies, Russian seaports, and legal and natural persons, including top management and owners of the largest Russian companies, provoking global economic, energy, and food crises.

11.5. We would like to note that Russia is the third largest oil, and second largest natural gas producer in the world, and the world's largest oil and gas exporter. Unilateral measures against Russian oil, petroleum products and gas producers, financial sector, as well as pressure on international transportation, trading companies, foreign governments not to work with Russian oil and gas sector, have led to the increased oil and gas prices on the international market. The cost of these arbitrary decisions is paid for by the whole world, including developing and least developed countries. High energy prices translate into higher consumer prices across the full board of products, including food, fuelling inflation and slowing global economic growth.

11.6. As for food crises, we underline that Russia is one of the major producers and exporters of wheat and fertilizers. Despite the exclusion of these products from direct restrictions, Russian shipments of these most essential goods are facing indirect measures, including bans on the use of foreign seaports, restrictions on payments, and measures against companies and individuals, including asset freezes and prohibition to deal with such persons. Taking into account current as well as planned restrictions against Russia, international transportation, trading companies, foreign banks and insurance companies are coerced to refuse to work with Russian exporters, including those of food, energy, and fertilizers. Foreign governments are also coerced to drop their dealings with Russia, including buying energy resources.

11.7. All these measures not only contradict the WTO rules, but they also disrupt international trade flows, break global supply chains, and lead to increasing energy costs and spikes in food prices. Such a vast and outright violation of WTO rules is a massive blow to the WTO system. It undermines the role of the WTO as a guarantor of international trade rules, and shows that no Member is safe from such unjustified and unlawful vast measures in future.

11.8. The Russian Federation expresses its concern over the attempt to replace the system of global economic governance with unilateral restrictive measures of extraterritorial scope. Despite different pretexts for such destructive policies, they in fact put at serious risk the prospects for global economic growth and disproportionally hit developing countries. Being of a complex nature, they already have systemic negative implications on global value chains, international markets, and the stability of price levels. In this context, the Russian Federation calls for a restoration of the smooth functioning of the WTO, and urges the WTO Members in question to immediately lift their unilateral trade restrictive measures, including those with extraterritorial implications, and to stop their coercive actions aimed at forcing other WTO Members to follow suit.

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

11.10. The European Union is committed to supporting the multilateral trading system, also because we believe that a rules-based international order best serves the interests of all countries, including the smaller and more vulnerable ones. The EU therefore continues to condemn Russia's unprovoked

and unjustified act of aggression against Ukraine, which grossly violates international law and the UN Charter, and undermines international security and stability. We do not recognize Russia's illegal annexation of territory that does not belong to Russia, in the Donetsk, Luhansk, Zaporizhzhia, and Kherson Oblasts. And we cannot forget the death and suffering the war continues to bring to thousands of innocent Ukrainians.

11.11. The European Union also condemns, in the strongest possible terms, the continued heinous attacks on the civilians and civilian infrastructure. This goes against international humanitarian law. This indiscriminate targeting of civilians amounts to a war crime. Russia's illegal, barbaric, and unprovoked war against Ukraine also continues to cause immense economic harm to Ukraine. The effects of the war are felt around the globe, with 1.7 billion people in over 100 countries now facing severe food, energy, and commodity supply issues and price rises.

11.12. The European Union would like to underline once again that the EU's sanctions against Russia neither target trade in agricultural, food or medical products, nor the trade of the Russian Federation with third countries. The EU considers these measures fully consistent with its WTO rights and obligations as actions necessary to protect its essential security interests. The measures include export and import restrictions targeting Russia's ability to finance this reprehensible war.

11.13. The European Union has taken all its measures in a fully transparent manner. All relevant EU measures are publicly accessible, including in our recent quantitative restriction notification. We closely monitor their implementation in order to ensure that the measures achieve their objective, namely to hamper the ability of the Russian government and military machine to sustain this illegal war. The EU calls on Russia to immediately cease its military actions, withdraw all its troops from the entire territory of Ukraine, and fully respect Ukraine's territorial integrity, sovereignty, and independence within its internationally recognized borders.

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

11.15. The United Kingdom welcomes the opportunity to correct the disinformation from the Russian Federation as regards the consequences of its own illegal actions by invading another sovereign Member. Because Putin's illegal annexation of regions of Ukraine constitutes a new low point in Russia's blatant flouting of international law. The UN Secretary-General has spelled out that Russia's attempts to change Ukraine's borders by force are an unacceptable breach of the UN Charter. Russia's illegal war continues to affect market access and commodity prices for Members across the world, with Russia's unilateral decisions to manipulate energy supplies as the most significant factor inflating prices across the globe. Chair, to be clear, lower income countries remain the most exposed to the consequences of Russia's aggression. But, as we have just heard, none of the facts stop Russia from leading a disinformation campaign, seeking to deflect from the responsibility they should be taking for their chosen war which then impacts the whole world.

11.16. Firstly, Chair, the UK does not target its sanctions on food or fertilizer exports from Russia to third countries. Furthermore, UK sanctions against Russia include clear mitigations to prevent impact on Russian food exports – to ensure no indirect impact. Secondly more broadly, in terms of quantitative restrictions, the UK has no export measures on food. In comparison, let us now consider what export restrictions the Russian Federation has chosen to implement. Because, to clarify, since illegally invading Ukraine, the Russian Federation has unilaterally introduced numerous measures on the export of agricultural and fertilizer products. Those have included export measures and bans on white sugar, raw cane sugar, wheat, rye, meslin, barley, corn and rice. They have also introduced export measures against sunflower oil and rapeseed oil, and sunflower seeds and rapeseed seeds. We note that Russia's export quotas on certain mineral fertilizers have the potential to remove 15% of global fertilizer supply, further driving-up prices. Compounding its own restrictions on food and fertilizers, the Russian Federation has unilaterally cut the global supply of food through illegally invading Ukraine and collapsing its exports.

11.17. Previously, Ukraine was one of the largest exporters of grains, meeting the needs of hundreds of millions of people worldwide. That changed 237 days ago, when Russia illegally invaded – and Russian bombing continues to destroy crops and infrastructure, impeding Ukrainian grain from accessing world markets. As it stands, a further 50% fall in Ukraine's export capabilities is expected, as solely attributed to Russia's invasion. In short, Putin is weaponizing fuel and food by reducing Russia's own exports – while simultaneously collapsing Ukraine's production and export capabilities

also spikes global prices. Putin can alleviate the global crises by immediately ending his war in Ukraine and lifting the Russian export measures that are further driving up the price increases stemming from his own illegal invasion.

11.18. In responding to the food crises spurred by Putin's invasion, the UK welcomes and supports the multilateral development banks in stepping-up their support for food insecurity. As a leading shareholder and donor, we have pledged input, contributing to the World Bank Group making USD 36 billion available and the African Development Bank making USD 1.5 billion available. Additionally, the UK recently announced over USD 20 million to improve the effective use of fertilizer and increase food production in vulnerable countries. We will allocate approximately USD 178 million towards humanitarian crises in East Africa.

11.19. To conclude, Chair, the UK and the international community have made it clear to Putin and to Russia that his attack on the Ukrainian people must stop. The United Kingdom will continue to stand with Ukraine, in the face of violations against their sovereignty, territorial integrity, and international law.

11.20. The representative of New Zealand indicated the following:

11.21. New Zealand also condemns and refutes the harmful and inaccurate narratives Russia has been communicating. Let us be clear: it is Russia's invasion of Ukraine that has created serious implications for global peace, security, and economic stability. Russia has also placed restrictions on its own exports, such as for grain, adding yet another level of volatility to world food prices.

11.22. New Zealand has joined the international community in applying sanctions in a transparent manner to severely limit the Putin regime's ability to finance and equip the war in Ukraine, as well as to influence people with power in Russia to break their support for the war. New Zealand passed the Russian Sanctions Act on 8 March 2022, which is publicly available on the Ministry for Foreign Affairs website. Sanctions under the Act are a direct response to Russia's illegal act of aggression and are not intended to disrupt trade in essential goods. They include asset freezes and prohibitions on dealing in services on individuals and entities; tariff increases on the imports of Russian origin; prohibitions on the import of certain goods and products from Russia, and strategic goods intended for use by military or security forces from being exported to Russia and Belarus.

11.23. New Zealand remains united with the international community to maintain pressure on Russia and hold those responsible for violations of humanitarian and international law to account. Imposing sanctions on Russia is a means to bring an end to this war. New Zealand continues to condemn Russia's acts of aggression, including its attempts to illegally annex parts of Ukraine. The actions of President Putin are a grave breach of international rules and the use of force to change borders is strictly prohibited under international law, as is targeting of civilians. We are appalled by reports of the devastating and indiscriminate attacks on Ukraine's population by Russian troops, including evidence of crimes against humanity and war crimes, as well as the destruction of civilian infrastructure including hospitals, schools, and homes. We will support and spare no effort in holding those responsible for this aggression to account. We stand in full solidarity with Ukraine and its people and reaffirm our unwavering support for the independence, sovereignty, and territorial integrity of Ukraine.

11.24. The representative of Canada indicated the following:

11.25. Canada stands in solidarity with the people of Ukraine and strongly condemns President Putin's unjustified invasion of Ukraine. This illegal and unprovoked war has had catastrophic effects on Ukraine, its neighbours, and people across the globe, exacerbating the already rising food and energy prices worldwide, affecting economic stability across all regions. Canada does not, and will never, recognize Russia's attempted illegal annexation of Ukrainian territories. These actions, based on sham referendums with predetermined results, have no legitimacy and constitute a flagrant violation of international law. The proof is in last week's UN General Assembly resolution, in which 143 countries voted to declare the attempted annexations unlawful and reaffirm Ukraine's sovereignty. This is territory on which Ukraine's trade policies should apply.

11.26. No amount of misinformation can hide Russia's culpability; Russia is solely responsible for this crisis, not Western sanctions, which are only designed to stop Russia's unjust and brutal war in

Ukraine. Russia's efforts to blame Western sanctions for the cause of these crises are simply attempts to re-direct the narrative away from its own actions. It is Russia that has cut itself off from the global trading system. The UN Black Sea Grain Initiative agreements between the UN and Türkiye with Russia and Ukraine have successfully allowed over 7 million tonnes of grain and other foodstuffs to be exported from Ukrainian ports. It is vital that this agreement be renewed to avoid aggravating the food crisis and throwing more people into hunger.

11.27. Canada will continue to take actions that we consider necessary to protect our essential security interests, and we will work closely with like-minded partners to promote peace and security for all states and their citizens. More needs to be done to address weaknesses in our global food system, which have been exacerbated by Russia's illegal actions. Canada continues to develop all our responses with a focus on climate-smart agriculture, sustainable agri-food value-chains, inclusive food system governance, and nutritious and food safety nets to help vulnerable, import-dependent countries.

11.28. Canada will continue to support humanitarian partners, such as the World Food Programme, to help meet the emergency food and nutrition needs of the growing number of acutely food insecure people. Canada's support for Ukraine and its people is unwavering, and we will work to find ways to use trade to support Ukraine rebuild its economy and its society.

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

11.30. Russia again raises its flag to complain about a situation that it has created, and to try and shift the blame for the death and destruction that it has created. Those complaints and efforts at deflection are disingenuous, to say the least. This war, this invasion, has one aggressor, one source: Russia. Russia invaded Ukraine, a sovereign nation, with no provocation and no justification. Russia continues to destroy Ukraine's agricultural land, resources, and facilities, disrupting trade and exacerbating a perilous food security situation. Russia continues to destroy Ukraine's industrial infrastructure, transportation infrastructure, and energy infrastructure, interrupting trade and undermining economic growth. Russia continues to commit horrific war crimes against women and children, as well as against civilian targets, including hospitals, schools, and food supplies. Russia continues to restrict exports of critical food stuffs, and agricultural inputs critical to the cultivation of agricultural necessities.

11.31. The United States continues to condemn Russia's illegal, unprovoked and horrific invasion of Ukraine. The most recent attacks on civilians, and civilian infrastructure are particularly awful. The United States rejects Russia's fraudulent attempt to illegally annex sovereign Ukrainian territory. I could go on, but we are all familiar with, and appalled by, Russia's transgressions; just as we are familiar with Ukraine's fortitude and courage. As President Biden has made patently clear: "the United States will always honour Ukraine's internationally recognized borders".

11.32. The representative of Australia indicated the following:

11.33. In the interests of time, I would like to recall Australia's intervention at the Council for Trade in Goods meeting in July 2022[17], and my intervention under Agenda Item 8 earlier today. Australia reiterates its condemnation of Russia's illegal invasion of Ukraine. Australia supports the collective action by the international community and has imposed a range of sanctions to inflict costs on Russia and those responsible. Australia has notified trade measures imposed in response to Russia's invasion of Ukraine to the WTO General Council and the Committee on Market Access, in accordance with our transparency obligations. These measures are justified given Russia's unprecedented attack, and are also justified under WTO rules, in particular Article XXI of the GATT. Russian actions violate Ukraine's sovereignty and territorial integrity and undermine the rules-based international order. Australia is committed to upholding the rules-based order and the principles that underpin it, which are essential to international, regional, and domestic stability and security.

11.34. The representative of Switzerland indicated the following:

11.35. Switzerland will not repeat what the European Union just said but shares its statement fully. Switzerland also echoes the position of previous speakers who strongly condemn Russia's war

[17] See document G/C/M/143, paragraphs 6.67-6.72.

against Ukraine. Our measures are in line with international law, in particular Article XXI of the GATT. Like the EU, the Swiss measures do not target food and fertilizers exports to third countries. All our measures are publicly available. Switzerland is preparing its notification and it will be submitted in due course.

11.36. The representative of Japan indicated the following:

11.37. Japan condemns Russia's aggression against Ukraine in the strongest terms. We believe that the significance of the Market Access Committee lies in its capacity to maintain and develop a 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. We would like to echo the colleagues condemning Russia, including for its recent announcement of the "incorporation" of four states in Ukraine by the Russian Federation. The purported "incorporation" of the areas that have been forcibly put under Russia's temporary control by Russia's aggression are nothing but attempts to acquire territory by force and go against international law, including the United Nations Charter. Such attempts are invalid and go diametrically against the principle of the rule of law in the international community. Japan also condemns the most recent missile attacks by Russia against civilian infrastructure and cities across Ukraine.

11.38. Japan strongly urges Russia once again to stop the aggression and withdraw its forces from the territory of Ukraine within its internationally recognized borders immediately. Japan will also continue to work firmly on the two pillars of imposing strong sanctions against Russia and supporting Ukraine in cooperation with the international community.

11.39. The representative of Norway indicated the following:

11.40. Norway implements restrictive measures as other Members mentioned under Agenda Item 11. The measures are fully consistent with our WTO rights and obligations, and they have been taken as a reaction to Russia's unprovoked military invasion of Ukraine, and also recent illegal attempts to annex Ukrainian territory, which Norway condemns in the strongest possible terms. For the sake of brevity, let me conclude by echoing statements by previous speakers, and again reiterating that Norway stands in solidarity with Ukraine and the Ukrainian people.

11.41. The representative of Nicaragua indicated the following:

11.42. The delegation of Nicaragua presents its compliments to all the Committee participants. Regarding this agenda item, the delegation of Nicaragua urges Members to reconsider taking these unilateral trade-distorting measures which run counter to the fundamental principles of this Organization.

11.43. These measures not only affect the Member against whom they are directly applied; they also affect other Members, mainly developing country Members with small and vulnerable economies such as ours, that experience the inflationary effects of international markets. These actions affect and undermine the efforts deployed by governments to achieve development and food security objectives, to the detriment of the most vulnerable populations. We appreciate the opportunity to address this situation from a trade and development perspective, putting aside differences that are not within the remit of the WTO.

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

11.45. The Republic of Korea has been strongly condemning Russia's armed invasion against Ukraine. Regarding the current agenda item, Korea believes that it is essential to focus on the very origin of the sharply aggravating, exacerbating situation on the global supply chain in various areas, inflicting significant damage to the rules-based global trade order. As we have mentioned, the way to end all of this is obvious, that is, for Russia to stop its military action in Ukraine.

11.46. The representative of Ukraine indicated the following:

11.47. First of all, Ukraine would like to express its sincerest gratitude to all the WTO Members mentioned in Russia's request, and to other Members that stand with Ukraine in these dreadful times

and continue to provide comprehensive economic and other support to end the Russian aggression. We appreciate all the support, including sanctions imposed in response to Russia's unilateral invasion of Ukraine, which is a gross violation of international law and the rules-based international order.

11.48. Russia's war has not only seriously undermined Ukraine's ability to participate in global trade, and to benefit from the rules-based multilateral trading system, but it has also caused trade disruptions and aggravated food insecurity in the world. Russia alone is responsible for the war launched against Ukraine and its repercussions for the world. Escalation brought by Russia's attempted annexation of parts of Ukraine's territory deserves a proper response: restrictive measures on Russia must be significantly increased. Ukraine has always been a strong supporter of the multilateral trading system and continues to stand by its WTO commitments.

11.49. The Committee took note of the statements made.

12 AUSTRALIA – INVESTIGATION AND REVIEW OF ANTI-DUMPING DUTIES ON A4 COPY PAPER – STATEMENT BY INDONESIA

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

12.2. The representative of Indonesia indicated the following:

12.3. Indonesia thanks Australia for reaching out to us before the meeting and for providing responses under similar agenda items in the last CTG meeting held in early July this year. Given new developments, Indonesia would like to raise again our concerns on two of Australia's current anti-dumping investigations and imposition on A4 copy paper from Indonesia, namely: (i) original anti-dumping investigation targeting one company from Indonesia that had been exempted previously from anti-dumping duty known as case No. 583; and (ii) sunset review of existing anti-dumping dumping imposition known as case No. 588.

12.4. With regard to the former case (No. 583), the investigation has resulted in the imposition of provisional duty at a rate of 25.5% since 28 July 2022. In the latter case (No. 588), Indonesian A4 copy paper products are subject to a higher rate of anti-dumping duty of 59.7% than the original one of 13.8%. These anti-dumping measures will not only decrease our exports to Australia; instead, Indonesia will also lose its access and share of A4 copy paper products in Australia's market. Indonesia is aware that Members are allowed to apply any anti-dumping duty. However, this duty should be applied consistently with the provisions of Article VI of the GATT 1994, and the Agreement on Anti-Dumping. Otherwise, duty applied at a higher rate than Australia's bound rate in the WTO could be inconsistent with Article II of the GATT 1994.

12.5. On this note, based on reports of these anti-dumping investigations, Indonesia questions if the measures are in compliance with Article VI of the GATT 1994, and the Anti-Dumping Agreement due to certain reasons, including *inter alia*, that the loss of domestic industry is not merely because of Indonesian imports, but rather because of other factors, such as the COVID-19 pandemic, as clearly stated in the reports. In addition, imports from Indonesia showed a significant decline since the anti-dumping application, from around 28,000 tonnes in 2017, to only about 7,800 tonnes in 2021. Hence, without fulfilling the legal and procedural requirements of the relevant articles and agreements, additional duty disguised as an anti-dumping duty would be inconsistent with Australia's tariff commitment. In this regard, Indonesia hopes Australia will reconsider the imposition of anti-dumping on A4 copy paper products from Indonesia.

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

12.7. With regard to this agenda item, and Agenda Item 42 raised against Viet Nam, we are confused and concerned as to why Indonesia chose to raise these issues within this Committee. Normally, such matters are raised before the Committee on Anti-Dumping Practices, and we would suggest that Indonesia do so there, as that is where it systemically belongs and the substantive expertise on these issues resides.

12.8. The representative of Australia indicated the following:

12.9. Australia thanks Indonesia and the United States for their statements. Australia also notes that this matter more appropriately relates to the Committee on Anti-Dumping Practices, but we are happy to update this Committee on the issues raised by Indonesia at the July Council for Trade in Goods.

12.10. The investigation that Indonesia references was a fresh, original anti-dumping investigation into A4 copy paper imported from Indonesia and specifically related to one Indonesian exporter that was not subject to an existing anti-dumping measure. This investigation (known as Case No. 583) was initiated on 2 June 2021 following receipt of a duly documented application from Australian industry. A recommendation report to the Minister for Industry and Science was made by the previously publicly notified date of 26 September. The Minister is currently considering the report and his decision will be published on the Anti-Dumping Commission's website once made.

12.11. The Government of Indonesia and the exporter made submissions to the investigation which were considered in preparing the recommendations report to the Minister. In conducting Case No. 583, Australia's approach took account of the findings of the WTO dispute settlement panel in DS529 and was conducted in strict conformity with Australia's WTO obligations. Separately, there was a merits review by Australia's independent Anti-Dumping Review Panel of a decision to continue anti-dumping measures on imports of A4 copy paper, including from Indonesia from 19 April 2022. This merits review does not relate to the Indonesian exporter that is the subject of the current anti-dumping investigation in Case No. 583. The Review Panel considered submissions from the Government of Indonesia and an Indonesian exporter. On 29 July 2022, the Minister for Industry and Science accepted the Review Panel's recommendation, which affirmed the decision to continue the anti-dumping measures on A4 copy paper exported from Indonesia. Interested parties were able to seek judicial review within 28 days of the publication of this decision.

12.12. Australia's anti-dumping system is transparent, independent, and non-discriminatory. Australia is committed to ensuring that its anti-dumping system, and any measures imposed, are consistent with the rules of the WTO. Australia remains willing to meet separately with Indonesia and provide further information on the ongoing processes, as appropriate, and will certainly be looking to do so next week during the trade remedies committees week.

12.13. The representative of Indonesia indicated the following:

12.14. Indonesia would like to address the concerns raised by the United States just now. Indonesia does not understand why the US considers that Indonesia's statement is not relevant within this committee, even before Indonesia delivered its statement. Indonesia has, however, demonstrated the existence of the relationship between Article II of the GATT 1994, and Article VI of the GATT 1994, as well as the Anti-Dumping Agreement.

12.15. The Committee took note of the statements made.

13 AUSTRALIA – DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT - STATEMENT BY CHINA

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

13.2. The representative of China indicated the following:

13.3. The Australian government restricts Chinese enterprises from providing relevant equipment in Australia without any evidence, which seriously violates the WTO's basic principles of both the MFN treatment and the general elimination of quantitative restrictions, badly affects the normal business activities of Chinese enterprises in Australia, and undermines China's legitimate rights and interests under the WTO.

13.4. China hopes that Australia corrects its practice of violating the WTO rules and discriminating against Chinese enterprises as soon as possible, and instead creates a fair, just, and predictable business environment for all enterprises.

13.5. The representative of Australia indicated the following:

13.6. Australia notes China's statement. China first raised this issue elsewhere in the WTO in late 2018. Since that time, Australia has engaged constructively and in good faith with China to explain the rationale for its position. Australia reiterates that its position on 5G networks is country agnostic, transparent, risk-based, non-discriminatory, and fully WTO consistent.

13.7. The Committee took note of the statements made.

14 CANADA – DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT – STATEMENT BY CHINA

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

14.2. The representative of China indicated the following:

14.3. Without any evidence, Canada imposed a ban on Chinese communications equipment enterprises and prohibited the purchase of relevant Chinese products, which seriously violates the WTO's basic principles of both the MFN treatment and the general elimination of quantitative restrictions. Canada's move is detrimental to the commercial interests of both Chinese and Canadian enterprises and undermines China's legitimate rights and interests under the WTO.

14.4. China hopes that Canada corrects its practice of violating the WTO rules and discriminating against Chinese enterprises as soon as possible, and instead creates a fair, just, and predictable business environment for all enterprises.

14.5. The representative of Canada indicated the following:

14.6. Canada's critical infrastructure is becoming increasingly interconnected, interdependent, and integrated with cyber systems, particularly with the emergence of new technologies such as 5G. That is why the Government of Canada is taking important steps to further protect Canada's critical infrastructure systems.

14.7. The Government of Canada takes the security of Canada's telecommunications system very seriously and will continue to promote the security of Canadian networks in a way that is consistent with Canada's WTO commitments, while championing emerging technologies, such as 5G.

14.8. The Committee took note of the statements made.

15 CHINA — DRAFT OF CHINESE RECOMMENDED NATIONAL STANDARD (GB/T) FOR OFFICE DEVICES (INFORMATION SECURITY TECHNOLOGY-SECURITY SPECIFICATION FOR OFFICE DEVICES) — STATEMENT BY JAPAN

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

15.2. The representative of Japan indicated the following:

15.3. Japan has concerns with regard to the possible amendment of the Recommended National Standards of China (GB/T) for office devices such as multifunction peripherals and printers. On office devices, including multifunction peripherals and printers, that are procured by the operators of critical information infrastructure, Japan has learnt that the draft amendment of the Recommended National Standards in China requires the following: (i) office devices such as multifunction peripherals and printers, including their components, are required to be developed, designed, and produced in China; and (ii) to disclose Information to prove that office devices and/or their components are developed, designed, and produced in China.

15.4. If the Recommended National Standards including such requirements are introduced, it is highly likely that they would generally be adopted, considering that the application of these National Standards is recommended by the government. There is also a concern that the National Standards would be practically enforced as mandatory. In such a case, imports of finished products, such as multifunction peripherals and printers, will not be permitted. Furthermore, the use of imported components will not be permitted, but the use of the components made in China will be forced. Thus, it will be inevitable that foreign products, including Japanese imports, will be treated in a

discriminatory manner compared with domestic products. This would be inconsistent with Article III:4 of the GATT. In addition, from the perspective of domestic and international discrimination, there is a possible violation of Articles 2.1 and 2.2, and Article 5.1.2 of the TBT Agreement, and Article 2.1 of the TRIMs Agreement.

15.5. Although certain obligations do not apply to standards for government-procured products under Article 1.4 of the TBT Agreement, Article III.8 (a) of the GATT, and Article 3 of the TRIMs Agreement, Japan has learnt that the description of the scope of the amendment to the National Standards is not limited to government-procured products. Therefore, Japan recognizes that it cannot be justified by the government-procured exceptions under these agreements.

15.6. Japan strongly hopes that the amendment of these National Standards, and any systems and/or guidelines related to these National Standards, which include content that discriminates against foreign and domestic products or producers, and effectively forces technology transfer, will not be realized in their current form.

15.7. The representative of China indicated the following:

15.8. China thanks Japan for its interest in this issue. As confirmed with Capital, China has no plans to revise the recommended national standards related to printers and copiers in the near future. The Standardization Administration of China has not received any application for the revision of national standards from the relevant technical committees. If there are subsequent revision plans for relevant standards, China will solicit public opinion through open channels.

15.9. The Committee took note of the statements made.

16 CHINA — DRAFT REVISION OF CHINESE GOVERNMENT PROCUREMENT LAW - STATEMENT BY JAPAN

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

16.2. The representative of Japan indicated the following:

16.3. In July of this year, China published a draft for revision of the Government Procurement Law. With regard to the scope of the revised law, in addition to "state agencies, business units and organizations" in the current Article 2, "other procurement entities" has been added in Article 2 and Article 12. With consideration to this "other procurement entities", Article 12 of the revised bill refers to "public interest state-owned enterprises that engage in public works and operate public infrastructure or public service networks to realize public purposes" and adds "other procurement entities to which this Law applies, and their specific scope of procurement shall be determined by the State Council."

16.4. If the scope of application of the Government Procurement Law expands to include even procurement beyond "procurement by governmental agencies", as stipulated in Article III:8(a) of the GATT, and Local Content Requirement (LCR) is made based on Article 23 of the revised law, this may violate Article III:4 of the GATT. In light of this, Japan requests China that its State Council's definition of "other procurement entities" under Article 12 of the revised bill should not be expanded without limit.

16.5. In addition to the existing local content requirements regulation, Article 23 of the revised bill, which clearly includes "support for domestic industries", adds a new local content requirement that gives preferential treatment in government procurement for products with a high added value ratio within China. Japan would like to point out that this cannot be permitted either under the government procurement exception of Article III:8(a) of the GATT, unless if it truly falls under government procurement, and this local content requirement may also violate TRIMs Agreement Article 2.1 and Article 3:4 of the GATT. In this regard, Japan intends to keep an eye on the scope of this Article.

16.6. These new provisions in the draft amendments do not meet the standards required by the WTO Government Procurement Agreement (GPA), which China has already been negotiating to join for many years, and these new provisions, in fact, represent a move in the opposite direction.

Therefore, we must question whether China is willing to meet the standards of the GPA and other high-standard agreements to which it has applied for membership.

16.7. The representative of China indicated the following:

16.8. It is a common international practice to support domestic products in government procurement, and China's draft amendment refers to the practices of relevant Members. China is willing to strengthen communication with all parties to promote the completion of China's accession to the GPA as soon as possible. China is also willing to communicate with Japan on related issues within the framework of accession negotiation to the GPA to promote international cooperation in the field of government procurement.

16.9. The Committee took note of the statements made.

17 CHINA — TRADE DISRUPTIVE AND RESTRICTIVE MEASURES — STATEMENT BY AUSTRALIA

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

17.2. The representative of Australia indicated the following:

17.3. Australia continues to have a strong trading relationship with China. Our economies are highly complementary and sustained and strong bilateral trade flows continue to be mutually beneficial. Australia welcomes China's signalled readiness to work toward stabilizing the relationship, including under our Comprehensive Strategic Partnership. Notwithstanding this, Australia again wishes to register its concerns regarding a series of disruptive and restrictive measures that China continues to apply to a wide range of Australian exports which appear inconsistent with China's WTO commitments. These trade disruptive and restrictive measures have directly impacted Australia's market access into China's market.

17.4. To remind Members, no less than nine commodities, ranging from coal to copper ores and concentrates, to rock lobsters, to barley, have been variously subject to the following measures: quantitative restrictions such as *de facto* import bans; unjustified anti-dumping and countervailing duties; increased and arbitrary border testing and inspections, including delays, applied without prior notification; or unwarranted delays in listing and re-listing export establishments, and issuing import licences. To further remind Members, some of these measures have been taken through formal actions, while others have been taken by direction or instruction of Chinese authorities to not purchase certain Australian commodities. Reports of such informal measures are supported by the facts on the ground. For instance, Chinese trade data continues to show virtually no Chinese imports of Australian coal and copper ores and concentrates since December 2020, despite the pre-existing historically consistent and high level of trade in these products.

17.5. To date, China's authorities have not notified the WTO of these measures or provided clear guidance or advice on pathways for these trade disruptive and restrictive measures to be lifted or resolved. So that we may work toward a solution, Australia again asks China to notify these to the WTO and explain how these measures are consistent with its WTO commitments and obligations. Up until now, there has been no adequate response from China. Australia remains open to dialogue to resolve these trade issues. Australia looks forward to receiving a substantive response from China and stands ready and willing to engage substantively with China to discuss these issues.

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

17.7. The United States shares Australia's concerns and remains deeply troubled by the information provided by Australia and that we have heard from other, credible sources. We again register 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 connection, we are concerned by reports that Chinese authorities have informally instructed importers not to purchase certain goods.

17.8. As noted previously, 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. It is important to identify similarly coercive actions taken by China against other Members, as they demonstrate a broader pattern of behaviour. Specifically, China uses, or threatens to use, arbitrary or unjustifiable trade actions to pressure or influence the legitimate decision-making of sovereign governments.

17.9. 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 and exploiting grey zones in order to inflict harm on others to advance its geopolitical and economic ends.

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

17.11. The European Union continues to share Australia's serious concerns with regard to the matters Australia is today again raising in this Committee, as already in past meetings of the Council for Trade in Goods and the Committee on Market Access. On each of these occasions, the European Union made a statement in support of Australia. The EU maintains its serious concerns of principle and of law. The large number of Chinese measures affect a wide product range and a large trade value. Some of these measures seem to be informal but are nevertheless covered by the GATT rules on import restrictions, as well as those requiring the publication and the uniform, reasonable, and non-discriminatory administration of trade regulations.

17.12. As a separate matter, the European Union is concerned about the apparent purpose of the measures in question. An intention to punish, put pressure on, or coerce another Member because of a policy choice which lies within the rights of that Member places these measures at variance with general international law. That is a separate legal angle from the one under the WTO Agreement.

17.13. In the European Union, growing concerns as to coercive practices have led to a legislative proposal for a so-called anti-coercion instrument. This proposal is presently progressing within the European Union's legislature. Also, the European Union this year initiated a WTO dispute *vis-à-vis* China in relation to a range of measures negatively affecting its trade with China where there also appears to be such a coercive intention.

17.14. The representative of Japan indicated the following:

17.15. Japan shares the concerns expressed by Australia that China's trade measures, including trade remedy measures, should be implemented within the framework of the WTO Agreements, and that China's measures should comply with the relevant WTO agreements in the procedures and fact-finding. In addition, as was pointed out by Members in the TPR of China last year, opaque measures taken by China in an unofficial or unpublished manner are problematic from the perspective of China's accession protocol and the transparency rules in the GATT.

17.16. Therefore, we urge China to ensure transparency in its trade measures. If China is implementing its trade measures in an arbitrary manner, as reported, that runs counter to a free, fair, and rules-based international trading system. We expect China to respond to Australia's concerns in good faith and in a timely manner.

17.17. The representative of Canada indicated the following:

17.18. Canada continues to share the systemic concerns raised by Australia and other WTO Members regarding trade disruptive and restrictive measures adopted by China. I refer to Canada's previous interventions on this item in the councils, which remains valid.[18]

17.19. China's repeated use of trade restrictions that are inconsistent with established international practices negatively impacts Canada's agricultural and non-agricultural exports. In relation to agricultural trade, China's lack of transparency and predictability with its application of Sanitary and Phytosanitary (SPS) measures continue to restrict Canada's exports of food, plant, and animal products, which continue to experience significant undue delays in China's approval procedures.

[18] See, for example, document G/C/M/143, paragraphs 24.20-24.24.

17.20. Canada remains concerned with the trade disruptive impact of China's COVID-19 measures on food imports. WHO/FAO guidance has reconfirmed that neither food nor food packaging is a pathway for the spread of viruses causing respiratory illnesses, including COVID-19. With no scientific evidence to support these measures, the continued suspension of Canadian meat establishments can only be viewed now as a tool to block trade.

17.21. Canada also remains concerned about the potential trade disruptions as a result of China's administrative measures for the registration of overseas manufacturers of imported food, and the continuing challenges and delays with the registration approval process for foreign establishments in the online China Import Food Enterprise Registration (CIFER) system. The world is facing rising food prices and disruptions to global supply chains impacting food security. It is critical for all WTO Members, including China, to take a science-based approach to their decisions and measures.

17.22. In non-agricultural trade, Canada continues to note new significant barriers to trade related to product certification requirements, such as expanding the scope of review to the point where product certifications that used to take several months now take several years for the same product types, as well as for modifications of existing and previously certified products. The use of trade disruptive and coercive measures also challenge and destabilize the rules-based international trading system from which China, Canada, and all WTO Members have benefited.

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

17.24. The representative of New Zealand indicated the following:

17.25. New Zealand continues to share a systemic interest in the concerns expressed on this topic. In the interest of time, we also refer to our statement made at the last CMA[19] and other fora, including on the importance of the multilateral rules-based trading system and the predictability and certainty that it provides for Members, regardless of their size or trading capacity.

17.26. 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.

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

17.28. The United Kingdom wishes to reiterate its support for Australia’s concerns over restrictive trade measures adopted by China. We continue to call on China to ensure that its trade measures are applied in a non-discriminatory, predictable manner, and with the necessary transparency around decision-making and administrative procedures, as required by the relevant WTO agreements. As WTO Members, we must all adhere to the fundamental principles and objectives of free and fair trade underpinning the rules-based multilateral trading system.

17.29. The United Kingdom continues to closely monitor reports of China's trade actions deliberately targeting exports from other countries for political reasons. As we have noted before, unfair and market-distorting trade practices can undermine both the integrity of, as well as the trust in, the multilateral trading system, and could directly harm business and citizens worldwide. We continue to urge China to engage in good faith and in a timely and responsive manner, providing clarifications to the points raised by Australia and the EU.

17.30. The representative of Chinese Taipei indicated the following:

17.31. My delegation wishes to support the concerns raised by Australia regarding China's implementation of trade disruptive and restrictive measures targeting a broad range of Australian goods. China's trade measures to hamper certain Members' trade interests, whether imposed formally or taken by direction or instruction of its authorities, seem to be based on unrelated bilateral issues. These measures systemically undermine the rules-based multilateral trading system and create a negative trade impact not only to Australia, but also to all other Members. We therefore call

[19] See document G/MA/M/76, paragraphs 11.25-11.28.

upon China to engage in dialogue with relevant Members in a good faith and constructive manner to solve their legitimate trade concerns, and for China to uphold its commitments to the principles and obligations of the WTO rules.

17.32. The representative of China indicated the following:

17.33. China has provided explanations on this issue raised by Australia in previous meetings at various WTO committees many times. China has always kept its promises by actively fulfilling its WTO commitments and its obligations under the China-Australia Free Trade Agreement and reducing tariffs on imported products from Australia for six consecutive years from 2015 to 2020. Currently, about 95% of imported products from Australia enjoy the zero-tariff treatment.

17.34. The relevant measures taken by the competent Chinese authorities in response to some Australian products exported to China are in line with Chinese laws and regulations, international practices, and the WTO rules, as well as the relevant provisions of the China-Australia FTA. China has also notified Australia promptly. It is not appropriate 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 following the WTO rules and market principles, is conducive to improving the well-being of people around the world.

17.35. The Committee took note of the statements made.

18 DOMINICAN REPUBLIC – DISCRIMINATORY TAXATION ON SOME FOOD IMPORTED PRODUCTS – 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. As this is the first time that the European Union raises this issue in the Committee, we will briefly set out the facts. The Dominican Republic applies a special VAT tax (called ITBIS) of 18% on imported products, mostly on imported cheeses, hams, and some other food products. The tax does not apply to the same domestic products, resulting in a discriminatory treatment of imported products.

18.4. The European Union has been raising the issue with the authorities of the Dominican Republic since 2015. Numerous contacts have been taken since then, including after the change of government in August 2020. We also thank the Delegation of the Dominican Republic in Geneva for the informal exchange held prior to this meeting. Although the authorities from the Dominican Republic have indicated that measures would be taken to eliminate the discrimination, there has been no progress in resolving the matter. EU operators are negatively affected by this discriminatory taxation.

18.5. The European Union requests the Dominican Republic to resolve the matter promptly. We would welcome clarifications as to what steps the Dominican Republic intends to take to that end, and within which timelines. We remain ready to engage with a view to making progress on this issue.

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

18.7. The United States shares the concerns raised today by the European Union. We seek clarification from the Dominican Republic on the taxes applied to some food products and answers to the questions raised today.

18.8. The representative of the Dominican Republic indicated the following:

18.9. The Dominican Republic's legal system contains no discriminatory measures in any area. The Dominican Republic's taxation system provides for the Tax on the Transfer of Industrialized Goods and Services (ITBIS), which is levied on the transfer of industrialized goods within the domestic

market, the importation of these goods, and the provision or leasing of services, at rates of 18% and, for a small number of goods, at a rate of 16%. The Tax Code of the Dominican Republic establishes a list of goods that are exempt, with this exemption applying indistinctly to goods produced in the domestic market and to those that are imported, thereby complying with the principle of non-discrimination enshrined in the WTO.

18.10. The European Union notified the Dominican Government that there were differences between how the exemption for certain food products was being applied to goods transferred within the domestic market and how it was being applied to imports. The relevant authority therefore conducted an assessment to identify what gave rise to this declaration. As a result, it was found that local producers were declaring products that had undergone maturation as "fresh cheese". These producers therefore received a warning from the Tax Administration, were told to apply the tax in the manner established by law, and were informed of the consequences that they could face in the event of a breach of tax provisions. This action reaffirms the Dominican Republic's dedication to fulfilling the commitments made in the international agreements that it has signed and its legislation.

18.11. Given that the European Union received timely notification of the resolution of this matter, as is documented in various communications, we are surprised that the situation is being presented in this scenario as a potential breach. Nonetheless, we reiterate our readiness to address any concern of the European Union, a leading partner for our country, or any other WTO Member that identifies any practice that could affect the development of international trade based on the principles to which we have committed before this multilateral Organization.

18.12. The Committee took note of the statements made.

19 EGYPT – MANDATORY USE OF A LETTER OF CREDIT AS PRIOR CONDITION FOR IMPORTS - STATEMENTS BY THE EUROPEAN UNION AND NORWAY

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

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

19.3. The European Union is concerned by the recent mandatory requirement to use a Letter of Credit as payment condition for imports into Egypt, which seems to be out of step with Egypt's commitments under the WTO Agreements. We understand that, since February 2022, imports in Egypt can be authorized by the Customs Authority only after a Letter of Credit is opened by the Egyptian banks. That has led to a *de facto* blockage of EU trade at ports and customs points. This situation is amplified by the lack of transparency and predictability regarding the introduction and implementation of the measure. The measure was adopted without prior warning to the economic operators and without a prior WTO notification. As far as the EU is aware, there is so far no official legal act made publicly available enacting the measure and harmonizing its implementation details.

19.4. We find it difficult to see how this measure, as currently designed and applied, could be in line with Egypt's commitments under the WTO Agreements, as it seems to restrict both imports and payments for imports into Egypt. The measure has been in place for several months. The EU is highly concerned by the horizontal disruptive effects this measure has on the activities of economic operators across EU industries. We therefore invite Egypt to reconsider the measure in order to address the serious concerns it has raised with respect to imports into Egypt.

19.5. The representative of Norway indicated the following:

19.6. Norway would like to express our concern about restrictions regarding payments for imports into Egypt. Norway agrees with the European Union that the mandatory requirement to use a Letter of Credit as payment, implemented earlier this year, seems to be inconsistent with Egypt's commitments under the WTO Agreements, restricting both imports and payments for imports into Egypt.

19.7. As also indicated by the EU, these restrictions are amplified by the lack of transparency and predictability regarding the introduction and implementation of the requirement. As far as we have understood the Egyptian requirements, certain goods, such as fish, are exempted from the

requirement. However, the requirements are also causing challenges for the trade in seafood, leading to increased administrative burden and delays for important food products. Egypt is an important market for Norwegian seafood, and seafood represents an important share of the bilateral trade between our two countries. We invite Egypt to reconsider the measure in order to address the serious concerns it has raised with respect to imports into Egypt.

19.8. The representative of Egypt indicated the following:

19.9. Egypt thanks the European Union and Norway for their concerns regarding the mandatory use of a letter of credit as a means of payment for imports into Egypt. At the outset, it is important to note that letters of credit are one of the well acknowledged methods of payment, and in many cases, required by the exporters given the fact that it provides a high level of reassurance to the exporter.

19.10. Letters of credit do not create import blockages. In case delay occurs, it is important to note that the current unprecedented global challenges have put the monetary reserves of food importing countries like Egypt under pressure. This, in turn, may cause a delay and affect the ability to finance imports, including those of goods essential for the livelihood of our people. Concerning the availability and publication of information since the introduction of mandatory use of letter of credit in February 2022, the Central Bank of Egypt has ensured transparency for issuance of a number of circulars, the latest being in June 2022, to clarify the scope in terms of entities, products, and trade regimes, of the requirements and the relevant administrative procedures. The link to these circulars is found on the website of the Central Bank of Egypt.

19.11. Furthermore, letters of credit are not the only payment method. There are also other accepted payment methods, as explained on the above-mentioned website. Our circular explains that there are many products that do not fall within the product coverage, including *inter alia* medicines, vaccines and relevant chemicals, medical supplies and their input, supplies for medical testing laboratories, tea, meat, poultry, fish, wheat, oil, powdered milk, infant milk, beans, lentils, butter and corn, live cattle and poultry, in addition to veterinary medicines and their relevant chemicals, raw materials and production inputs including seeds, chemicals used in agricultural activities, and raw cocoa powder. Finally, to ensure that no shipment of perishable goods such as agricultural and food products face any delay in Egyptian ports, our country is currently instructing that all perishable shipments be cleared by customs provided that the importer pledge to finalize the administrative procedures with a bank within a maximum of one year.

19.12. The Committee took note of the statements made.

20 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM (THE EUROPEAN GREEN DEAL OF DECEMBER 2019) – STATEMENT BY THE RUSSIAN FEDERATION

20.1. The Chairperson recalled that this agenda item had been included at the request of the Russian Federation. Written questions had been circulated in documents G/C/W/800 and G/MA/W/172.

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

20.3. The Russian Federation raises its deep concern in respect of the Carbon Border Adjustment Mechanism (CBAM), which is now being finalized by the European Union. The Russian Federation reiterates its statements made during the previous meetings of the CMA and the CTG.

20.4. We consider the CBAM as a protectionist measure aimed at improving the business environment for domestic industries. First, one of the objectives of the CBAM is to address the risk of carbon leakage. It is clearly stated in paragraph 1 of Article 1 of the EU's draft regulation establishing a CBAM. According to the Explanatory Memorandum to this draft regulation "carbon leakage occurs if, for reasons of different ambitions related to climate policies, businesses in certain industry sectors or subsectors were to transfer production to other countries with less stringent emission constraints or imports from these countries would replace equivalent but less GHG emissions intensive products due to the difference in climate policy". The whole concept of prevention of the so-called carbon leakage is an intention to localize industrial capacities on the territory of the EU, especially the ones that previously left the Union.

20.5. We would like to recall that the UNFCCC, as well as the Paris Agreement, allow their Parties to decide on their own way of achieving climate goals that are most effective for them. According to Article 3 of the UNFCCC, "policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors".

20.6. In addition, Article 5 of the 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".

20.7. The Russian Federation notes that the major principles of the Paris Agreement are (i) common but differentiated responsibility; (ii) an independent choice when determining the measures to address climate change; and (iii) cooperation. The CBAM neglects all these principles and does not absolutely meet the terms of the multilateral arrangements concluded at the global level on how to address the problem of climate change. Despite all these provisions, the EU has decided to punish all countries that have applied climate policies different from its own.

20.8. Second, it is no secret that the EU's institutions make their proposals to amend the initial draft regulation. These proposals include: (i) extension of the product scope subjected to the CBAM; (ii) non-recognition of alternative to carbon pricing internal measures aimed at decarbonization applied by exporting to the EU countries as effective when calculating the CBAM rate; (iii) *de facto* no mutual recognition of the verification results; and (iv) provision of export rebates for so-called most effective installations, according to the EU-ETS regulation, involved in export activity. Additionally, the CBAM should mirror the EU-ETS for importers of the covered products. However, the EU-ETS implies financial contribution measures. The EU State Aid Guidelines provide compensation for the reduction of indirect GHG emissions. In other words, the national authorities provide financial support for companies if they consume alternative energy sources produced within the EU. Besides, the participants of the EU-ETS have free allocations within this system and do not purchase any allowances.

20.9. Due to a time-limit, I cannot list all the provisions, which will lead to restrictions in trade with the EU caused by the CBAM. The Russian Federation has already circulated questions to the EU in documents G/MA/W/172 and G/C/W/800. However, the EU has failed to provide answers. We urge the EU to consider these questions and provide us with responses in accordance with the WTO procedures. We also expect that the EU will fully respect current trade rules and international climate agreements.

20.10. The representative of Paraguay indicated the following:

20.11. Paraguay's intervention relates to Agenda Items 20, 22, and in part, 23, as all of these items are closely linked to the EU's Carbon Border Adjustment Mechanism.

20.12. Paraguay thanks the delegations that added this item to the agenda and stresses that these types of measures would probably have little or no impact on reducing emissions, but rather seem to be protectionist measures aimed at levelling the playing field between EU domestic producers and their international competitors. Most, if not all, developed countries, including the EU member States, have achieved their economic development using the highly polluting methods that they wish to prohibit today, providing them with all these extra monetary resources that are used to subsidize production in order to comply with the measures that they are imposing on their trading partners.

20.13. Demanding from developing countries, that do not count on the same resources, to comply with measures that cannot be financed without the same level of domestic support does not aim at levelling the playing field; it makes the situation even worse. Even proving compliance, and the administrative costs of such measures, are too high for small and developing countries like Paraguay.

20.14. The principle of "common but differentiated responsibilities" must be taken into account not only on the basis of historical contributions but also on current policies, such as the environmentally harmful subsidies that the same European Union is seeking to implement on developing countries and that allow the implementation of carbon border adjustment measures. Paraguay, which produces only 0.02% of total GHG emissions globally, has contributed very little or nothing to the current climate change crisis and yet is severely affected by it due to its high dependence on agriculture production and trade.

20.15. Since all Members must play their part and we reaffirm our commitment to doing so, we have to create the right conditions so that developing countries are able to do so and, in reality, we are playing our part. We do not use subsidies that are harmful to trade for either fossil fuels or agriculture, and we contribute through largely unpaid ecosystem services. Other political approaches and domestic conditions must be taken into account when analysing and implementing these types of measures. Paraguay does not use carbon price measures but is probably a carbon sink through sustainable farming practices and unpaid ecosystem services.

20.16. The industrial sector in Paraguay and in many other developing countries is very small. Measures such as carbon pricing at the border will not further green industrialization without other elements and policies, they will rather prevent it. And what is worse, if these measures are extended to agricultural products with a certain level of industrialization, profit margins will be reduced even more, which in turn will affect exports, production, and our economies in general at the expense not only of the required adjustment, but also of our ability to move towards even more environmentally sustainable production systems.

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

20.18. The European Union has taken note of Paraguay's intervention and will reply under Agenda Items 22 and 23.

20.19. The Committee took note of the statements made.

21 EUROPEAN UNION – PROPOSAL FOR A REGULATION ON DEFORESTATION-FREE PRODUCTS – STATEMENT BY THE RUSSIAN FEDERATION

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

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

21.3. The Russian Federation is deeply concerned with the measures developed and adopted by the European Union in the framework of the European Green Deal. In our view, such measures aim to impose trade restrictions in order to improve the EU's business environment and to ensure compulsory localization in its territory.

21.4. One of the examples is a proposal of the European Commission on deforestation-free products which implies the import authorization procedure in respect of certain categories of goods such as cattle, cocoa, oil palm, soya, wood and products derived from them. According to the draft Regulation, permits on import of such goods are supposed to be issued in case: (i) the production of supplied products has not caused deforestation and forest degradation; (ii) production has been carried out in accordance with the national legislation of the country of origin; and (iii) due diligence expertise by the importer has been conducted. At the same time, this proposal neither sets out any relevant specific provisions nor any quality or quantity criteria for the implementation of this approach and compliance therewith. The draft regulation imposes benchmarks for risks depending on the product's country of origin. If the country of origin falls under the high-level risk group, the imports from this territory are prohibited. It seems like another unilateral measure which could not be in accordance with WTO rules and the main principles of the global arrangements relating to the issue of combating climate change.

21.5. Moreover, the European Union's institutions within the framework of the trialogue go further and propose to extend the scope of products subject to deforestation-free regulation, as well as to add new vague conditions for import authorization, which are: (i) the absence of a compulsory labour

force in the manufacturing process of products exported to the EU; and (ii) compliance with the international standards despite the existence of the technical regulation system in the EU, and others. There is no doubt that all these requirements, together with the initial proposals of the Commission, will create additional administrative obstacles for international trade that do not serve the interests of the multilateral trading system.

21.6. The Russian Federation urges the European Union to fully respect current trade rules and international climate agreements.

21.7. The Committee took note of the statements made.

22 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM – STATEMENT BY CHINA

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

22.2. The representative of China indicated the following:

22.3. China believes that actively addressing climate change, strictly implementing the United Nations Framework Convention on Climate Change (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 human beings and promoting global sustainable development.

22.4. The unilateral CBAM is based on the concept of "Carbon Leakage", which is questionable in theory and practice, disregards the differences in development stages and historical carbon emission responsibilities of different Members, deviates from the basic principles of the UNFCCC and the Paris Agreement, such as "common but differentiated responsibilities and respective capabilities" and "the institutions according to which every member determines its contribution", and inconsistent with the WTO basic principle of non-discrimination. The implementation of the CBAM will exacerbate international trade tensions, damage mutual trust among the international community and the prospects for economic growth, and be detrimental to the post-pandemic recovery of the global economy.

22.5. China is willing to strengthen communication and coordination with the EU and other Members to promote the liberalization of trade and investment in the green sector and address climate change jointly. China hopes that the EU will fully communicate with all stakeholders during the legislative process to ensure that the relevant measures comply with the requirements of the GATT, the Agreement on Import Licensing Procedures, and the TBT Agreement, and to avoid the formation of new trade barriers.

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

22.7. The Republic of Korea recognizes that climate change is one of the significant issues that all Members should continue to jointly focus on, with a view to finding effective ways to tackle this global challenge. Whilst having initiated its nation-wide emissions trading scheme since 2015, Korea has spared no effort to reach carbon neutrality by 2050, actively participating in international efforts to fight against climate change. Yet trade matters targeted for this purpose, such as the EU's Carbon Border Adjustment Mechanism, ought to be consistent with the WTO rules and be carefully designed so as not to function as an unnecessary trade barrier. Further, it should take into full consideration trading partners' individual efforts in addressing the issue of climate change.

22.8. The Republic of Korea will continue to closely follow the CBAM's latest process, whilst encouraging the EU to provide those that are subject to the measure with sufficient information and opportunity to comment. Furthermore, Korea looks forward to advancing the multilateral conversation on trade measures aimed at climate change.

22.9. The representative of Japan indicated the following:

22.10. Climate change is one of the most important issues. Countries must raise their ambitions and policy efforts to achieve carbon neutrality worldwide by 2050, while at the same time ensuring

a level playing field and preventing carbon leakage. Therefore, policy coordination is important for the production and introduction of products with low carbon intensity.

22.11. When discussing policy coordination, each country has been making reduction efforts in the past according to their own circumstances, such as energy source constraints and the industrial environment, and in principle, the focus should be on "carbon intensity" as the "result" as such reduction efforts.

22.12. As far as we understand, the CBAM was approved for re-amendment at the European Parliament's plenary session of 22 June, and trialogue discussions are under way between the European Council, the European Parliament, and the European Commission. Meanwhile, the European Parliament's amendment includes the refund of emission credits at the time of export from the EU, and there are more issues, such as subsidies agreements, that need to be considered. It is necessary for the EU to continue to avoid rushed and arbitrary decisions regarding this matter and continue to fully discuss this matter internationally.

22.13. The representative of Türkiye indicated the following:

22.14. Combatting climate change and achieving green transition are objectives that Türkiye shares with the European Union. On Türkiye's side, we are committed to playing our part in fighting climate change and meeting our net-zero emissions target by 2053.

22.15. Türkiye is closely following the EU's Green Deal, and the CBAM regulation in particular, due not only to its significant effects on our trade with the EU, which is a major trading partner for Türkiye, but also because this measure, as a first example of its kind, has the possibility to set a precedent for upcoming trade-related climate measures based on carbon pricing. In this sense, not only at this Committee, but also at others, such as the CTE yesterday, and the Council for Trade and Goods, we have been voicing our expectations from the EU on the drafting and future implementation of the CBAM.

22.16. Let me reiterate here that some of the issues that are related to the technicalities of the CBAM are in fact central to our debate here at the Market Access Committee so as to ensure that measures shall be applied in a manner that least disturbs trade and does not constitute a disguised restriction on international trade. These are, among others, the issue of carbon measurement methodology adopted by the EU; specifically with regards to using widely accepted standards as the basis, and whether the methodology regarding the calculation of carbon content of products is too complex and costly to be implemented for developing countries. Another issue of importance is whether the implicit carbon pricing, or other climate mitigation methods of countries, will be considered within the CBAM in order to make a transparent comparison with the policies of other countries and to prevent double counting.

22.17. On the other hand, while deliberations are still ongoing within the European Union, we have been hearing of some possible additions to the design of the CBAM with regard to the product scope; the emissions coverage of the charge also to include indirect emissions; and possible support to EU exports to countries without similar carbon pricing, all of which might give rise to concerns with regards to the additional burden and barriers these will create for the manufacturers of other countries, as well as the measure's compliance with the WTO rules and principles.

22.18. For these reasons, Türkiye believes that the measures targeted for tackling climate change should pass the necessity test, prioritize international cooperation and collective action, take into account different circumstances and historical responsibilities of countries, respect the social and economic development needs of others, and not constitute an arbitrary or disguised restriction and unjustifiable discrimination on international trade. In this sense, we would expect such a measure of transboundary application and implication in the nexus of trade and environment to be in line not only with WTO rules, but also with the responsibilities arising from Multilateral Environmental Agreements.

22.19. Türkiye looks forward to receiving further updates from the European Union on this issue and remains, as always, ready to cooperate for an inclusive and just green transition.

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

22.21. The European Union takes due note of the interest of our partners in this important issue. During previous meetings, we had the opportunity to provide Members with an outline of the proposal, its objectives, and its interaction with other EU policies targeted at achieving environmental sustainability and carbon neutrality. During this week's Committee on Trade and Environment, WTO Members had the opportunity to exchange with the EU's representative who updated Members on the state of the CBAM proposal, which is currently under negotiation by the co-legislators, namely the Council of the EU and the European Parliament.

22.22. Negotiations started in July 2022 and have been taking place regularly since then. The co-legislators are currently analysing the proposal in depth. An agreement on the final text is expected by the end of the year. It is useful to recall that the introduction of a CBAM seeks to address the risk of carbon leakage and thereby avoid that the EU climate action is 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. 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 the WTO rules and other international obligations. The proposal is based on the actual carbon content of a product, and by mirroring the existing EU Emissions Trading System (ETS), it ensures that foreign and domestic producers are treated equally.

22.23. The CBAM does not target third countries. It is addressed to companies as it applies to goods of certain carbon-intensive sectors and 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 consideration the carbon footprint of individual producers, meaning that the CBAM will be charged according to the actual emissions of imported goods. The impact of CBAM on third countries will be limited. The EU has been in contact with the most affected companies and governments.

22.24. The European Union stands ready to further engage with its trade partners and international organizations to inform them about, and where possible to assist them with, the implementation of the measure.

22.25. The Committee took note of the statements made.

23 EUROPEAN UNION – EUROPEAN GREEN DEAL (EGD): CARBON BORDER ADJUSTMENT MECHANISM (CBAM) AND DEFORESTATION FREE COMMODITIES (DFC) – STATEMENT BY INDONESIA

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

23.2. The representative of Indonesia indicated the following:

23.3. Indonesia has raised its concern in the meetings of other WTO committees regarding the European Union's Carbon Border Adjustment Mechanism (or CBAM) and Deforestation-Free Commodities (or DFC) proposals under the framework of the European Green Deal policies. Despite these efforts, no substantial responses from the EU have been provided. At the outset, Indonesia wishes to register again its concerns on the proposed CBAM and DFC in this committee meeting.

23.4. Regarding the proposed CBAM, Indonesia has heard from the EU that the CBAM is an environmental policy tool, and that it will be applied in a non-discriminatory manner, in full compliance with the WTO rules and other international obligations. The EU further said that they have fully translated the implementation of the Paris Agreement into legislation. Indonesia acknowledges that one of the important basic principles enshrined in the Paris Agreement and UNFCCC is "Common but Differentiated Responsibilities and Respective Capabilities". We believe that each Member has undertaken policies to address climate issues. Given that the proposed CBAM is unilateral and extra-territorial in nature, we are eager to hear more about how the EU incorporates this fundamental principle into the proposed CBAM. Furthermore, Indonesia is deeply concerned with the unclear methodology used under the CBAM, including, *inter alia*, to calculate carbon footprint, and its charges, as well as to determine when a product is incorporated into the list. Hence, in the absence of an international standard, Indonesia is concerned that the proposed CBAM will use a

biased standard and/or methodology that could create unnecessary trade barriers and result in a discriminatory treatment.

23.5. Turning to the proposed DFC, Indonesia takes note that the proposal will cover selected commodities such as palm oil, soy, cattle, cocoa, coffee and some derived products (for example leather, chocolate, furniture). Some important features under the proposed DFC are mandatory due diligence rules for all operators, and a benchmarking system. As with the CBAM, Indonesia has significant concerns over the unclear methodology used by the EU in determining a list of products and a country's risk level of deforestation. Taking into account the product scope, the proposed measures certainly will negatively affect developing countries' interests, including our farmers and other smallholders who depend on agricultural products for their living.

23.6. In this regard, we ask the EU to provide detailed explanations of whether or not it has taken into account the needs of developing and LDC Members, as well as the different challenges faced by Members. Indonesia would also like to know how the proposed CBAM and DFC will be applied consistently with the WTO rules, such as non-discriminatory provisions.

23.7. The representative of Paraguay indicated the following:

23.8. Paraguay's statement refers to Agenda Items 21 and 23. Paraguay reiterates the importance of taking into account the economic, social, and environmental dimensions of sustainability and ensuring that measures are implemented in accordance with international principles and standards, especially those of the WTO regarding measures which have a trade impact. The transition towards sustainability in productive systems needs to be gradual and determined by the countries themselves, according to their economic and social development needs. Local circumstances in different regions and their production characteristics must also be respected. A combination of penalties as well as incentives must be put in place so that Members are able to achieve their common objectives in the fight against global environmental challenges, such as climate change, biodiversity loss, and pollution.

23.9. However, while European Union producers benefit from significant subsidies, to directly or indirectly comply with these measures, but that certainly reduce their costs by doing so, producers from countries such as Paraguay that provide free ecosystem and environmental services and produce without subsidies are being penalized by having to comply with the same measures. For Paraguayan producers, the costs of complying with these measures come out of their profits, as opposed to being a small fraction of the domestic support they receive. It should be recalled that Paraguay, like many developing countries, has a large area of forests, with minimum forest conservation requirements ranging from 20 and up to 40% per agricultural establishment, showing our commitment to sustainability.

23.10. While some Members and continents, including the European Union, have industrialized and achieved their current level of development through highly polluting and environmentally damaging methods and are responsible for climate change, other Members that have only marginally contributed to climate change are being penalized and forced to comply with the same measures without the same level of support. This clearly disregards the principle enshrined in international environmental law of common but differentiated responsibilities.

23.11. Paraguay therefore reiterates the request that it has made to the European Union, in other committees and in the Council for Trade in Goods, to explain how these measures are consistent with the principle of non-discrimination and how the elements of sustainability and the principle of common but differentiated responsibilities can be reconciled, bearing in mind that the countries that contribute the least to climate change are the most affected by it and, at the same time, are the main targets of measures such as deforestation given the choice of commodities that is included in the EU draft legislation.

23.12. The representative of Guatemala indicated the following:

23.13. Guatemala is concerned by the application of these measures and the negative impact that they will have domestically, such as the adverse effects on rural development. Countries' sustainability is managed on an individual basis, in line with the needs and resources of each

Member. Developing countries like Guatemala have limited resources compared to the European Union and the support it provides.

23.14. With regard to the proposal for a regulation on certain commodities and products associated with deforestation and forest degradation, we are unsure of the criteria that have been used to select the commodities that will be covered by the regulation. The EU has said in this Organization that it used the measure's impact assessment. In this study, the "product scope" section only refers to commodities imported into the EU. No studies that considered commodities produced within the EU were used. We therefore have doubts regarding the scope of this measure.

23.15. Turning to the categorization of risk by country and risk sectors for third countries, the criteria used and the scientific basis for this categorization are also unclear to us. Guatemala reiterates the importance of having rules that adhere to WTO principles, such as most-favoured-nation treatment and national treatment.

23.16. The representative of Brazil indicated the following:

23.17. Brazil refers to its previous statements on this topic, especially the details made during the last meeting of the Council for Trade in Goods in July.[20] Therefore, I would like to make a brief statement today. CBAM represents an attempt by the European Union to shift the burden of adjustment costs to other countries. At the same time, it seems to be weakening some of its own commitments. Furthermore, it is in clear violation of principles, rules, and commitments undertaken by the EU in international agreements. Main stakeholders have called for trade negotiators to work closely with environmental experts as these topics cannot be addressed in isolation. The EU will find a strong partner in Brazil to promote sustainable development. We have much to contribute in terms of how to bridge divergences and build consensus on this measure.

23.18. On deforestation-free commodities (DFC), Brazil believes it establishes illegitimate obstacles to international trade. It is of a strong discriminatory nature and has little if any impact on its alleged goal of reducing deforestation and forest degradation. Deforestation is a multivariable problem that should be addressed through comprehensive public policies in the short, medium. and long-term. Illegal activities linked to deforestation must be halted. Alternative means of livelihood must be made available to the millions of people that live near forests. Sustainable production practices must be fostered and scaled up. Trade restrictions are in that sense a very limited instrument. They unfairly punish 99.1% of rural producers and do not provide any other remedy for the direct and indirect drivers of deforestation. By acting as an obstacle to economic development, trade restrictions actually reinforce some of the dynamics that led to the deforestation and reduce government capacity to deal with this issue.

23.19. Brazil has a legacy of constructive effort and building bridges in both the trade and environment regimes, making meaningful and sizeable contributions to achieving outcomes that balance the interests of all Members, and that put us on a proper path to addressing our common challenges. We therefore reiterate that the EU will find in Brazil a strong and committed partner in the promotion of sustainable development, and we urge the EU to duly consider the many concerns that we have expressed and adopt a constructive approach to the benefit of both regimes, trade and environmental, and especially to small producers in the developing world.

23.20. The representative of Ecuador indicated the following:

23.21. Firstly, my delegation takes note of, and welcomes, the inclusion of this trade concern on the agenda of this meeting. Ecuador is concerned by the development of policies under the Green Deal and rules on deforestation-free commodities, since they are unilateral decisions that have international ramifications and may affect third countries. Decisions that affect other States must take into account the views that other countries may have on a particular environmental matter. Moreover, unilaterally imposing environmental standards that have economic and trade implications for third parties is inconsistent with the spirit, rules, and procedures of the multilateral trading system.

[20] See document G/C/M/143, paragraphs 41.2-41.22.

23.22. Ecuador recognizes, supports, and promotes compliance with countries' international commitments to reduce greenhouse gases. It is important to recall that, under the Paris Agreement, each country establishes its own targets to reduce greenhouse gas emissions through nationally determined contributions. As such, each country, while retaining its sovereignty and observing the principle of common but differentiated responsibilities in line with its development capacities, establishes its own system for controlling the expansion of crops at the expense of forests, forage or vegetation with high carbon stock. Accordingly, pursuant to the Paris Agreement, any standard that is adopted in relation to the control of greenhouse gases and deforestation cannot be imposed on a specific country or established unilaterally with effects on third parties.

23.23. Ecuador would be grateful if the European Union could provide information in response to the comments made at this meeting of the Committee, and asks that, when adopting and implementing environmental decisions that have an impact on multilateral trade, account be taken of their consistency not only with international environmental law but also with the commitments taken under the multilateral trading system.

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

23.25. The Kingdom of Saudi Arabia thanks the proponents for raising the subject matter of the CBAM. From our perspective, while the EU stated that the proposed mechanism will be in conformity with the WTO rules and other international obligations, the EU is yet to explain how it aims to achieve this. While the EU's stated intention is to address the risk of investment leakage from the EU to other countries, the main objective is in fact to maintain the competitiveness of the EU industries. Our very preliminary review indicates that the proposed mechanism raises very serious concerns due to its potential medium and long-term negative implications on global trade, which we believe are unilateral trade protectionist in nature and provide specific protection to the EU's domestic industry.

23.26. The consistency of the CBAM with the fundamental rules of the WTO is questionable. Therefore, the burden of proof to confirm that this mechanism is consistent with the EU obligations and commitments regarding MFN, national treatment, rules of origin, and NTBs lies on the EU. Furthermore, monitoring and calculating the carbon emissions embedded in the products covered by the CBAM is not a straightforward task, and many details of the calculation methodology are not yet clear. As far as we understand it, the EU ETS implies effective financial contribution measures, while the EU State Aid Guidelines provide compensation for the reduction of indirect GHG emissions. This scheme looks like a specific import substitution subsidy, which is prohibited under the WTO Agreements. Therefore, we request the EU to provide further clarification on this matter.

23.27. In addition, the Kingdom of Saudi Arabia kindly requests the European Union to specify the articles in the WTO Agreements that allow it to adopt this unnecessary and complicated mechanism. We also urge the EU to further engage in consultations with Members, in order to ensure the full compliance of the 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 arbitrary or unjustifiable discrimination, or as a disguised restriction, on international trade, or be applied in a manner that constitutes protection to the EU domestic industries. Finally, we look forward to receiving further details and reflections from the EU on this proposed mechanism, and the Kingdom of Saudi Arabia stands ready to engage with the EU and interested Members on this issue.

23.28. The representative of India indicated the following:

23.29. Sustainable development and environment protection and to enhance the means for doing so in a manner consistent with the respective needs and concerns of countries at different levels of economic development are critical concerns for each country. There are however serious concerns as regards the trends and manner on the increasing use of unilateral measures, such as the European Green Deal, impacting trade, which are sought to be justified as environmental measures.

23.30. The implications of such measures for the rules of the WTO need to be reflected on. The UNFCCC functions on the basis of the principle of "common but differentiated responsibility and respective capabilities". The principle of "differentiated responsibilities" recognizes that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries; while "respective capabilities" recognizes the different socio-economic status of countries;

and the rules of Multilateral Environmental Agreements (MEAs) need to be reflected on. The underlying concern is that of systemic implications for international law as a whole, and the impact that any unilateralism would have on the multilaterally negotiated rights and obligations of countries.

23.31. In conclusion, India remains concerned that the measures proposed in the European Green Deal do not respect the well laid out principles in the Multilateral Environmental Agreements, seek to promote trade protectionism, and severely limit consumer choice. We remain opposed to these measures and request the European Union to revisit this approach in its totality.

23.32. The representative of Kazakhstan indicated the following:

23.33. Kazakhstan reiterates its position as expressed at the last meeting of the CTG and continues to follow developments around the EU Carbon Border Adjustment Mechanism. Kazakhstan 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.

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

23.35. On the CBAM, the European Union refers to its statement under Agenda Item 22 above. The EU appreciates the interest of partners also on the issue of deforestation-free commodities. We all agree that deforestation and forest degradation are taking place at an alarming speed. Ten million hectares of forests disappear every year, mainly due to human activities, with disastrous impacts on climate, biodiversity, livelihoods, and the economy. SDG15 commits countries around the world to halt deforestation by 2020. Despite progress, deforestation continues at an alarming rate. One of the main outcomes of the recent COP26 has been an agreement to halt and reverse deforestation by 2030. Deforestation is a main driver of climate change and biodiversity loss. The EU contributes to it by consuming a significant share of products associated with deforestation. The EU, therefore, has the responsibility to contribute to ending it.

23.36. The European Union has been working on combatting deforestation for a long time through its nature and biodiversity policies, the Forest Law Enforcement, Governance and Trade Action Plan and the Reducing Emissions from Deforestation and Forest Degradation initiative. The proposed Regulation is only one of the elements in the toolbox. It will ensure that the products that EU citizens buy, use and consume on the EU market, do not contribute to global deforestation and forest degradation. The Regulation is not a trade tool. It is there to help fight climate change and biodiversity loss linked to global deforestation by addressing the role of EU consumption. No commodities or countries will be subject to discrimination. The proposed rules will apply equally to commodities and products produced inside and outside the EU. The regulation will enhance trade in products from "deforestation-free" supply chains. It is the opportunity, together with our trade partners, to create more sustainable supply chains.

23.37. The European Union will continue to consult with our trade partners through bilateral and multilateral dialogues to support the ability of producers and operators globally to comply with the requirements of the future Regulation.

23.38. The Committee took note of the statements made.

24 EUROPEAN UNION – MRL REDUCTION OF CERTAIN SUBSTANCES TO MEET ENVIRONMENTAL OBJECTIVES IN THIRD COUNTRIES – STATEMENT BY PARAGUAY

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

24.2. The representative of Paraguay indicated the following:

24.3. On 6 July 2022, the European Union notified its reduction of maximum residue levels (MRLs) for the active substances clothianidin and thiamethoxam at the limit of quantification to address "an environmental concern of global nature, that is the decline of pollinators worldwide". Paraguay notes that the EU intends to use the MRLs for clothianidin and thiamethoxam not to protect European consumers, but as a means to regulate the use of neonicotinoids in processes and production methods in third countries. Paraguay is of the view that the TBT Agreement was not conceived to accommodate measures with clearly extraterritorial objectives. Moreover, Paraguay has serious

concerns as to the compatibility of the measure notified by the EU with the market access and non-discrimination obligations provided for in Articles XI and III of the GATT 1994, and that is why this concern has been raised in this Committee.

24.4. Clothianidin and thiamethoxam are registered in Paraguay and are used in high impact field crops at the national and export levels, such as peanuts, soybean, maize, wheat, sesame and mate. They not only have a wide range of uses and are highly effective, particularly against homopteran, tisanopteran, lepidopteran, coleopteran and other pests, but were also assessed and deemed safe for human health within the MRLs established by the CODEX Alimentarius.

24.5. Paraguay shares a genuine interest in environmental conservation and biodiversity and prioritizes the protection of human, animal and plant health, including the protection of pollinators, which play a key role in global food production and biodiversity and also boost yields of agronomically important crops. But each country, like Paraguay, has specific needs and challenges in its agricultural production, according to its geography, ecosystem and scientific local capacities, in seeking and maintaining sustainability in agriculture. This situation is reflected in the regulatory frameworks, which are based on solid scientific evidence and applied to registration processes to assess the risks of pesticides and their uses with risk assessments based on scientific information such as risk assessments for the environment and pollinators.

24.6. The European Union's proposal disregards and discredits these local regulatory policies, including regional ones, which establish conditions for food production and agricultural activity in their jurisdictions in a manner that is safe and adapted to the climatic conditions and pest pressures in each country and region. MRLs are not an appropriate tool for addressing environmental challenges in other countries, for which there are other appropriate regulatory frameworks and multilateral discussion and negotiation forums for that. There are also different mitigation options to manage the potential risks to pollinators arising from the use of clothianidin and thiamethoxam, ranging from clear and specific instructions on labels to the implementation of good agricultural practices in all processes. These types of practices, which include for example the timing of application (e.g. early in the morning or late in the afternoon, when pollinators are less prevalent), the non-use of substances when crops are blooming, the removal of flowering weeds from fields, and the reduction of dust when planting treated seeds, are effective means of risk mitigation given that they limit pollinators' exposure to the production processes of these substances.

24.7. Various independent studies by scientific regulatory authorities around the world agree that neonicotinoid insecticides can be used responsibly without causing unacceptable risks to bees or other pollinator species in the field. Several specific studies were included in the many comments submitted by WTO Members in relation to the EU notification G/TBT/N/EU/908.[21] Imposing restrictions on international trade will effectively make farmers in Paraguay and the region less competitive than farmers in Europe, who do not have to deal with the same pests and climatic conditions when producing food and can also benefit from numerous emergency authorizations to continue using these substances despite the fact that the EU has banned them since 2018.

24.8. Paraguay and several other Members submitted, within the established deadline, comments on notification G/TBT/N/EU/908. However, according to our information, on 27 September 2022, only 23 days after the deadline for submitting comments, the EU Standing Committee on Plants, Animals, Food and Feed approved the proposal to reduce the MRLs for these substances without any amendments[22], which once again leads us to believe that the notifications and comment periods are only formal procedures without the intention to take any comment into account. Paraguay therefore decided to also present this trade concern in the CMA because of the aforementioned concerns regarding the compatibility of the measure with the obligations under Articles XI and III of the GATT 1994. And while Paraguay is trying to avoid, as much as possible, repeating the same statement made in the TBT Committee, we need to provide a general introduction to the measure and Paraguay's concerns about it. Moreover, as some questions that were raised in Paraguay's

[21] https://ec.europa.eu/growth/tools-databases/tbt/en/search/?tbtaction=search.detail&Country_ID=EU&num=908&dspLang=en&basdatedeb=&basdatefin=&baspays=EU&basnotifnum=908&basnotifnum2=&baskeywords=&bastypepays=ANY&baskeywords=

[22] https://france.representation.ec.europa.eu/informations/les-etats-membres-approuvent-la-proposition-de-la-commission-dabaisser-le-seuil-de-residus-de-2022-09-27_fr

comments on the notification and in other committees such as the SPS and TBT Committees remain unanswered, they need to be included here.

24.9. With respect to the inconsistency regarding Article III of the GATT 1994, the EU has said that it will not authorize import tolerance for reduced MRLs due to global concerns, while it allows the EU member States to grant emergency authorizations for the use of clothianidin and thiamethoxam. In this regard, thiamethoxam has received 49 emergency authorizations for various crops since the ban and the end of the grace period for the substance in the EU on 30 April 2019 (Austria, Belgium, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Spain), including the most recent authorization for the period from February to May 2023, which is after the modification of the reduced MRL applied to third countries. With respect to clothianidin, 20 emergency authorizations for various crops have been granted since the ban and the end of the grace period for the substance in the EU on 31 January 2019 (Austria, Belgium, the Czech Republic, Denmark, Finland, Poland, Romania and Spain), including the most recent authorization also for the period from February to May 2023. These are the countries that were authorized when the grace period ended. There are even more that were authorized to use these substances after the grace period, given that some emergency authorizations were granted prior to 31 January 2019 permitting their use after this date.

24.10. While EU member States are responsible for emergency authorizations, which is why we do not receive information on the costs and average delay for their approval, the European Food Safety Authority (EFSA) assesses authorizations when it considers that they are not duly justified. The EFSA reviewed several emergency authorizations for these substances for the following EU member States: (i) Belgium; Bulgaria; Croatia; Finland; France; Germany; Hungary; Latvia; Lithuania; Poland; Romania; and Slovakia for Thiamethoxam; and (ii) Spain; Belgium; Poland, Finland; Latvia; Lithuania; Bulgaria; Hungary; and Romania for Clothianidin. The EFSA considers that emergency authorizations are justified when the need to avoid pest resistance is proven, and if there are no chemical alternatives to control a particular pest.

24.11. These are the same arguments used by Paraguay and other Members who do not have recourse to emergency authorizations. Even in cases where the EFSA considers that the emergency authorization granted is not duly justified, there are no restrictions on new emergency authorizations, which continue to be approved by the same members States to control the same pests on the same crops for which the EFSA has concluded that the use of the substance and the authorization granted was not duly justified. For example, this was the case of authorizations granted in Romania.

24.12. How are these emergency authorizations consistent with the obligation of non-discrimination under Article III of the GATT 1994? How long does it take on average to approve an emergency authorization? What is the average cost of the emergency authorization approval process? These questions have been repeatedly asked in other committees, but the EU response has merely mentioned that emergency authorizations are issued by EU member States and that each member State determines the length of the evaluation process. We look forward to receiving answers to these questions, especially as EU member States are also WTO Members in their own right, and it may be necessary to ask questions to each of them separately in the absence of concrete answers from the EU.

24.13. The representative of Uruguay indicated the following:

24.14. Uruguay wishes to thank the delegation of Paraguay for including this item on the agenda. Uruguay has submitted comments and questions to the European Union regarding the planned reduction of MRLs for clothianidin and thiamethoxam due to "environmental concerns of a global nature" at recent meetings of the SPS and TBT Committees, as well as bilaterally, as part of the international public consultation process opened by the EU in notification G/TBT/N/EU/908. We look forward to receiving a reply to these comments and hope, above all, that they will be duly taken into account in the regulatory process. In this connection, Uruguay is concerned by the comments made by the delegation of Paraguay indicating that the proposal was already approved, without any modifications, on 27 September 2022, at the EU's Standing Committee on Plants, Animals, Food and Feed.

24.15. As regards this Committee's scope of action, Uruguay understands that there are arguments that the measure concerned could contravene the provisions of Article XI of the GATT 1994, which forbids the introduction of import prohibitions or restrictions made effective through quotas, import licences or other measures. In addition to this, aspects such as those indicated by the delegation of Paraguay in relation to the institution of emergency authorizations, which are available for producers from European countries without a similar mechanism being in place for producers from third countries, and their link to the principle of non-discrimination laid down in Article III of the GATT 1994, merit further consideration.

24.16. In view of the foregoing and without prejudice to the elements that have been addressed in other WTO bodies, Uruguay would appreciate hearing the EU's comments or observations regarding the consistency of the proposed draft measure and its justification under the provisions of the GATT 1994. Uruguay shares the interest in promoting the protection of pollinators, in harmony with the protection of the environment and biodiversity, and supports the existence of regulatory environments based on scientific criteria, so as to avoid compromising food security and constituting barriers to trade. In this connection, Uruguay reiterates its willingness to cooperate with other Members to find mechanisms that enable these objectives to be achieved without unnecessarily restricting trade, while also ensuring the conservation of the environment.

24.17. The representative of Australia indicated the following:

24.18. Australia shares Paraguay's concerns about the EU's use of MRLs to implement environmental objectives in third countries and the impact that TBT notification G/TBT/N/EU/908 will have on market access for agricultural products to the EU. Australia notes that it will be raising these concerns within the TBT and SPS Committee meetings in November.

24.19. The representative of Ecuador indicated the following:

24.20. Ecuador takes note of and thanks Paraguay for including this concern on the agenda of this meeting. Ecuador would like to reiterate its concern in relation to this matter, in line with what we have already expressed at the Committee on Sanitary and Phytosanitary Measures. It would appear that the technical determination, adoption procedures, and implementation of regulations on MRLs by the European Union seem not to be appropriately aligned with the rules of this Organization, or with the phytosanitary standards agreed upon in other multilateral bodies. Moreover, they do not take full account of the national legislation of the European Union's various trading partners, their production systems, or the climatic conditions that they face, in addition to other specific situations that call into question the appropriateness and even the efficacy of measures to reduce residue levels.

24.21. We have found the European Union to be receptive to opening a dialogue with countries concerned by the above-mentioned approach. Ecuador welcomes this openness and hopes that these discussions will pay special attention to the following elements: (i) the impact of the new regulations on production and marketing and, therefore, on market access for agricultural products from third countries; (ii) the impact that limiting the use of substances as a tool for crop protection would have on farmers from third countries; and (iii) the fact that the draft European regulation recognizes that both the current European MRLs and those of the Codex Alimentarius are safe for consumers and, therefore, that the multilateral Codex standard must not be overlooked.

24.22. Sustainability rests on three pillars: social; economic; and environmental. It is crucial not to lose sight of the convergence of these three aspects. In this connection, when adopting measures on MRLs, consideration must also be given to trading partners' legal regimes and efforts for the protection of, for example, pollinators. Moreover, account must be taken when adopting such measures of the negative effects that they will have on the other sustainability pillars in the European Union's trading partners, particularly if they are developing countries. When it comes to its member States, even the European Union itself is no stranger to this flexibility. As has been mentioned, where necessary, European producers are able to make emergency use of substances that are officially "unauthorized". In this regard, we consider that there are sufficient grounds for the European Union to maintain the current maximum levels for third countries, as import tolerances.

24.23. The representative of Brazil indicated the following:

24.24. Brazil was one of the Members that expressed serious concerns about this measure at the TBT Committee in July 2022. Brazil shares the EU's legitimate objective of environmental protection. However, the measure at issue is more trade restrictive than necessary to fulfil the EU's objective both in terms of the TBT Agreement and of the GATT 1994. As far as the TBT Agreement is concerned, in September, Brazil stated in the comments submitted to the EU's regulatory process that the measure was inconsistent with Article 2.2 of the TBT Agreement, and did not consider the Codex Alimentarius' recommendations for clothianidin and thiamethoxam maximum residual limits (MRLs). Moreover, the measure is not supported by any evidence that the use of those substances in the production of agricultural products in other territories poses a risk to the population of pollinators within the EU. Apart from the TBT clauses, while we plainly respect the EU's authority to regulate the use of neonicotinoid substances within its territory, it has no such authority over third country jurisdictions.

24.25. The measure seems to attempt to give extra territorial effect to EU production standards and/or environmental policy choices by imposing them on agricultural activities in third countries which have very different conditions of weather, pest control, and production. It also ignores potential risk management mitigation measures by exporting countries. In Brazil, for instance, the State of San Paolo is the main citrus juice producer, a sector which relies on the use of those insecticides. It is also where 84% of honey production is concentrated. In that State, there is no evidence of a decline in the number of pollinators. On the contrary, honey production in that region has increased by about 136% in the last 15 years. Paraguay provided some examples of very simple and effective migration measures.

24.26. In conclusion, Brazil supports Paraguay's claim that the measure at issue goes beyond the provisions of the TBT Agreement, and also merits escalation in this Committee. We are currently accessing its potential inconsistences with Articles III, XI, and XX of the GATT 1994.

24.27. The representative of Colombia indicated the following:

24.28. Colombia supports this trade concern, as we have indicated in other WTO bodies on this particular issue and similar policies. In the context of the Committee on Market Access, Colombia draws attention to the inconsistencies between the EU system of non-approval of use or residue limits related to certain substances and the principles of non-discrimination of the GATT 1994. These inconsistencies are registered in the so-called "emergency authorizations" which allow EU member States to continue to use plant protection substances on their crops, despite the fact that the use of such substances is prohibited. Third countries have no possibility to use such authorizations.

24.29. Equally worrying is the unilateral application of EU environmental and sanitary standards to imported agricultural and agri-food products, which assumes an extraterritorial application of the rules regulating the production methods of countries, which in our view is contrary to the principles of the GATT.

24.30. The representative of Canada indicated the following:

24.31. Canada would like to thank Paraguay for bringing this issue to the Committee on Market Access. Canada shares the concerns raised by a number of other Members and is following this issue very closely. We look forward to further engagement with the EU on this matter, including in other WTO Committees.

24.32. The representative of Argentina indicated the following:

24.33. Argentina would like to thank Paraguay for having included this item on the agenda. Firstly, we would point out that Argentina fully shares the EU's genuine interest in, and the strategic importance of, pollinators for the environment. However, we have recently raised a number of questions regarding notification G/TBT/N/EU/908 to which we are awaiting responses.

24.34. In line with this, and in line with what we have heard from other delegations today, Argentina would like to express its concern given that all would seem to indicate that the EU's notified measure, rather than protecting the environment or pollinators, would rather create an unnecessary obstacle to trade, which would impact third countries and producers' ability to export to the EU.

24.35. The representative of India indicated the following:

24.36. India sent a formal communication detailing our concerns on G/TBT/N/EU/908 via the TBT Enquiry Point mechanism on 3 September 2022. The same was also forwarded to the EU mission in Geneva on 4 September. The issue has also been taken up bilaterally in Brussels. In our letter, we have indicated that in several countries, the MRL on the two chemicals covered under the notification is at the level of Codex or above Codex. The EU is requested to share the risk assessment being done to fix the MRL of these two pesticides at the level of determination, and the EU is also requested to share the less trade restrictive approaches considered in this context.

24.37. The European Union is seeking to apply its domestic environmental policy choices in a trans-boundary fashion. We also request the EU to notify this measure to the SPS Committee, as the eventual purpose of this notification is to protect animal health, an SPS subject matter.

24.38. The representative of Indonesia indicated the following:

24.39. Indonesia would like to thank Paraguay for including this agenda item. Indonesia wishes to register its interest in this agenda item and will monitor the development of discussions on these matters.

24.40. The representative of South Africa indicated the following:

24.41. South Africa wishes to thank Paraguay for raising the matter related to EU regulations notified to the TBT Committee in document G/TBT/N/EU/908. South Africa would at this point also like to register its interest in this measure, which will lead us to another consideration, and in this regard, we seek to clarify the timelines and process that the EU intends following regarding the adoption of the final measure and its entry into force. We did submit our comments to the enquiry point under notified measures on 2 September, prior to the close of the comment period, and we look forward to receiving feedback on the elements that we raised there. We also look forward to engaging with the EU to further elaborate on our submissions and seek further clarity on their measures, hopefully prior to the upcoming TBT meeting.

24.42. The representative of Guatemala indicated the following:

24.43. Guatemala thanks Paraguay for including this item on the agenda, and supports what it said with regard to the extraterritoriality of the level of application of the measure. Guatemala reiterates its concern about this matter, following what has been discussed for a number of years at the SPS Committee. There are concerns relating to the application of MRLs and the failure to consider production levels, geographical location, and production systems.

24.44. Guatemala would be grateful if the European Union could indicate how it considers that the measures and conditions applied to European producers may be the same as those applied to tropical countries, such as Guatemala, and those that have different climatic conditions. It would appear that these measures seek to create an unnecessary obstacle to trade. Guatemala has submitted comments through the official channels and is awaiting a reply.

24.45. Moreover, it is important for European producers and those from third countries to be subject to the same conditions and to respect the WTO principles of non-discrimination and national treatment. This is why we are concerned about the issue of emergency authorizations. We hope that the discussions held will identify solutions to the real concerns.

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

24.47. The European Union takes note of the interest by Paraguay and other Members on this issue. We also take note of the statements by the US and Canada at the beginning of this meeting. The EU informed WTO Members for the first time about its intentions in November 2020 in the SPS Committee, in document G/SPS/GEN/1868. The draft Regulation on lowering the maximum reside levels for the two neonicotinoid substances clothianidin and thiamethoxam was notified to the TBT Committee on 6 July 2022 (G/TBT/N/EU/908). The comments received were discussed in a meeting with the EU member States. The EU would like to thank Paraguay and other Members for providing comments. Since the lowering of MRLs in this particular case is not linked to consumer

health issues, the draft measure was notified under the TBT Agreement and not under the SPS Agreement. It should be noted, however, that a communication for information was also submitted to the SPS Committee.

24.48. This draft Regulation is the first one implementing the new policy announced in the European Green Deal and – more specifically – the Farm to Fork Strategy on imported food in relation to pesticides residues. The environmental aspects that this Regulation targets are those related to the protection of pollinators. This is an issue of global concern, which goes beyond national boundaries and cannot be solved through actions at EU level alone. The Regulation is lowering the MRLs for the two neonicotinoid substances clothianidin and thiamethoxam, that are known to contribute significantly to the decline of pollinator populations because of their intrinsic properties that lead to adverse effects on pollinators independent of where they are used geographically.

24.49. The European Union would like to clarify that the draft Regulation is not requiring third countries to ban the use of clothianidin and thiamethoxam in their own territory. It is therefore not undermining the decisions of the regulatory bodies of Paraguay or of other Members. The EU is bound by the WTO rules and is acting accordingly. The WTO rules allow Members to adopt measures necessary to achieve a legitimate objective, which in this case is the protection of pollinators, a global environmental concern.

24.50. With regard to possible trade impacts, firstly, the draft Regulation includes trade facilitating provisions, mainly to defer the application date of the Regulation to 36 months after entry into force (instead of six months, which is the standard period foreseen by WTO rules) and to allow products placed on the market before the application date to remain on the market until the end of their shelf life. Secondly, the EU acknowledges that third countries may face production conditions and pest pressures different from those in mainland Europe. Therefore, import tolerances can be granted to active substances not authorized in the European Union provided that the submitted information demonstrates that the use is safe to pollinators.

24.51. The European Union considers that currently there is no alternative to the lowering of the MRLs of clothianidin and thiamethoxam which would be less trade restrictive and would equally contribute to the objective of protecting pollinators. Based on the current knowledge, reducing the use of neonicotinoids is an effective and preventable action to tackle pollinators decline. A clear consensus exists regarding the fact that both wild and managed bees are exposed to pesticides and that the range of sub-lethal effects is quite broad. There is significant evidence and rather high agreement on the highly negative impacts of sub-lethal effects. The EU remains available to further discuss this matter with any interested Member.

24.52. Regarding emergency authorizations, there is no discrimination of third countries. In special circumstances, emergency authorizations are issued by EU member States for limited periods of time, not exceeding 120 days, and controlled use on specific crops. These emergency authorizations are issued with the aim of containing a danger that cannot be contained by any other reasonable means. But these emergency authorizations by member States only apply to their own territory (not EU-wide) and by definition do not apply to imports and are not meant to facilitate trade. In case the use of the authorized product results in residues in food and feed above the MRLs established at Union level, the authorizing member State may exceptionally allow the placing on the market in its own territory provided that the food or feed does not constitute an unacceptable risk. The authorizing Member should inform the other member States, the Commission, and the European Food Safety Authority. Food containing residues of substances authorized under the emergency authorization above the EU MRL must stay on the territory of the member State having granted such an authorization. The Commission has taken action and will continue to do so to reduce the number of such emergency authorizations. Some of these actions focus on promoting the generation and implementation of more sustainable alternatives to promote the transition towards sustainable production.

24.53. The Committee took note of the statements made.

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

25.1. 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 documents G/MA/W/140 and G/MA/W/169.

25.2. The representative of Switzerland indicated the following:

25.3. Switzerland thanks the Gulf Cooperation Council (GCC) for the video conference that took place in May 2022. During that meeting, the Kingdom of Saudi Arabia – the GCC coordinator – indicated that the study on the selective tax reform would be shared as soon as possible. Switzerland would like to kindly reiterate its interest in the study and on the possible outcome of the GCC domestic consultations. In addition, the GCC informed us that their recommendations on the new tax system were in the process of elaboration and that the GCC Ministers of Finance would decide on it during their meeting in the autumn. Therefore, we kindly ask the GCC if information is available on the state of play of the reform process, and in particular, if a timeline for the reform is known. If a decision has been taken, we would welcome a comprehensive update on the elements contained in it. As this reform process has been ongoing for quite a long time, we urge the GCC to implement the changes, as planned, without further delay.

25.4. Switzerland also wants to underscore the need to receive comprehensive, regular, and transparent information from our GCC partners. According to the information available, the GCC is contemplating implementing a new tax regime similar to the tiered volumetric tax structure of the UK. This is very welcome news. Until the new tax regime enters into force, we once again request the harmonization of the tax rate at 50% for all sweetened beverages. The current discrimination between energy drinks and other sweetened beverages has been in place since several years ago. We urge the GCC not to wait until the reform is implemented to address our concern.

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

25.6. The United States, along with Switzerland, the European Union, and Japan, circulated questions in April 2021 to GCC member State governments regarding the status of the selective tax on beverages. While we appreciate the information provided during the last Committee meeting – as well as during separate discussions with member State officials since then – we note that we still have yet to receive written responses to the questions from April 2021, and ask these Members to update us as to when such responses to those questions will be provided. As we have conveyed before, we request a substantive update on revisions to the GCC excise tax model and its implementation plan under the GCC Unified Excise Tax Agreement, and note the importance of timely engagement with interested parties regarding this issue.

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

25.8. The European Union takes note that the present GCC excise tax system is under review and that a volumetric tax model based on international best practice is being considered based on a "Tax Reform Study". We consider it important that the reform equalize the tax rates for energy drinks with the tax rates applied on other soft drinks. The EU would be interested to learn more about the timetable for the revision of the tax rates. The EU understands that the "Tax Reform Study" commissioned by the GCC countries on the future GCC excise tax reform is expected to be finalized very soon, and if the GCC could share the study with the EU, this would be welcome.

25.9. In addition, we stress again the importance of a robust stakeholder consultation process with respect to forthcoming GCC proposals on the excise tax reform. The EU considers that the taxation of energy drinks at 100% under the present GCC excise tax regime is discriminatory and not in accordance with international legal obligations. We reiterate that it is important that any transition from the present to a new tax regime include a provision to equalize the tax rate of energy drinks with other soft drinks with an immediate effect. The EU will continue engaging with the GCC on this important issue.

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

25.11. On behalf of the United Arab Emirates, the Kingdom of Bahrain, the Kingdom of Saudi Arabia, the Sultanate of Oman, the State of Qatar and the State of Kuwait, I would like to thank the delegations of the European Union, Switzerland, and the United States for the interest they attach to the GCC excise tax regime and for their communication on the application of the excise tax on carbonated soft drinks, malt beverages, energy drinks, sport drinks, and other sweetened beverages.

25.12. As for the timeline of the ongoing process of the new GCC excise tax model and its implementation, let me recall, once again, that the revision of the excise tax on beverages is a complex exercise that requires significant efforts, extensive coordination, and comprehensive studies. 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. In conclusion, an appropriate procedures and timeline will be adopted by the GCC member States for the revision of their excise tax regime. Once the process is completed, the relevant information will immediately be shared with WTO Members.

25.13. The Committee took note of the statements made.

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

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

26.2. The representative of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu indicated the following:

26.3. The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu would like to register, once again, our concerns regarding India's licensing regime on the importation of pneumatic tyres under Notification No. 12/2015-2020 on "Amendment in Import Policy on Tyres" of 12 June 2020. We appreciate the information provided by India in July 2022 on the import licences granted to our exporters in the last two years. These figures have been in the process of internal verification in Capital. However, if we look at the tyre trade in terms of volume, the fact is that from 2020 to the first half of 2022, India's tyre imports from us plummeted by more than 50% compared to 2019. And, clearly, this is not just a problem for us alone.

26.4. A measure like this clearly impedes Members' access to India's market. We continue to question how the said licensing measure and its practice would be consistent with WTO rules concerning quantitative restrictions. We hereby urge India to please ensure that all applications of import licences that are in full compliance with the quality of tyre products should be granted without hindrance or undue delay. We call on India to review its current practices and to engage in good-faith discussions with those Members concerned with a view to resolving the issue in a timely and constructive manner.

26.5. The representative of Thailand indicated the following:

26.6. Thailand would like to reiterate the concern that we have raised numerous times in past meetings of the Committee on Market Access, the Committee on Import Licensing, and the Council for Trade in Goods, regarding India's import policies on tyres. These policies still considerably affect Thailand's exports of tyre products to India which, in 2021, declined 40.23% in value, or 45.23% in volume, relative to 2019 before this measure was implemented. Moreover, for the first seven months of 2022, the exports of tyres from Thailand to India fell 54.91% compared to the same period of 2019.

26.7. Moreover, Thailand would like to reiterate its concern that the issuance of import licences for tyres by the Indian authority has still been subject to considerable delays, and the various aspects of the administration of the procedure for granting licences is still unclear. In this connection,

Thailand requests that India provide the following information: (i) the administration of the restrictions, including the time-frame or period for processing applications; (ii) the import licences granted to Thailand over the most recent period; and (iii) the distribution of such licences among supplying countries.

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

26.9. The European Union would like to reiterate the concerns that it has been raising in this Committee since 2020 regarding India's licensing regime for importation of pneumatic tyres under Notification No. 12/2015-2020, on "Amendment in Import Policy of Tyres" of 12 June 2020. Despite having raised this issue on multiple occasions in this and other WTO Committees (including the Import Licensing and TRIMs Committees) there has been no progress made towards finding a possible solution. The EU continues to be concerned about the effect of this measure on the import of tyres. Only a limited number of licences have been granted to EU tyres manufacturers, and even these licences are limited in duration, quantity, and type of tyres. After two years, no licences have yet been granted to bus and truck tyres. This is blatant discrimination against EU bus and tyre manufacturers.

26.10. 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. We invite India to engage in a constructive dialogue with EU member States and the EU Delegation in Delhi. Solving such trade irritants is critical to facilitating EU-India trade, especially taking account of the current trade negotiations between our two parties.

26.11. The representative of Indonesia indicated the following:

26.12. Indonesia shares the concerns raised by previous speakers over India's import policies on tyres. Indonesia would like to stress that the measures imposed by India on tyres have been effectively restricting the exportation of tyres from Indonesia. These measures include import restrictions on certain categories of tyres, a requirement for importers to make separate statements through electronic mail, and product marking requirements. We observed that the application of these measures constitutes discriminatory treatment and restriction or prohibition. Therefore, Indonesia is of the view that the measures might not be in compliance with certain WTO rules, such as Article III and Article XI:1 of the GATT 1994. As such, Indonesia requests India to reconsider its import policies on tyres.

26.13. Indonesia would like to thank India for providing information in response to Indonesia's concerns over India's import policy restrictions on tyre products at the previous CTG and TBT Committee meetings. However, Indonesia is disappointed that India has not presented an adequate solution to overcome this issue. Indonesia is fully aware that India has imposed import restrictions for tyre products of certain types and size categories corresponding to tyres produced by India's domestic tyre manufacturers.

26.14. This policy was implemented shortly after India imposed a temporary import ban on tyre products, for a period of six months, as stated in Notification No. 12/2015-2020, dated 12 June 2020, "Changes in Tyre Import Policy". The implementation of this policy has the potential to hamper tyre exports to India considering that the choice of tyre products that can be exported is very limited; indeed, it even has the potential to eliminate market access for imported tyre products, given the various types and sizes of tyres produced by India as one of the world's main producers of tyres. Although there are no official provisions governing the restrictions on the imports of these tyres, importers are required to make a separate statement, via email, regarding import restrictions for certain types and size categories of tyres that could be produced domestically, and where violations would result in criminal sanctions based on the FTDR Act 1992. In addition, Indonesia is of the view that discriminatory treatment in the implementation of the aforementioned policy, where the policy is applied selectively by targeting certain Members that have the potential to become India's competitors, and hampers market access for domestic tyre products, will *de facto* also have hampered the export of Indonesia's tyre products.

26.15. Moreover, Indonesia also intends to ask for further clarification regarding the implementation of marking fees on tyre products that are using the IS Mark. Indonesia is of the view that the imposition of the IS Mark marking fee on tyre products has the potential to burden business actors

and create unnecessary trade barriers to international trade. The imposition of such marking fees does not have a valid justification and has no relation to the protection of human health, safety, or prevention of fraudulent practices.

26.16. In conclusion, Indonesia requests that the Government of India immediately review the two restrictive import policies on tyres to ensure that the policies in question are in accordance with WTO principles and regulations, in particular the national treatment principle, the non-discrimination principle, and the QR elimination obligation under Article I:1, Article III:4; and Article XI:1 of the GATT 1994, and Article 2.1 and Article 2.2 of the TBT Agreement.

26.17. The representative of Canada indicated the following:

26.18. Canada is intervening on this item for the first time in support of the concerns expressed by the European Union, Indonesia, Chinese Taipei and Thailand with India's import policies on tyres. In April 2022, Canadian stakeholders, including tyre manufacturers and exporters, informed the Government of Canada of their concerns with India's import policies on tyres, particularly India's non-automatic import licensing system, which has been in place since 2020. Based on the information provided by Canadian stakeholders, India's non-automatic import licensing system effectively imposes a quota on imports of tyres. This quota represents a fraction of imports during previous years.

26.19. Further, the quota allocated to importers over the 2021-2022 period has decreased compared to the quota amount over the preceding period. An application to import quantities over the quota was denied by India on the explicit basis that "the allocated quota is already approved for the current year". Importers were informed that the quotas to be allocated for 2023 would be further reduced. Based on this information, India's non-automatic import licensing system is effectively a quantitative restriction designed to limit imports of tyres into India.

26.20. Canada calls on India to eliminate this quantitative import restriction in accordance with its WTO commitments.

26.21. The representative of India indicated the following:

26.22. India would like to thank the delegations of Canada, the European Union, Thailand, Indonesia, and Chinese Taipei for their interest in this issue. We would also like to refer to our response provided in the previous meetings of the Council for Trade in Goods, the Committee on Market Access, and the Committee on Import Licensing. My delegation would like 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 specific questions raised, and the data provided by the delegations of Thailand, the European Union, and Indonesia in the Committee on Import Licensing meeting earlier this month and today have been forwarded to Capital for due consideration.

26.23. The Committee took note of the statements made.

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

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

27.2. The representative of Japan indicated the following:

27.3. Japan again reiterates its concerns 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 1994, and Article 2.1 of the TRIMs Agreement. Thus far, India has explained that the measure is consistent both with India's obligations under the Montreal Protocol and with regulations on 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, we reiterate 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 the written questions it submitted to the TRIMs Committee last September.

27.4. 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. We welcome this extension. However, we would like to request India to ensure that the factory testing for foreign manufacturers is conducted smoothly by the Bureau of Indian Standards. Otherwise, we call on India to consider introducing some alternative procedures in the case that its officials face difficulty in traveling overseas.

27.5. The representative of Thailand indicated the following:

27.6. Thailand would like to join Japan to express our grave concern, which we have raised several times, regarding India's import prohibition of air conditioners with refrigerant. We regret to say that, unfortunately, no progress has been made so far. First of all, Thailand's exports of air conditioners to India continues to suffer from this highly restrictive import measure. For the first eight months of 2022, the exports of air conditioners from Thailand to India fell 31.41% compared to the same period of 2019, which is the greatest fall in the exports of air conditioners among Thailand's top 10 export destinations of such products worldwide.

27.7. Thailand respects India's dedication to protecting the stratospheric ozone layer. However, we believe that this highly restrictive measure has several serious flaws that violate the GATT 1994 and must be discontinued immediately. First of all, such outright import prohibitions are inconsistent with Article XI:1 of the GATT 1994, unless they are based on a legitimate public policy exception, for instance, those in Article XX of the GATT 1994. Unfortunately, this import prohibition does not fulfil the conditions of Article XX either. Particularly, there is no clear connection between these measures and any public policy exception. Notification No. 41/2015-2020 itself merely lists two HS codes of air conditioners that are subject to India's import prohibition if they contain refrigerant, and neither specifies the types of prohibited refrigerants, nor refers to India's legislation on the protection of human, animal, or plant lives or health, nor to the protection of the stratospheric ozone layer, nor to the Montreal Protocol.

27.8. Moreover, the Ozone Depleting Substances Rules 2000, read together with its Amendment in 2014, contain many exceptions for domestic products containing Group I and VI substances that suggest that not all such products are prohibited on India's domestic market, and that the Indian authorities do not apply the same rules to imported and domestic air conditioners that contain ozone depleting substances. In some instances, the exceptions from India's general prohibition on these substances appear to be based on "commercial" rather than environmental reasons. Notable examples of such exceptions are the following. First, Rule 6(1) of the Ozone Depleting Substances (Regulation and Control) Rules, 2000 reads "No person shall either himself or by any other persons on his behalf or enterprise sell, stock, or exhibit for sale or distribute any ozone depleting substance after the date specified in column 5 of schedule 5, unless he is registered with the authority specified in column 4 of that schedule". This suggests that, based on certain commercial considerations, the Indian authorities have some discretion to register a domestic producer of certain products containing Group I and VI substances (potentially including air conditioners), and in this way allow India's domestic producers to place these products on India's market. Second, Rule 6(1) also contains a proviso stipulating the ultimate phase-out date for the placement of air conditioners on India's market, namely 1 January 2025, whereas the importation of similar products has already been prohibited. This also suggests that the Indian authorities do not apply the same strict requirements to imported and domestic air conditioners containing Group VI substances. In addition, Rule 3(a)(2C) of the 2014 Amendment also confirms that Indian producers are allowed to sell certain Group VI substances in excess of the quota orders issued by the Ozone Cell, Ministry of Environment and Forests to cover the entire domestic requirement of HCFC-22 for non-feedstock application.

27.9. All of the above exceptions are just some of the indicators indicating that the Indian authorities do not apply these measures "in conjunction with restrictions on domestic production or consumption" within the meaning of Article XX(g) of the GATT 1994, and that they apply these rules in a manner that constitutes "a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail" in the sense of the *chapeau* of Article XX of the GATT 1994.

27.10. Last but not least, these measures do not comply with the Montreal Protocol which, as India claims, lies at the heart of this highly restrictive measure. According to the Montreal Protocol, any measure that reduces the use of Hydrofluorocarbons (HFCs) shall be announced in advance and provide a sufficient transition period for affected member countries. Moreover, the measure should be applied to domestic producers before it can be applied to foreign producers. Also, for Article 5 Parties Group 2, of which India is a part, there are clearly determined reduction steps on the use of HFCs that India should follow. However, although India can apply shorter time-frame for such a reduction, it must be done in a non-discriminatory manner between domestic and foreign producers. For the simple reason of the outright violations of Articles XI:1, XX(b), XX(g), and the chapeau of Article XX of GATT 1994, and the non-compliance with the Montreal Protocol, Thailand insists that India's import prohibitions on air-conditioners that have been implemented for two years and three days must be immediately amended or fully terminated.

27.11. The representative of India indicated the following:

27.12. India would like to thank the delegations of Japan and Thailand for their continued interest in this issue. Since the last CTG meeting, my delegation shared details of these measures, including their intention and the ongoing developments, with the delegation of Japan. We also thank the delegation of Thailand for sharing relevant data in the last CTG meeting and also today. This data has been transmitted to Capital for due consideration. It is currently being examined.

27.13. My delegation would also like to draw attention to India's notification in document G/LIC/N/2/IND/21 to the Import Licensing Committee under Article 5.1-5.4. This notification clearly spells out the details of the restricted import policy for hydrofluorocarbons, which are relevant to this agenda item. On Japan's specific comments on standards and conformity procedures, India will respond at the next meeting of the TBT Committee.

27.14. The Committee took note of the statements made.

28 INDIA – BASIC CUSTOMS DUTY (BCD) ON SOLAR PHOTOVOLTAIC CELLS AND MODULES – STATEMENT BY CHINA

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

28.2. The representative of China indicated the following:

28.3. China notes that the Indian government has recently significantly increased the basic customs duties on solar photovoltaic (PV) cells and modules, exceeding the bound rates committed by India in the ITA. The implementation of such measures has already disrupted the international trade order of solar PV products. In addition, it is not conducive to the development of the domestic solar PV industry in India and the achievement of emission reduction targets. China urges India immediately to correct its wrongful practices in this regard, which are in violation of the WTO rules, and to revoke the basic customs duties imposed on solar PV cells and modules.

28.4. The representative of India indicated the following:

28.5. India thanks China for informing India bilaterally about its intention to raise this issue in the CMA. The details provided today by China on this trade concern will be shared with Capital for due consideration. We will seek to provide a response once our Capital has examined this matter.

28.6. The Committee took note of the statements made.

29 INDIA – APPROVED LIST OF MODELS AND MANUFACTURERS (ALMM) OF SOLAR PHOTOVOLTAIC MODULES – STATEMENT BY CHINA

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

29.2. The representative of China indicated the following:

29.3. China notes that the Indian government has recently promoted the implementation of the approved list of models and manufacturers (ALMM) of solar PV modules, which China believes

violates the principle of national treatment in GATT and imposes unnecessary burdens on solar PV enterprises. The implementation of such measures will disrupt the international trade order of solar PV products. In addition, it is not conducive to the development of the domestic solar PV industry in India and the achievement of emission reduction targets.

29.4. China urges India to implement the relevant measures in a fair, transparent, and non-discriminatory manner, to actively consider replacing on-site factory inspections with video or third-party factory inspections, and to levy relevant fees reasonably to avoid unnecessary obstacles to international trade.

29.5. The representative of India indicated the following:

29.6. India thanks China for informing India bilaterally about its intention to raise this issue in the CMA. The details provided today by China on this trade concern will be shared with Capital for due consideration. We will seek to provide a response once our Capital has examined this matter. On the specific comment on standards and conformity procedures, we will respond at next month's meeting of the TBT Committee.

29.7. The Committee took note of the statements made.

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

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

30.2. The representative of Canada indicated the following:

30.3. As noted in this and other committees, Canada continues to be concerned with India's use of trade restrictive measures, including quantitative restrictions, minimum import prices, restricting imports to one seaport, and uncertainty created by constant changes to tariffs on imports of pulses, in particular for dried peas. Canada continues to question India's justifications for these trade restrictive measures, and calls upon India immediately to implement alternative, trade facilitative measures for the import of pulses.

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

30.5. The European Union has raised its concerns with India's import restrictions for certain varieties of pulses many times, and fully supports the intervention by Canada and those of the co-sponsors of this item. We urge India to provide predictability and stability concerning its import regime for pulses.

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

30.7. The United States supports the other statements made today; the United States remains concerned with India's use of domestic support policies, multiple increases in tariff rates, and the application of import restrictions for pulses including pigeon peas, mung beans, black gram lentils, and peas. We repeat our previous requests for information on how the measures reflect India's WTO commitments, and when and how the measures will be ended.

30.8. The representative of Australia indicated the following:

30.9. Australia thanks the delegations that included this item on the agenda and appreciates the clarification provided by India at the last Committee on Market Access meeting regarding the status of its treatment of pulses. Australia notes India's advice in its response that its process for reviewing its import restrictions on pulses is "agile, dynamic, and continuous". In this context, Australia requests India to provide answers to the following questions: (i) does India intend to use these measures on an ongoing basis, especially when the free import policy on some pulses has been extended to 2023, (ii) what are India's objectives and rationale for using these measures? Is the intent, for example, to manage imports in response to changing domestic circumstances; (iii) given that Quantitative Restrictions are highly trade restrictive, what reasonably available less trade

restrictive alternatives have India considered? Could India please indicate why those alternatives were rejected?

30.10. India's measures matter in the global pulses market. India's current suite of measures on pulses, including significant levels of market price support, high tariffs, and quantitative restrictions, continue to negatively impact the stability and predictability of the global pulses market, to the detriment of all producers and consumers, including those in India, as well as exporters and traders.

30.11. The representative of Argentina indicated the following:

30.12. Argentina thanks Canada, the European Union, and the United States for having raised this agenda item once more. As we have said on previous occasions, and in other meetings, this measure is affecting a series of exports to India, in particular the mung bean. Argentina reiterates its previous statements and the concern that we have in regard to the uncertainty that this is causing to our exporters, and request that India review the measure.

30.13. The representative of India indicated the following:

30.14. India thanks the delegations of Argentina, Australia, Canada, the European Union and the United States for their continued interest in this issue. As addressed in the previous meetings of the Council for Trade in Goods, as well as the Committee on Market Access, 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 our economy and the policies on imports are regularly reviewed and updated.

30.15. Notification No. 63/2015-2020, made by the Directorate General of Foreign Trade on 29 March 2022, states that the free import policy of urad (HS code 0713.31.10) and pigeon peas (HS code 0713.60.00) has been extended until 31 March 2023. The notification on the import measure of moong has already been notified to the Committee on Import Licensing under Article 5.1-5.4 notifications, and the reference for the same is document G/LIC/N/2/IND/22.

30.16. In conclusion, India is fully compliant with the notification obligations for this specific trade concern. In fact, some products being referred to in the specific trade concern are not restricted for import at all. As such, my delegation will urge the proponents of this agenda to specifically state what problems their exporters are facing, and the quantification thereof. In the absence of this information, it would be unfortunate if this specific trade concern were still carried forward to other meetings of WTO regular bodies.

30.17. The Committee took note of the statements made.

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

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

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

31.3. The United States notes our 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. Multiple Members have been raising this issue with Indonesia repeatedly across multiple WTO Committees for over two years. We have also raised our concerns bilaterally, including at senior levels.

31.4. The United States believes these import restricting practices are to Indonesia's own detriment, as they limit access for Indonesian consumers and firms to important high-tech products that form the backbone of the digital economy. Our traders have also been actively noting the disincentives to investment in Indonesia that result from these tariffs, and from other import restricting policies in the ICT sector that Indonesia is implementing. We urge Indonesia to engage constructively on this issue, to finally address these long-standing concerns, and to ensure the integrity of its market access commitments.

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

31.6. The European Union recalls that, despite our 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 (10%) on products classified under tariff line 8517.62.49, including under the new 2022 Customs Tariff Book. We have not heard any satisfactory explanation from Indonesia yet, although we had raised this issue both in the Market Access and the ITA Committee.

31.7. In this particular category of products (tariff item 8517.62.49) the EU has recorded a significant drop in exports to Indonesia. We have observed a 60% drop in value of EU exports in 2020 compared to 2019, and a 21% drop in 2020 compared to 2018. We therefore reiterate our calls to bring the tariffs in tariff subheading 8517.62 down to zero. We seek further clarification as to why Indonesia continues to apply tariffs that are not in line with its WTO bound commitments.

31.8. The representative of Canada indicated the following:

31.9. As stated in the most recent meeting of the ITA Committee, Canada adds it voice to those with a systemic and commercial concern regarding Indonesia's application of tariffs above its bound rates on ICT products. Canada calls on Indonesia to eliminate its tariffs on ICT products in a way that is consistent with its WTO commitments.

31.10. The representative of Japan indicated the following:

31.11. 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 had explained that "certain products may have been affected by the splitting and merging process during the 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.

31.12. The representative of Indonesia indicated the following:

31.13. Indonesia would like to thank the United States, the European Union, Canada, and Japan for their interest in this matter relating to import duties on certain telecommunication products. On this note, domestic consultations between related Ministries or institutions and other relevant stakeholders to review this specific issue are being conducted. We will keep the interested Members updated. We wish to reiterate that Indonesia will continue to strive to comply with the WTO Agreements, including Indonesia's commitment under the ITA Agreement.

31.14. The Committee took note of the statements made.

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

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

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

32.3. Import restrictive policies and practices by Indonesia are a long-standing item that the European Union has raised in several WTO Committees. The EU is deeply concerned by the fact that the number and scope of Indonesian restrictions keeps expanding over time, with negative impacts on trade flows. The EU has long-standing serious concerns over Indonesia's objective to achieve by 2022 a reduction of imports equivalent to 35% of the value of its 2019 import potential. The implementation of this approach seems to be already well under way, with the adoption of a broad range of measures, including expanding local content requirements and the mandatory use of national "SNI" standards, as well as the further promulgation of cumbersome import licensing procedures.

32.4. A recent development of specific concern is the introduction of a commodity balance mechanism, under which import licences will only be granted if domestic demand cannot be met by domestic supply. We welcome efforts to ensure a coordinated and streamlined approach on the management of import and export licences. But the mechanism raises concerns that it might result in further possibly unintended restrictions to trade flows, while in turn raising questions concerning its WTO compatibility. EU operators across a variety of sectors are already negatively affected by the many import-restrictive measures implemented by Indonesia.

32.5. The European Union would welcome clarification from Indonesia as to how it would ensure that measures put in place under its import substitution programme, including the commodity balance mechanism, will be compliant with its WTO obligations. We look forward to further engagement with Indonesia on these issues.

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

32.7. 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 affected parties have the opportunity to provide input? We urge Indonesia to share further information on its recent statements, and we strongly urge Indonesia to rethink this counter-productive and trade-disruptive goal.

32.8. The representative of India indicated the following:

32.9. India remains concerned with the Indonesian import substitution programme, import policies and exports policies, which aim to reduce access to the Indonesian market. Indonesia is maintaining a number of restrictions on its imports, which is affecting Indian businesses, both in terms of exports as well as supply chain disruptions. We request Indonesia to promptly notify the changes in their import policies to the WTO.

32.10. The representative of Indonesia indicated the following:

32.11. Indonesia thanks the European Union, India and the United States, for their continued interest in our policy on importation and exportation. As we have conveyed in previous meetings, Indonesia wishes to reiterate that the measures identified by the EU in today's meeting, and in previous Committee meetings, such as the import substitution programme, the Indonesian National Standard, and the commodity balance mechanism, were never intended to impede importation. Rather, Indonesia wants to clarify that the programme's objective is to improve our participation by having better global trade governance. For example, our National Standard in intended to protect consumers from unsafe products.

32.12. Moreover, on the commodity balance, we do not consider this as an additional burden in our importation regime. In fact, it intends to create and facilitate a better business environment, to ensure business certainty, and to facilitate trade flows. In conclusion, Indonesia would like to emphasize that the substitution programme, the commodity balance mechanism, and Indonesia's other measures, do not correlate to a process of import licensing issuance.

32.13. The Committee took note of the statements made.

33 MEXICO – IMPORT QUOTA ON GLYPHOSATE – STATEMENT BY UNITED STATES

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

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

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

recommending quota quantities. Since CONACYT issued these recommendations, Mexico has not provided an opportunity for public comment, submitted notification to the WTO of these quantitative restrictions, or provided scientific evidence for the import quotas.

33.4. We understand that, in January 2022, CONACYT recommended an import quota of 8.26 million kilograms (kg) for glyphosate-containing products, and 628,616 kg for glyphosate. Can Mexico confirm that these are the quota levels for 2022? If not, can Mexico provide the quota levels for 2022? Can Mexico explain how the quota levels were determined? If the quota levels were reduced from 2021, on what basis were they reduced? Did Mexico solicit and consider public input when making its determination? What information has Mexico provided to traders on how the quotas are administered? What HS codes are affected? How are the quotas allocated? How does Mexico justify these measures in light of its GATT obligations, including Article XI of GATT 1994?

33.5. The representative of Canada indicated the following:

33.6. Article XI of the GATT prevents Members from imposing quantitative restrictions. While paragraph 2 of this Article 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. We would appreciate if Mexico could provide a justification for the imposition of this measure, including in its notification to which the US has referred.

33.7. The representative of Mexico indicated the following:

33.8. Mexico appreciates the comments submitted by the United States and Canada and has taken note of them. With regard to the Decree published in the Federation Official Journal on 31 December 2020, and as Mexico indicated on previous occasions, the work of the agencies responsible for its implementation has not been completed and is still in progress. We are aware of the concerns of the United States, as this is an issue on which we have maintained constant dialogue in various fora, such as the SPS Committee of the United States-Mexico-Canada Agreement, and the Working Group for Cooperation on Agricultural Biotechnology of the same Agreement.

33.9. Mexico reiterates the commitment of the Federal Government and the agencies involved in the implementation of the Decree to ensure that the execution of this instrument will be carried out in terms of its provisions, and taking into consideration our international obligations and commitments. Any updates on this issue will be made known to the United States through the channels established in this Committee, as well as through the dialogue mechanisms provided for in the United States-Mexico-Canada Agreement.

33.10. The Committee took note of the statements made.

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

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

34.2. The representative of Thailand indicated the following:

34.3. Thailand would like to reiterate its concern over the Nepali government's measure that has prohibited the imports of caffeinated mixed energy drinks and flavoured synthetic drinks from Thailand since 2019. Having said that, Thailand would also like to convey its sympathy to the people of Nepal given Nepal's most difficult economic hardships, which have understandably forced the government of Nepal to adopt certain trade-restrictive measures in a bid to prevent the country's foreign exchange reserves from further depleting.

34.4. Thailand would like to remind Nepal that WTO Members facing balance-of-payments difficulties may apply import restrictions, subject to the provisions under Article XII of the GATT 1994, provided that they do not exceed those necessary, that they are progressively relaxed, and that they are maintained only to the extent that the conditions still justify their application. In light of this, Thailand would also urge Nepal to provide an update on the country's balance-of-payments situation, and on how such trade-restrictive measures could help alleviate the

problem. We would also like to encourage Nepal to provide an official notification to further clarify the precise WTO legal basis justifying to WTO Members its temporary adoption of such measures.

34.5. The representative of Nepal indicated the following:

34.6. Nepal thanks Thailand for its statement and continued interest in Nepal's trade policy measures. My delegation wishes to refer to the statements delivered by Nepal at earlier meetings of this Committee, and reiterates all the justifications presented during those meetings. 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 measure in question was applied to address such a severe situation and was not focused on any specific area and the trade restriction of only a few products; rather, it broadly covered the trade regulation and facilitation aspects of Nepal's international trade.

34.7. The Government of Nepal is assessing the measure and may review it periodically, and revise it based on its study findings and consultations. However, the situation of foreign currency reserve since August 2021 has become additionally challenging, and I appreciate the statement by Thailand in this regard. In this context, the assessment may take some time due to the COVID-19 pandemic and other global crises that we have been facing. Regarding the notification, my delegation is pleased to inform Members that an official notification has been circulated through document G/MA/QR/N/NPL/1 on 11 October 2022. I extend Nepal's sincere appreciation to the Secretariat for the notification's finalization, especially to those colleagues directly involved.

34.8. The Committee took note of the statements made.

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

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

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

35.3. Recognizing the strong trading relationship between Peru and the United Kingdom, and noting previous efforts from both sides for positive engagement on the issue, the UK reiterates its concern that Peru's tax exemption for Pisco creates a discriminatory environment for trade, protecting and promoting Peru's domestic production of Pisco at the expense of other domestically produced and imported spirits, in violation of Peru's National Treatment obligations. The UK requests that Peru provide a response to the questions submitted bilaterally in May 2022. First, can Peru clarify what are the criteria for applying different tax rates on Pisco and other spirits, and what rationale was used to justify such a differentiation? Second, how is the different tax treatment of Pisco and other spirits compatible with Peru's National Treatment commitments at the WTO, more specifically Article III of the GATT? Third, following the legislative modifications in 2018, there was a drop in imports of competitor products in HS heading 2208. Can Peru provide the data on the sales of competitor products covered by HS heading 2208 relative to Pisco, both in the three years leading up to this change (2015-2017), and in the three years after this change (2018-2020). Fourth, are there any plans to remove the different tax treatment of Pisco relative to other spirits? If so, what is the timeline for such a removal, and what opportunity will industry have to comment on the changes?

35.4. The United Kingdom wants to work with Peru to find a solution that ensures that its trade in spirits is facilitated in a non-discriminatory fashion and would welcome a response to our questions in order to find a way forward.

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

35.6. 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 remains concerned with the discrepancy in the rates applied to pisco versus all other distilled spirits. We look forward to receiving answers to the questions raised today.

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

35.8. The European Union would like to join the United Kingdom in its concerns around Peru's tax discrimination in favour of Pisco. The existing tax regime prevents EU spirits from competing on a level playing field in the Peruvian market. In the Committee's last meeting, the EU asked Peru to clarify how the excise tax (Impuesto Selectivo al Consumo) that is higher for spirits other than Pisco, is in compliance with Peru's international obligations. We look forward to engaging with Peru to make progress on this issue.

35.9. The representative of Mexico indicated the following:

35.10. Mexico would like to register its interest and concern over this measure, and we hope to hear news from Peru soon in the context of our bilateral dialogue.

35.11. The representative of Peru indicated the following:

35.12. With regard to the United Kingdom and other Members' statements and their questions, Peru reiterates that the selective tax on consumption is applied to distilled spirits and does not establish any distinction based on origin. Therefore, there is no distinction affecting WTO Members, and no treatment which would seek to provide protection for national products.

35.13. On the question referring to future modifications to existing legislation, this is currently under internal and domestic consultation. The Peruvian government works in collaboration with industry and other interested groups in the development of its national legislation. It is worth mentioning that any change on the selective tax on consumption would require a modification by law. Peru takes note of the statements of the European Union, Mexico, the United Kingdom, and the United States in this regard, and would encourage bilateral conversations on the technical aspects of this discussion.

35.14. The Committee took note of the statements made.

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

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

36.2. The representative of Indonesia indicated the following:

36.3. Under this agenda item, Indonesia would like to recall its full statement delivered in the previous CMA meeting and requests that this earlier statement also be recorded in the minutes of today's meeting.[23] Hence, we will only highlight key issues in relation to the special safeguard on instant coffee applied by the Philippines for four years from 2018. Since then, Indonesia's exports of instant coffee to the Philippines have fallen significantly, as has the price of Indonesia's products in the market of the Philippines.

36.4. Indonesia is of the view that, for transparency purposes, an update of the operation of the special safeguard should be provided by the Philippines, taking into account the changes in the market situation. Hence, Indonesia believes that, whenever the import volume of the products concerned is declining, the Philippines should refrain from undertaking the special safeguard, as indicated in Article 5.7 of the Agreement on Agriculture. Furthermore, we believe that a special safeguard measure should be temporary in nature. Having said that, Indonesia does not consider that the measure is in compliance with substantive aspects of Article 5 of the Agreement on Agriculture. On top of this, Indonesia is of the view that the applied tariff imposed as a result of this special safeguard might also be inconsistent with the tariff commitments undertaken by the Philippines.

36.5. To conclude, Indonesia hopes that the Philippines could immediately withdraw the application of its SSG to Indonesian instant coffee.

[23] Document G/MA/M/76, paragraphs 25.2-25.6.

36.6. The representative of the Philippines indicated the following:

36.7. The Philippines thanks the delegation of Indonesia for its continued interest in the Philippines' Special Safeguard on Instant Coffee. We note that Indonesia has also raised this matter in the previous Committee on Agriculture and Committee on Market Access meetings, to which we have provided our responses. We have already conveyed to Indonesia that, in accordance with Article 5.1 of the Agreement on Agriculture, Special Safeguards may be invoked on an SSG-eligible product if its c.i.f. import price falls below the trigger price. The trigger price for instant coffee was among those provided in the Philippines' up-front notification in document G/AG/PHL/27, in 2002, which is the basis for the imposition of the price-based SSG at issue.

36.8. The price-based SSG on instant coffee was imposed in August 2018. Its imposition remained as reflected in the Philippines' MA:5 notifications for 2019 and 2020. The application of SSG on this product continued in 2021, as notified in document G/AG/N/PHL/81. For as long as imported instant coffee arrives in the Philippines at a price lower than the trigger price, the SSG will continue to be applied on the product in accordance with the rules of the Agreement on Agriculture. Our delegation continues to coordinate this matter with Manila, and the Philippines remains ready to further discuss this issue with Indonesia. The Philippines remains committed to addressing this matter in the appropriate forum.

36.9. The Committee took note of the statements made.

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

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

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

37.3. The European Union has consistently expressed its serious concerns with regard to the import restrictions imposed by Sri Lanka, in various forms, since April 2020. Despite several promises made by Sri Lanka, we have witnessed a flurry of measures that have created additional uncertainties in an extremely difficult economic environment. All these selective import restrictions have not solved Sri Lanka's current account difficulties, lack of foreign currency, or the challenges to secure long-term sustainable financing and pursue debt restructuring.

37.4. The European Union welcomes the recent staff-level agreement reached with the IMF and the adoption of an interim budget. While acknowledging Sri Lanka's major economic challenges, we encourage Sri Lanka to focus on macroeconomic structural reforms and policy measures to ease its long-standing external pressures instead of banning imports. We stand ready to continue working with Sri Lanka. We call for a clear timetable of progressive and irreversible steps to remove these restrictions.

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

37.6. The United States reiterates its concerns over the import restrictions Sri Lanka introduced in March 2022 on what it deemed to be "non-essential goods". These include 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.

37.7. This action is the latest in a series of import restrictions. While we understand Sri Lanka's balance of payment concerns, we are concerned about the lack of transparency, consultation, and notifications with respect to these measures. Additionally, when does Sri Lanka plan on reversing these restrictions?

37.8. The representative of Japan indicated the following:

37.9. Japan echoes the concerns expressed by the European Union and the United States. We understand 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.

37.10. At the last meeting, Sri Lanka mentioned that even prior to the introduction of this measure, the importation of automobiles in Sri Lanka was not in a normal state of trade, as there had been fluctuations in import volumes due to the relaxation or suspension of duty exemption, and therefore, it could not be said that imports were affected by this measure. However, as a matter of fact, this measure restricts import opportunities and could constitute a violation of Article XI:1 of the GATT.

37.11. Japan understands the domestic situation in Sri Lanka, such as the economic crisis and political instability, and is aware that Sri Lanka has repeatedly explained the need to continue measures due to the COVID-19 infection rates. On the other hand, given the fact that the COVID-19 situation appears to be improving, Japan requests that Sri Lanka withdraw this measure at the earliest possible date.

37.12. The representative of Sri Lanka indicated the following:

37.13. Sri Lanka would like to thank the delegations of the European Union, the United States and Japan 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. As my delegation informed Members at the CMA meeting held in March, and the CTG meetings held in April and July 2022, Sri Lanka had taken several positive steps to relax most of the import measures imposed to curb the impact of the pandemic in a progressive manner. In fact, the plan was to do away with all restrictions completely as early as possible. However, the situation that developed in my country, especially after the first quarter of this year, has not warranted the Government of Sri Lanka to remove import restrictions as per its initial plans. Dire scarcity of foreign currency has now taken a heavy toll on almost all aspects of the economy.

37.14. The Government has now been compelled to take additional care in releasing foreign currency in order to ensure that at least the basic needs, which include food, medicines, and fuel are supplied to its people, who are suffering enormously after the pandemic and economic crisis. Accordingly, the Government will arrange to withdraw the import measures gradually once the foreign currency situation improves.

37.15. With regard to importation of motor cars, my delegation would like to draw the attention of Members to Sri Lanka's statements made at recent CMA and CTG meetings. As my delegation explained at those meetings, importation of automobiles into Sri Lanka is highly dependent on the duty-free car permits issued to Government officials from time to time. It is presumed that car importation will take place as usual once the economy returns to normal.

37.16. As informed previously, Sri Lanka has been negotiating with the International Monetary Fund to get assistance to address its economic crisis, including the BOP issues that the country is encountering at the moment. My delegation is happy to inform Members that the technical level negotiations with the IMF have been successful to a great extent. Sri Lanka well understands the concerns that Members have been raising relating to the notification of Sri Lanka's measures to the WTO. My delegation has been coordinating with the relevant Capital-based authorities in order to notify Sri Lanka's import measures to the WTO. Accordingly, my delegation will make arrangements to notify the measures to the WTO as expeditiously as possible. My delegation will coordinate with our Capital with regard to the specific concerns raised by several Members today, and will arrange to keep this Committee informed of the responses.

37.17. The Committee took note of the statements made.

38 THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU – DISCRIMINATORY TARIFFS FAVOURING CHAMPAGNE OVER OTHER SPARKLING WINE – STATEMENT BY AUSTRALIA

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

38.2. The representative of Australia indicated the following:

38.3. The delegation of Australia noted that this was a new item raised at the Committee. On 26 April 2022, the Chinese Taipei Legislature passed an amendment bill to halve the import tariff on champagne to 10%. Tariffs on all other sparkling wine remained at 20%. Australia questioned this tariff reduction during the Committee on Agriculture meeting held on 14-15 September 2022, asking how a reduction to a single tariff line which only applies to products made in a certain region of a country could not be interpreted as discriminatory, when the rest of the world regards sparkling wine, which is produced globally, as a "like product".

38.4. Australia questions Chinese Taipei's response at that Committee meeting that champagne and other sparkling wines are different products, as Chinese Taipei continues to reflect in its tariff classification. Champagne is produced in the Champagne region of France. The wine itself is made using a combination of grapes, most commonly Chardonnay, Pinot Noir, and Pinot Meunier. However, we note that these grapes are grown in many wine-producing regions globally. To make champagne, French wine makers follow *la Méthode Traditionnelle*, a method that originated in France but is followed by wine makers globally who all seek to produce high quality sparkling wine.

38.5. Australia, and most other wine-producing countries believe that, by following *la Méthode Traditionnelle* and using the same grape varieties as those used in the Champagne region of France, sparkling wine and champagne are "like products" and should receive equivalent tariff treatment. By providing lower tariffs to a single product originating from a specific region of a country restricts market access not only for like products originating from other countries but also for like products originating from other regions of France.

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

38.7. The United States shares the concerns raised today by Australia. The United States requests Chinese Taipei to explain the basis for the difference in the tariff on Champagne from the Champagne region of France and the tariff on other sparkling wine.

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

38.9. The United Kingdom thanks Australia for putting this item on the agenda. The United Kingdom shares the concerns raised by Australia and the United States regarding Chinese Taipei's differential treatment in the tariff applied to Champagne and the tariff applied to all other sparkling wines. The United Kingdom would like to ask Chinese Taipei to clarify how this differential treatment is consistent with its existing WTO obligations, specifically its obligation not to discriminate against like products. The United Kingdom looks forward to hearing Chinese Taipei's thoughts on this matter and stands ready to work with partners to find a solution to this issue.

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

38.11. The European Union would like to first of all thank Chinese Taipei for reducing the import tariff for Champagne (tariff line 2204.10.10), which helpfully aligns the tariff rate with the other non-sparkling wine. We would, however, support Australia's call that Chinese Taipei would indeed move to extend the same tariff treatment, aligning the tariff rate to non-sparkling wines, to other sparkling wines as well.

38.12. The representative of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu indicated the following:

38.13. We thank delegation of Australia, the United States, the European Union, and the United Kingdom for their interest in our tariffs between Champagne and the sparkling wines. In our current tariff schedule, the tariff subheading 2204.10 of sparkling wines is further divided into two categories. The tariff line of Champagne is 2204.10.10, while other sparkling wines belong to tariff line 2204.10.90. The classification remains exactly the same as at the time of our accession to the WTO in 2002. The two tariff-lines, with different tariff rates for Champagne and sparkling wines, are not only shown in our tariff schedule, and we are not unique in imposing different tariffs on Champagne and on other sparkling wines.

38.14. In addition, Champagne has its distinctiveness in the product's properties, nature, and quality, which also lead to consumers' tastes and habits of Champagne being different from those

of sparkling wine. The imposition of different tariffs on these two different types of products should not be considered as a discriminatory measure. My delegation wishes to reassure Members that we attach great value to upholding the fundamental principles of WTO rules in any trade measures we take.

38.15. The Committee took note of the statements made.

39 UNITED STATES-DISCRIMINATORY QUANTITATIVE RESTRICTION ON STEEL AND/OR ALUMINUM IMPORTS – STATEMENT BY CHINA

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

39.2. The representative of China indicated the following:

39.3. China notes that the United States has imposed tariff rate quotas (TRQs) on products previously covered by Section 232 tariffs from the EU, Japan, and the UK. China would like to know if and when the US intends to notify the WTO Market Access Committee of these measures. China would also like to know what the legal basis is, under the WTO rules, for these trade measures.

39.4. On top of that, China would like 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 Article I, Article XI, and Article XIII of the GATT. Indeed, for the one Member that had concluded such an arrangement with the US, it issued a separate statement, calling "these duties incompatible with World Trade Organization rules". Second, raising tariffs on dubious national security grounds, and then reducing them for selected trading partners, constitutes a dangerous precedent. Such arbitrary and discriminatory trade policies are contrary to the relevant WTO rules and principles, as well as to the spirit of the WTO. Indeed, the arbitrariness and discrimination 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.

39.5. 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, are deeply worrisome. It says a lot, among other things, about who is practicing coercive trade policies, who acquiesced to such policies, who is conducting unfair trade, and who is undermining the authority and effectiveness of the WTO rules. It has been almost five years since the US implemented its Section 232 tariffs on aluminium and steel. Steel prices remained elevated, and trade was disrupted. Instead of selectively removing tariffs with certain trading partners, the US should correct its practices and completely remove the relevant Section 232 tariffs and quota measures following the letter and the spirit of the WTO.

39.6. The representative of Türkiye indicated the following:

39.7. With reference to the statement that we made at the previous Council for Trade in Goods meeting, Türkiye would like to put on record our concerns as regards certain measures applied by the United States in the form of quantitative restrictions and additional duties with respect to the trade of steel and aluminium products. As previously noted by Türkiye, these measures applied by the United States on imports of steel and aluminium products, constitute a material breach WTO law. Furthermore, there exists no convincing reason for lifting the so-called measures for some Member countries, while excluding others and undermining the very basis of the multilateral trading system. The measures being applied continue to be a source of concern for the smooth functioning of this system. Given the way that they have been applied, quantitative restrictions go against the letter and spirit of the core WTO principles by favouring some as opposed to others. Once again, we would like to note that this is a violation of the core WTO provisions. Türkiye would like to reiterate the urgent need totally to eliminate all of the additional duties and quantitative restrictions, without further loss of time, in order to ensure that the multilateral trading system operates in an effective manner.

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

39.9. The United States takes note of the comments by China and Türkiye regarding the TRQs put in place by the United States. 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 or impair the national security of the United States.

39.10. 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."

39.11. 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 EU, as well in Proclamation 10356 adjusting imports of steel from Japan; Proclamation 10405 adjusting imports of aluminium from the UK; and proclamation 10406 adjusting imports of steel from the UK.

39.12. The WTO justification and grounds for the TRQs is Article XXI of the GATT 1994. Information regarding these TRQs is available on US Government websites, including those of the Office of the US Trade Representative and the US Department of Commerce.

39.13. The Committee took note of the statements made.

40 UNITED STATES – SECTION 301 TARIFFS ON CERTAIN GOODS FROM CHINA – STATEMENT BY CHINA

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

40.2. The representative of China indicated the following:

40.3. Ignoring the WTO rules, the United States launched Section 301 investigations against China under its domestic law and imposed Section 301 tariffs on China's exports worth about USD 360 billion in four batches without the authorization of the WTO. The measures in question have been maintained for more than four years and were recently extended again. China notes that the Office of the US Trade Representative issued a notice clearly stating that the tariff measures would allow the relevant domestic industries to compete against Chinese imports, invest in new technologies, expand domestic production, and hire additional workers. Admittedly, these goals are noble and worth pursuing, but they can be achieved using fair competition in compliance with the WTO rules. If not, they are essentially protectionist actions that violate the obligations of the United States under international law and undermine China's legitimate rights and interests in the WTO. The WTO panel on this matter has also ruled that the US measures violate the WTO rules.

40.4. The Section 301 tariffs imposed on China by the US not only seriously violate the WTO rules, but also badly harm the interests of enterprises and people in both China and the US, undermining the stability and security of global supply chains, and aggravating inflation. Furthermore, they are opposed by all parties, including lots of enterprises and consumers in the US.

40.5. China urges the US to correct its wrongdoing and remove all Section 301 tariffs on China as soon as possible to create favourable conditions for safeguarding the rules-based multilateral trading system, promoting Sino-US economic and trade relations, getting those relations back on track, and promoting global economic recovery.

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

40.7. China's decision to continue to raise this matter in this and other WTO committees has been a pointless waste of WTO resources, given that China has already unilaterally imposed the only remedy that the WTO Dispute Settlement Body could potentially authorize: the suspension of WTO concessions. China has already applied tariff measures to imports from the United States in

excess of its WTO commitments for the explicit purpose of retaliating against the measures for which it now seeks legal findings. We understand that, from July 2018 to September 2019, China imposed four rounds of tariffs, ranging from 2.5% to 30% in retaliation against US Section 301 tariffs, which covered approximately 71% (USD 109 billion) of Chinese imports into the United States in 2017.

40.8. China, of course, did so without obtaining the authorization from the DSB pursuant to the Dispute Settlement Understanding. China does not dispute the fact that it has already imposed retaliatory tariff measures in response to the US measures at issue. Nor does China dispute that these retaliatory measures remain in effect. We urge China to be mindful of the Committee's and Members' time and resources when raising matters in Committee meetings in the future. Regarding the US tariff measures on certain goods from China (DS543), it is a matter before the Dispute Settlement Body and the United Stated has already provided its views there. For awareness, the United States has appealed issues of laws covered in the Panel report and legal interpretations developed by the Panel. At this time, no division of the Appellate Body can be established to hear this appeal in accordance with DSU Article 17.1.

40.9. The United States noted that its Section 301 investigation found serious concerns over China's acts, policies, and practices on forced technology transfer and intellectual property protection. Recent evidence suggests that China continues, or at least attempts, to force US companies to transfer technology in exchange for market access. Therefore, the US had a stark choice: either take actions to protect its citizens, innovators, and businesses against a serious ongoing harm from China's policies and practices or simply accept that this harm would continue because the WTO does not provide the necessary discipline remedies. The view of the United States administration is clear: we will not passively accept unfair and harmful practices that cause real-world harm to US workers and businesses just because the WTO does not provide effective remedy for those practices.

40.10. The Committee took note of the statements made.

41 UNITED STATES – QUANTITATIVE RESTRICTIONS ON IMPORTS OF STURGEON – STATEMENT BY THE EUROPEAN UNION

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

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

41.3. The European Union has been raising its concerns regarding US trade prohibitions on sturgeon products in this Committee since 2015. This trade prohibition has been reflected in various US QR biennial notifications, including the most recent one. We used to comment under these QR notifications but have also decided to raise a standalone item as our concerns have kept growing. As a reminder regarding the facts: in 2014, the US listed five species of sturgeon as "endangered" under the US Endangered Species Act (ESA). The listing as "endangered" implies that trade in the relevant products is prohibited.

41.4. The US Fish and Wildlife Service (USFWS) has been conducting a status review on a petition to list ten additional species of sturgeon as "endangered" under the Act. One was listed as endangered in May 2021. There are nine additional species of sturgeon under review by the US Fish and Wildlife Service. Of these, one – the Amur sturgeon – was proposed for listing in 2021, and the proposal to add four additional sturgeon was released for public consultation in May 2022.

41.5. Coming now to the EU's concerns, these trade bans cover both wild and farmed sturgeon. As previously explained, the EU's main concern is that the US does not consider wild and farmed sturgeons and their products as separate categories. The US consequently applies the same conservation measures to both. This goes beyond the requirements of the relevant international environmental legislation, namely the CITES Convention. Any updates on this issue would be very much appreciated. The CITES convention considers that international trade in farmed specimen or produce of these species is not detrimental to the survival of the wild stocks. Currently, the international trade of sturgeons and their produce is only allowed with farmed specimens raised in captivity. The species of sturgeon that are exported to the US have been bred in captivity for decades with no impact on the wild animal stock. Commercial aquaculture can actually be considered an effective tool to conserve these species and ensure the survival of wild stocks.

41.6. In addition to raising the issue in the CMA, we have repeatedly conveyed our position in many bilateral contacts, including participating in public hearings or submitting written comments, namely during this summer of 2022 on the recent US listing proposal of four additional species. Despite all our efforts, the US position remains unchanged. The US is a very important market, representing 15% of the global caviar market, and 23% of EU caviar exports. In addition to the halt of EU exports to the US, the ban risks putting the EU market under pressure in case of a sudden and significant increase of imports from other countries that can no longer export to the US. The recent US proposal to list the four species of sturgeon as endangered under the ESA is a serious concern for the EU given that the number of sturgeon species already listed or proposed to be listed as endangered is growing, and as such its potential impact on EU producers also increases.

41.7. The European Union will continue its dialogue with the US on this matter and engage on the findings of the review. The EU looks forward to further engagement with the US with a view to finding a mutually acceptable way forward on this issue.

41.8. The representative of Uruguay indicated the following:

41.9. Uruguay has been following with concern the proposed rule to list four species of Eurasian sturgeon as endangered species under the United States' Endangered Species Act of 1973. The approval of the Act would result in a ban on the importation of the listed species, which include Russian sturgeon (Acipenser gueldenstaedtii) produced sustainably by Uruguayan companies that send a significant share of their exports to the United States.

41.10. While Uruguay understands and supports the aim of protecting endangered sturgeon species in natural habitats, we are of the view that the proposed rule, as currently drafted, would not only be counter-productive for the conservation of species in range areas, but would also have a negative impact on the sustainable sturgeon aquaculture industry, which currently supports the continuation of the species with viable captive breeding alternatives that have no direct connection to the degradation of sturgeon habitats and the poaching that threatens the Ponto-Caspian species in the native range states. We believe that this rule change underestimates the positive impact of aquaculture on the global industry, given that the overwhelming majority of world trade in Acipenser gueldenstaedtii comes from legal farming.

41.11. The sturgeon aquaculture industry outside of the range area has little or no influence on the outcomes of the restoration of the habitat in the Caspian Sea. However, the rule change proposed by the US Fish and Wildlife Service will be more punitive for the aquaculture industry than for the offending range states. We consider that the preservation of the Ponto-Caspian species can be guaranteed through the implementation of a comprehensive approach that involves active cooperation with sustainable sturgeon aquaculture farms in order to protect the species through continued breeding and regulated trade. Uruguay would like to be informed of the status of the proposed rule and calls for a solution to be found that allows for the protection of wild species while avoiding barriers to trade for those bred in captivity.

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

41.13. The United States appreciates the European Union's and Uruguay's interest in this matter. As we have communicated previously, the US Endangered Species Act does not allow for captive-bred populations to be assigned separate legal status from their wild counterparts on the basis of their captive state, including through designation as a separate distinct population. It is also not possible to separate out captive-bred populations for different legal status under the Act by other approaches.

41.14. The United States would be happy to provide the EU and Uruguay with additional information on the legal analysis the US Fish and Wildlife Services undertook to make that determination. In terms of an update, there are nine additional species of sturgeon under review by the US and Fish and Wildlife Service (USFWS, or "The Service"). In August 2021, the USFWS determined that the Amur sturgeon (Acipenser schrenckii) 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 Service reopened the public comment period for an additional 30 days and held a public hearing on 19 April 2022.

41.15. In May 2022, the USFW determined that four species of sturgeon from the Ponto-Caspian region warrant listing under the ESA and proposed to list them as endangered species. The four species of Ponto-Caspian sturgeon include the Russian (Acipenser gueldenstaedtii), Persian (A. persicus), ship (A. nudiventris), and stellate (A. stellatus) sturgeon. A notice reflecting this proposal and a request for comments was published in the Federal Register on 25 May 2022. During the comment period on the proposed listing, the Service received a request to a hold a public hearing. As a result, the Service extended the comment period and held a public hearing on 11 August 2022. The notice of comment period extension and announcement of the public hearing was published in the Federal Register on 20 July 2022.

41.16. With respect to the current status of the four other species under review, the USFWS is conducting a 12-month status review on the petition to list those species of sturgeon as endangered under the Endangered Species Act. 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. At any time during the Service's review, any interested Member may provide additional information to help us make the determination. Once the status review is completed, if the Service finds that a 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 interested Members another opportunity to provide information. Finally, we are happy to facilitate continued discussion among the relevant authorities as appropriate.

41.17. The Committee took note of the statements made.

42 VIET NAM – ANTI-CIRCUMVENTION DUTY ON SUGAR – STATEMENT BY INDONESIA

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

42.2. The representative of Indonesia indicated the following:

42.3. Indonesia wishes to draw Members' attention to the application of additional duty by Viet Nam on imported sugar from Indonesia. The application of this additional duty was based on the allegation that sugar exported to Viet Nam by Indonesia and some other Members in the region is to circumvent the application of anti-dumping and countervailing duties on sugar from Thailand. Following the anti-circumvention investigation, Viet Nam decided to impose additional duty on Indonesian sugar with a rate that is equal to an anti-dumping duty rate of 42.99% and a countervailing duty rate of 4.65%, which were imposed on imported sugar from Thailand. This imposition has been applied since 8 August 2022 through the Decree of the Minister of Industry and Trade of Viet Nam No. 1514/QD-BCT.

42.4. Indonesia has concerns over the imposition of additional duty because it has already hindered our sugar exports to Viet Nam. We also wish to inform the Committee that there has recently been a significant decrease in Indonesia's sugar imports from Thailand in 2020 compared to the previous year. Moreover, Indonesia imports raw sugar not only from Thailand but also from other countries such as Brazil and Australia who have greater import shares in Indonesia's market. In this regard, Indonesia would like to seek clarification and answers from Viet Nam to the three following questions. First, what is the rationale behind the application of this additional duty? Second, what are the applicable national legislation and WTO rules for the measure? Third, provided Indonesian sugar products use raw sugar of different origins, how has Viet Nam determined that Indonesian sugar products have not met Indonesia's origin requirements?

42.5. Indonesia stands ready to discuss this issue further with Viet Nam bilaterally.

42.6. The representative of Viet Nam indicated the following:

42.7. Under this agenda item, Viet Nam takes note of Indonesia's three questions and would like firstly to respond as follows. Viet Nam conducted anti-circumvention investigations in an effective and transparent manner, in compliance with domestic law as well as its international commitments, including the WTO provisions. In particular, Viet Nam informed WTO Members of the investigation concerning this case, in full compliance with Article 16.4 of the Agreement on Anti-Dumping, and Article 25.11 of the Agreement on Subsidies and Countervailing Measures, in the relevant

semi-annual reports to the Committee on Anti-Dumping Practices and Committee on Subsidies and Countervailing Measures.

42.8. The investigation was to determine whether there was circumvention of existing anti-dumping and countervailing duties. Only the use of sugar materials imported from Thailand, which are currently subject to anti-dumping and countervailing duties for refining in a third country, and then exporting into Viet Nam, constitutes a circumventing act. The use of sugarcane by that country to produce and export sugar to Viet Nam does not constitute a circumventing act. Findings from the investigation led to the final determination that a number of exports and produce exporters, one of which is an Indonesian company, were eligible for exclusion from the imposition of anti-dumping circumventing measures. Other Indonesian produce exporters were not eligible due to significant discrepancies or inconsistences and misleading information in the questionnaire responses.

42.9. The final determination of this case includes detailed analysis of each participating Indonesian produce exporters. The Ministry of Industry and Trade of Viet Nam has already duly noted, analysed, and responded to submissions from Indonesian produce exporters in the final determination. However, Viet Nam is open to further bilateral exchanges with Indonesia for any clarifications, as necessary, regarding this case.

42.10. The Committee took note of the statements made.

43 ELECTION OF VICE-CHAIRPERSON

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

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

43.3. On the nomination of vice-chairperson of the Committee, Russia is still consulting with Capital. Currently, we cannot join the consensus on the proposed nomination. In the meantime, we would like to draw the Committee's attention that a number of concerns that have been raised previously in the context of General Council Chair consultations on the procedural aspects of elections of officers to WTO bodies remain valid. These concerns involve, among other things, considerations on transparency of the process and applicability of the whole procedure set by the Guidelines in document WT/L/510 to the appointment of vice-chairpersons.

43.4. Additionally, Rule 12 of the Rules of Procedure for meetings of the Committee on Market Access provides that the Committee shall elect a chairperson and may elect a vice-chairperson. The election shall take place at the first meeting of the year and shall take effect at the end of the meeting. This language suggests that the election of both a chairperson and a vice-chairperson shall take place simultaneously during the spring Committee meeting. In this regard, the Committee has already missed the deadline stipulated by the Rules of Procedure for the election of a vice-chairperson.

43.5. As we understand that present chairperson is not necessarily leaving Geneva any time before the end of the chairperson's term, we believe that currently there is no urgent need to elect an officer who can take over. Should such a need arise, the new chairperson would be appointed as required by the Guidelines for appointment of officers to WTO bodies adopted by the General Council on 11 December 2002.

43.6. The Chairperson took note of the statement made and proposed to continue his consultation in a transparent manner, and to keep the Committee informed.

43.7. The Committee took note of the statements made.

44 DRAFT REPORT (2022) OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS

44.1. The Chairperson recalled that the Committee was required to annually submit a report of its activities to the CTG. The draft report covering the activities of the Committee in 2022 had been

circulated in document G/MA/SPEC/62. He proposed that the Committee request the Secretariat to finalize the report and to email it to delegations on 21 October 2022. In the absence of objections by Members by 28 October 2022, the report would be considered to have been approved by the Committee and would be submitted to the CTG for appropriate action.[24]

44.2. The Committee so agreed.

45 OTHER BUSINESS

45.1 United States – Trade Distortive Export Control Measures on Semiconductor Equipment and the Global Supply Chain – Statement by China

45.1. The representative of China indicated the following:

45.2. Recently, the US government announced a series of further measures imposing export controls on China, specifically targeting the areas of advanced computing chips, development and maintenance of supercomputers, and manufacturing of advanced semiconductors, and has applied so-called Foreign-Direct Product Rules to 28 Chinese entities. China has serious concerns about these measures.

45.3. The relevant measures of the US side are suspected of violating the WTO's non-discriminatory provisions, such as the MFN treatment principle, general elimination of quantitative restrictions, and so on. No doubt, these are typically bullying acts, reflecting the Cold War mentality of the US side. These measures have seriously blocked the normal economic and trade exchanges globally. They not only affect the legitimate rights and interests of Chinese enterprises but definitely also damage the legitimate business interests of US enterprises and harm the interests of businesses in other relevant Members.

45.4. As the semiconductor industry has always been a globally connected industry, such measures will cause serious consequences to the global supply chain. They are purely government interventions, which can never be market-oriented as the US always touts. These actions seriously threaten the sound development of the global semiconductor industry and damage the rules of the market and the international economic and trade order. Furthermore, these actions also disrupt the stability of the global industrial chains and supply chains and seriously undermine the collective efforts of all WTO Members to jointly promote global economic recovery and tackle global challenges.

45.5. China hereby urges the US to immediately terminate its harmful practices and calls upon the US side to play its leading role to make positive contributions, rather than vice-versa, to build global industrial chains and supply chains, which are safe and stable, smooth and efficient, open and inclusive, and beneficial to all stakeholders and to the global economy, especially when the world is facing multiple challenges.

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

45.7. Because China did not inscribe this item on the agenda, but is raising it under other business, the United States will not comment on China's intervention in substance or detail today.

45.8. The Committee took note of the statements made.

45.2 Follow-up to the CTG informal meeting on MC12 implementation matters

45.9. The Chairperson recalled that, on 14 October 2022, the CTG Chairperson had convened an informal meeting to present and discuss his report concerning MC12 Implementation Matters, specifically on: (i) the Work Programme on E-Commerce; (ii) the Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics; and (iii) WTO Reform. Following that meeting, the CTG Chairperson had sent a communication to the Chairpersons and the Secretaries of the CTG subsidiary bodies inviting them to another meeting on 20 October 2022 with the aim of sharing views on these issues.

[24] See document G/L/1439 of 1 November 2022.

45.10. He reminded Members that the Committee on Market Access had already tested and implemented most of the practical ideas indicated in the Annex to the CTG Chair's report to improve the way in which Committees worked. This Committee had also been conducting technical work, for instance through the series of experience-sharing sessions, in relation to the response to the COVID-19 Pandemic and the lessons learned. The Chairperson would keep the Committee informed of any development regarding these discussions and seek Members' inputs, as appropriate, in case of an eventual report to the CTG.

45.11. The Committee took note of the statement made.

45.3 Dates of next meetings

45.12. The Chairperson asked the Committee to take note of the following arrangements. The last informal meeting of the Committee would take place on 23 November 2022 and its informal convening notice would be circulated in due course. Before the informal meeting, he recalled that the fifth session on lessons learned from the COVID-19 pandemic would be held on 21 November 2022. He invited Members to contact the Secretariat by 7 November 2022 to propose speakers for the session.

45.13. Regarding the meeting dates for 2023, the formal meetings of the Committee had been scheduled for 8-9 May and 17-18 October 2023. The informal meetings of the Committee had been scheduled to take place on 21 February; 13 June; and 21 November 2023. Additional informal meetings could be convened if necessary. The proposed dates took into account the tentative schedule of meetings of other CTG subsidiary bodies, and the meeting dates of the CTG itself, in an effort to avoid possible overlaps and facilitate the work of delegates.

45.14. Finally, the Chairperson reminded delegations that they could upload the statements delivered at the meeting onto the eAgenda platform. As requested by Members, the Secretariat had extended the time-period to upload statements or make them available to Members until 4 November 2022, should Members so wish.

45.15. The Committee took note of the statement.

45.16. The meeting was adjourned.