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MINUTES OF THE COMMITTEE ON MARKET ACCESS 26 AND 27 APRIL 2023

CHAIRPERSON: MR KENYA UEHARA (JAPAN)

The Committee on Market Access (CMA, or the Committee) adopted the agenda as reproduced in document WTO/AIR/MA/18/Rev.1, with the inclusion of the following item under Other Business: "Canada – Continued Concerns with Indian Restrictions on the Imports of Certain Pulses". In addition, Paraguay noted that Items 19 and 20 covered the same subject and could be taken together. Accordingly, Paraguay requested to be added as a co-sponsor of Agenda Item 19, and for Agenda Item 20, in contrast, to be withdrawn. At the same time, Paraguay requested that the same ID for this specific trade concern (STC) be maintained as that used for this item in the Committee's previous meeting. Finally, the Russian Federation requested to be added as a co-sponsor of Agenda Item 24, and for Agenda Item 23, in contrast, to be withdrawn. An annotated agenda had been circulated in document JOB/MA/159.

1 INTRODUCTION OF HARMONIZED SYSTEM CHANGES TO SCHEDULES OF CONCESSIONS – STATUS REPORT (G/MA/W/158/REV.6)

1.1. The Chairperson drew Members' attention to the Secretariat report which had been circulated in document G/MA/W/158/Rev.6. The report provided an overview of the status of work regarding the introduction of Harmonized System (HS) changes in Members' Schedules. The full version of the Secretariat's report and presentation on the various transpositions of WTO Schedules had been made available in document RD/MA/115 and on eAgenda prior to the meeting. The Secretariat presented the main highlights of the report.

1.2. The Secretariat (Mrs Alya Belkhodja) reported the following:

1.3. A revised version of the status report has been circulated in document G/MA/W/158/Rev.6. It provides, in one single document, an overview of the state of play of the different HS transposition exercises as of 11 April 2023, including the results of the previous multilateral review held on 21 February 2023.

– HS96 (L/6905)

1.4. The Secretariat (Mrs Alya Belkhodja) indicated the following:

1.5. There is one file that remains pending since February 2009 in HS 1996, which is the file of the Bolivarian Republic of Venezuela.[1]

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

– HS2002 (WT/L/605 AND WT/L/807)

1.7. The Secretariat (Mrs Alya Belkhodja) indicated the following:

1.8. A revised written report was issued as document JOB/MA/42/Rev.26, dated 11 September 2019. According to this report, there are 116 files that have been transposed and certified, or which are in the process of certification. Only one file remains pending, which is the file of the Bolivarian Republic of Venezuela, while another file is awaiting completion of domestic procedures, which is the file of China.

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

– HS2007 (WT/L/673 AND WT/L/830)

1.10. The Secretariat (Mrs Alya Belkhodja) indicated the following:

1.11. A revised written report was issued as document JOB/MA/104/Rev.32, dated 9 February 2023. As detailed in this report, 113 files have been transposed and certified or are in the process of certification. The file of Malaysia has been released for multilateral review and will be examined at future meetings in light of Malaysia's comments on its file. Only 11 files remain pending, including the following files: Argentina; the Dominican Republic; Iceland; Indonesia; Japan; and Tunisia. In addition, the Secretariat replied to Türkiye's latest submission with a detailed verification report on 21 April 2023.

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

– HS2012 (WT/L/831)

1.13. The Secretariat (Mrs Alya Belkhodja) indicated the following:

1.14. A revised written report was issued as document JOB/MA/129/Rev.18, dated 9 February 2023. As detailed in this report, 103 files have been transposed and certified or are in the process of certification. Work remains ongoing for 26 files. Comments in multilateral review remain pending for the following files: Armenia; Colombia; Ecuador; and India. The Secretariat is waiting for the Republic of Korea to approve its file, and work is ongoing on the file of the United States.

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

– HS2017 (WT/L/995)

1.16. The Secretariat (Mrs Alya Belkhodja) indicated the following:

1.17. A revised written report was issued as document JOB/MA/143/Rev.9, dated 9 February 2023. As detailed in this report, 84 files have been transposed and certified or are in the process of certification. There are eight HS 2017 files that have been released for multilateral review, and which have received comments from other Members. One HS 2017 file has been released for multilateral review and will be examined at the Committee's next informal meeting, in June. The Secretariat has sent detailed verification reports to El Salvador; Norway; Oman; Switzerland; and Chinese Taipei. In the case of El Salvador, the Secretariat is almost ready to send a final file for approval. Finally, 37 draft files remain to be prepared.

[1] Ongoing separate procedures, GATT document L/6905.

1.18. The representative of Japan indicated the following:

1.19. We thank the Secretariat for its report on the current status of the HS transposition. Japan believes that expediting this exercise would greatly contribute to businesses improving their predictability. Japan appreciates the many positive reactions from Members to the HS multiple transposition proposal, as well as the Secretariat's support on the technical aspects. We are happy to continue this discussion.

1.20. The Committee took note of the Secretariat's report and statement made.

2 TRANSPOSITION OF MEMBERS' CTS FILES TO THE HS 2022 NOMENCLATURE: NOTES ON METHODOLOGY (JOB/MA/157)

2.1. The Chairperson drew Members' attention to the document prepared by the Secretariat titled "Transposition of Members' CTS Files to the HS2022 Nomenclature: Notes on Methodology", which had been circulated in document JOB/MA/157. This document was presented by the Secretariat at the last informal meeting of the Committee, on 21 February 2023.[2] He explained that this document was similar in nature to the notes on methodology prepared for previous transpositions, with the latest one (for HS 2017) contained in document G/MA/366.

2.2. The Chairperson informed the Committee that, following the Committee's last informal meeting, in February, no Member had provided comments on the document. He therefore proposed that the Committee approve the notes on methodology as contained in document JOB/MA/157.

2.3. It was so agreed.[3]

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), who reported on the meeting of the Harmonized System Committee (HSC) that had taken place in March 2023.

3.2. The representative of the World Customs Organization indicated the following:

3.3. The HSC held its 71st session as an in-person meeting, from 13 to 22 March 2023, at the WCO Headquarters in Brussels, with the report-reading held virtually on 24 March. Sixty-two Contracting Parties (61 countries and one Customs and Economic Union) were represented during the in-person meeting. We were also pleased to welcome the WTO as an observer. The meeting had a long agenda, with nine reports for note or comment, and ninety-two substantive agenda items for decision.

3.4. Regarding the item on the communication from the CMA Chair to the HSC Chair, it was noted that two of the proposals for amendments to the Nomenclature in that letter had already been accepted for discussion in the HS Review Sub-Committee (the RSC).

3.5. The proposal for amendments regarding ambulances and mobile clinics had resulted in the RSC proposing two new subheadings, one at 8703.12 for "Ambulances", and one at 8705.50 for "Mobile clinics for medical, dental or veterinary purposes (including radiological or medical laboratory units)". It was noted that these had been provisionally approved by the HSC earlier in the Session. This means that these amendments will be part of the package of provisionally approved amendments that will go to the WCO Council for formal acceptance, and which will, once accepted, be incorporated into the next edition of the HS.

3.6. It was noted that the proposal regarding face masks and respirators was still under discussion and would be discussed again at the next session of the RSC.

3.7. The HSC Chairperson welcomed the Observer from the World Trade Organization, Mr Simon Neumueller, representing the WTO Secretariat for the CMA. Mr Neumueller's address, giving

[2] The presentation by the Secretariat was circulated in document RD/MA/111.
[3] See document G/MA/410.

appreciation of progress on the amendments and further information on the importance of the issues in the CMA communication, was well received by the HSC delegates. The usefulness of the amendments to help monitor trade in these critical goods, as well as to adopt targeted trade policies where necessary in times of health emergencies, was well noted by the HSC. As a result, the HSC agreed to the WCO Secretariat supplementing this work, at the next RSC meeting, with further types of goods that had been listed as important during the pandemic. In addition, it did not rule out looking again at the other goods in the CMA communication.

3.8. The HSC again discussed with interest the suggestion regarding the possibility of *ad hoc* meetings of the HSC during a global emergency, and appreciated that this would provide possibilities to act in a more flexible way, and to provide guidance and support to Members when they needed it the most. However, the HSC was divided on whether *ad hoc* meetings were feasible. While a number of Members supported the idea, and others were willing to consider it, some countries were not in favour of additional meetings, referring to the risk of hasty decisions and an additional administrative burden. The WTO Observer noted that the CMA had only exceptional circumstances in mind for its proposal, situations demanding an immediate reaction when working conditions were disrupted in the trade of goods. After some discussion, it was agreed to continue the discussion on the basis of the Nomenclature Secretariat providing a definition of a global emergency, a proposed procedure in writing, and a paper on possible ways forward for further consideration at the next session.

3.9. Overall, there was an appreciation of the cooperation between the CMA and HSC expressed from both the WTO Observer and from the HSC itself. In this spirit, the HSC supported the Nomenclature Secretariat continuing to enhance it cooperation with the CMA Secretariat, with access to additional information sources for the purposes of its work on the transposition of WTO Schedules. The interactions between the CMA and the HSC have continued to strengthen the HSC's understanding and appreciation of the work of the CMA.

3.10. I would add, of course, that, speaking for the WCO Secretariat, we see this relationship between the WCO and WTO as vitally important. The need for Trade and Customs to work together in their common interest of having a well-functioning cross-border trade is so obvious and undeniable that I do not really need to explain why this relationship between our organizations and Members is so valued. I am sure that we will continue this relationship and strengthen this cooperation into the future.

3.11. In terms of other mutual interests, I would note that the Nomenclature Secretariat reported to the HSC on the outcomes of the symposia series on "Visualizing a Greener HS". Thanks to the generous contribution of the European Union, a series comprising five symposia on this theme was organized between October 2022 and January 2023 to discuss the issues around putting new environmentally motivated provisions in the HS, and seeking new perspectives to assist Members in their reflections on potential changes, both in terms of new or amended provisions, and in terms of identifying other actionable ideas that may make the HS increasingly green in its future editions.

3.12. More than 25 distinguished speakers joined in person or online, from Customs administrations, international governmental organizations, including the WTO, non-governmental organizations, academia, and the private sector. In addition to opening the discussion space, the series also clarified many of the issues that will need to be addressed if we are effectively to meet the future needs from environmental policy that are being projected onto the HS. Many of the types of products that are of interest could be incorporated into named provisions in the HS. For these it is a matter of how the needs and, importantly, the priorities can be properly communicated to the HS working bodies by the policymakers concerned. The principal issues around these more easily incorporated goods are how the goods are defined, including the longevity and the compliance testability of the definition, and also what the priorities are, recognizing that not all goods can be separately identified since the HS has limitations in terms of size. This again comes down to needing better communication and connection between the policymakers and the HS bodies before definitions are locked into agreements.

3.13. However, for some types of goods there are more fundamental problems. Chief among these are the difficulties that arise from environmental considerations often being based on "whole of product life" considerations, while the HS deals only with "product as presented". This creates major problems with requests to incorporate provisions into the HS which can only be verified by certification or verification of end-use. It creates a gap between the expectations of policymakers

and the realities of what the HS can offer today. The primary challenge will be addressing this gap, and there is no single solution. Further discussion, work, and research are required on these fundamental issues. The HS itself may need to expand its capabilities to be able to meet these rising needs, which is part of the brief of the HS Study to consider. However, even if work can be done on this, the HS alone will never be able to address all of the needs. To bridge the gap between the needs of other policy areas to identify goods at the border, and what can be done within the HS, a broader range of Customs solutions will need to be used in concert with one another, and with the HS.

3.14. The major point to be taken from this work to date is that there needs to be greater communication and collaboration between Customs, including the WCO HS bodies, and other policy administrations, such as trade and environment, including representative intergovernmental organizations (IGOs), on trade and environmental issues. Sharing understanding of the issues and the potential ways that these might be addressed at the border between these parties will help to develop strong and effective strategies for implementation. The HSC expressed the importance of work in this area, along with an appreciation of the difficulties as well. The work that has already been done on environmentally-motivated proposals was acknowledged, and practical ideas on what could be added to this were also discussed. The high motivation levels to address this policy area were clear from many members.

3.15. I am certain, given that this is an important area of work for both the WTO and the WCO, that we will be undertaking many more conversations on addressing the linkages between trade and environmental policy. I look forward to being able to update the CMA with further positive news after the next HSC.

3.16. The Chairperson informed the Committee that, on 16 March 2023, he had attended, together with a representative from the WTO Secretariat, the meeting of the HSC where possible amendments to the Harmonized System for the classification of essential medical goods based on the CMA communication[4] had been discussed. He thanked Ms Grooby, on behalf of the Committee, for sharing the working document that the WCO Secretariat had elaborated to support the consideration of the CMA items by the HSC. In his view, this work had contributed to establishing or reinforcing internal coordination and collaboration between the trade departments and the customs administrations of WTO Members. It was also encouraging to see that progress was being made on many of the issues raised in the CMA communication that would hopefully produce tangible results. The Committee would therefore continue to follow the HSC work with great interest, and would be kept informed of the latest developments.

3.17. The Chairperson also reinforced Ms Grooby's message about the importance of further strengthening the collaboration between the two Organizations. He stressed that the cooperation that had been established between the CMA and the HSC in the area of COVID-19 should ideally continue and be extended to cover other critical topics which were of relevance to the work and mandate of the two bodies. In this regard, he believed that it was important for the Committee to hear about the WCO's initiative on "Greening the HS", and how the HS could be amended to better track trade in environment-related products. He observed that understanding how the HS would be changed to better respond to environmental concerns, including what were the possible implications of such changes on Members' tariffs and trade-related measures, was of key importance to this Committee.

3.18. The representative of Canada indicated the following:

3.19. It is heartening to hear that the Committee had some success in terms of providing information to the WCO around different products, and that there has been a decision on the classification of mobile clinics and ambulances. I would also wholeheartedly support the continued collaboration between the WCO and WTO Secretariats, as well as between this Committee and the HSC in Brussels. It has been, and continues to be, a worthwhile and informative relationship, which is improving our ability to understand what is happening in terms of the data on trade.

3.20. One element, Chair, that I would like to suggest on our behalf is that you, in your role as Chair, share with the WCO, and ask if the HSC could share with its delegates, the lessons learned

[4] See document G/MA/406.

document to which this Committee has agreed[5], so that they can at least see some of the results, for their information regarding progress made on tariff classifications and the tariff-type actions that Members took during the pandemic, as well as seeing that their work in Brussels has helped us in our work here in Geneva. I make this request in light, too, of the fact that the delegates of this Committee are not always in direct contact with the WCO's delegates.

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

3.22. We would fully subscribe to Canada's intervention and very much echo, on our side as well, the value of enhanced cooperation between the WCO and this Committee. It was very interesting to get this update on follow-up work on COVID-19. We understand that on some issues the conversation will continue, notably on this issue of *ad hoc* cooperation. We would be interested to receive updates on that. We were also very interested by the information provided on the work related to a greener HS. We would agree that this is an area where we could typically have more collaboration. And it would be very useful if we could get more details about these topics. As you know, this is an area where we consider that there is room for more cross-cutting work in the Organization, so we would be interested in working together with other WTO bodies, on these issues, including, in particular, the Committee on Trade and Environment.

3.23. The representative of Ecuador indicated the following:

3.24. We also thank the WCO for this report. We welcome that the work that began in this Committee is bearing fruit, and I refer in particular to the proposed HS amendments for the classification of ambulances and mobile clinics. On this item, we would like to request more information on the progress made on the other items. The CMA communication to the HSC included other products, such as facemasks and vaccines, so we would like to request information about how this analysis has progressed. We also agree that we must harness and strengthen cooperation between both organizations, particularly because this analysis has identified other challenges. The HS has been very useful, but the challenges that we face today are new and diverse. Ms Grooby mentioned something that we completely agree with, which is that the HS must expand its capacities in order to address current challenges. For this very reason, we feel that there is room to do a more detailed analysis of the links between trade and environmental policies specifically. We would also like to express Ecuador's interest in continuing this analysis within this Committee, and strengthening our exchanges with the WCO to continue this work.

3.25. The representative of the World Customs Organization indicated the following:

3.26. Regarding Ecuador's question, in terms of the masks and respirators, we are very close to getting provisions. The RSC will meet in June, and I am very hopeful that we will have a conclusion on that, and go to the HSC in September for the provisional adoption of these items. Indeed, once an item has been provisionally adopted by the HSC, you can be almost certain that it will go through to the next edition of the Harmonized System. It would be incredibly unusual for an objection to be raised at the Council of the WCO. Therefore, we will certainly have subheadings for ambulances and mobile clinics, and I believe also for masks and respirators. In terms of vaccines, it is a little more difficult. We were going to put them back in the next RSC in June, and to see if our members will take them up this time. The protective equipment and textiles are always sensitive, but we will once again try. In addition, we are going to add proposals in relation to some of the other equipment that was identified, such as oximeters, and some of the other critical equipment for dealing with respiratory pandemics. Hopefully we will soon have a few more to report to you.

3.27. The other aspect I would note is that I am sending a public report on the "Visualizing a Greener HS" Symposia series to the WCO Secretary General, and this report will be sent directly to the CMA Secretariat as well, for the interest of WTO Members. In addition, the WCO has also been working on a Green Action Plan, and has been asked to write a position statement on that. Therefore, there will be a number of documents produced by the WCO on this topic, as well as ongoing work within the HS Study, the Facilitation and Compliance area, and the HS. In sum, the environment is a major issue, and you will be hearing a lot from the WCO concerning how we can do our part in our customs administration on this critical issue.

[5] See document G/MA/409.

3.28. The Chairperson thanked the WCO representative for this information and, based on Canada's suggestion, agreed to send the Committee document on lessons learned from the pandemic to the WCO and the HSC. He looked forward to continuing and strengthening the collaboration between the two organizations and Committees, including through the technical discussions on HS amendments, environmental policies, and trade.

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

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

4.1. 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 in document RD/MA/115 and on eAgenda prior to the meeting.

4.1 Status of implementation of the 2019 IDB decision (G/MA/367)

4.2. The Secretariat (Ms Jung-Ah Kang) reported the following:

4.3. First, regarding the automatic transmission of IDB data, the Capital experts in Norway have initially used an Application Programming Interface (API) to send tariff data to the Secretariat. On the project for ASYCUDA Members, which are Côte d'Ivoire, Madagascar, and Togo, a module designed to streamline data processing is now in its final stage. The Secretariat also held meetings with 13 delegates who expressed interest in this automatic data transmission arrangement.

4.4. On the redesign of the Tariff Analysis Online (TAO) portal, we have been working on a prototype to assess its design, functionality, performance, and cost, before proceeding to full-scale production. We hope to demonstrate part of the prototype early next year.

4.5. The representative of Norway indicated the following:

4.6. We just wanted to thank the Secretariat, and also other Members, for giving us assistance in setting up the automatic submission of information to the IDB.

4.7. The Committee took note of the Secretariat report and statement made.

4.2 Status of IDB notifications (G/MA/IDB/2/Rev.57)

4.8. The Chairperson drew Members' attention to the Secretariat's report on Members' tariffs and imports, which had been circulated in document G/MA/IDB/2/Rev.57. A full version of the Secretariat's report and presentation had been made available in document RD/MA/115 and on eAgenda prior to the meeting.

4.9. The Secretariat (Ms Jung-Ah Kang) reported the following:

4.10. According to the latest data, the overall completion rate of tariffs since 1996 is 82%. In terms of 2023 applied tariffs, 43 Members have already notified, accounting for 32% of the expected notifications. Nonetheless, there are still 93 Members who are yet to provide the tariffs for the same year. For imports up to 2021, currently the IDB is 75% complete. Specifically, for the 2021 imports, we have received notifications from 59 Members, while the remaining 77 Members have yet to notify. In the meantime, we have received 12 early notifications for imports in 2022. These notifications arrived almost six months before the deadline of 31 October 2023.

4.11. In response to the comments at the last CMA meeting on how the IDB reporting had changed since the recent IDB decision, I would like to report on the progress of Members' IDB notification. The chart shows the status of tariff notifications over the last 10 years. I would like to draw your attention to the green line on the chart that indicates the notification rate of Members before the deadline of March of each year. This rate has shown a significant increase, rising from an average of 13% prior to the 2019 IDB Decision, to 31% in 2022.

4.12. Notification by Members may be delayed due to conditions like fiscal year application or amendments to HS nomenclature. As a result, pending notifications are often received after the deadline. In this regard, the yellow line in the chart shows the total notifications that have been notified or included from alternative sources through the framework process one year after the deadline. Before the 2019 IDB decision, the total average coverage was 54%, but it increased to 68% in 2022. This is a positive trend that shows the important role played by Members in improving timeliness and completeness. The list in slide four presents the submissions which have been received since the cut-off date for document G/MA/IDB/2/Rev.57, which was 5 April 2023. Today, New Zealand notified its 2022 imports.

4.13. Lastly, I would like to inform you that the Secretariat has recently published, on the WTO Data Blog[6], a concise analysis of the tariffs applied by WTO Members. The Members' IDB notifications are essential for conducting this type of analysis.

4.14. The representative of Canada indicated the following:

4.15. In terms of the report on the status of notifications, it is great to see that there are many "yes" responses in the columns, which means that we all understand the importance of providing our applied tariffs to the WTO, and the usage and usefulness that that information has, not just for us here at the WTO, but also for outside organizations that are able to use that information for analysis.

4.16. I wish to suggest here perhaps to consider adding to this document a list of Members that have availed themselves of paragraph 8 under the IDB Decision. Specifically, for those that are not aware, it provides an opportunity for Members to voluntarily speak with the Secretariat about setting up an automatic transmission of both applied tariff information and trade data. Norway just spoke to the work that they are doing right now. A few years ago, Canada agreed to set up such an agreement with the Secretariat, such that we no longer submit our tariff data ourselves; instead, the Secretariat does this for us automatically, which places less of a burden on our Capital-based delegates, and which is very helpful for me as well, as I do not have to do it either. I wonder if there is space in the report to indicate and see which Members have done that, allowing the Secretariat to automatically upload their applied tariff data or their trade data.

4.17. I suggest this, in part, to provide some transparency, because we only get to hear who has done this at each meeting, and also, in part, to encourage others, our neighbours, who might also be interested. We had a good presentation, and I am sure you will speak to it later in the meeting, around quantitative restriction (QR) notifications and Members' work and efforts towards submitting their notifications. I recall from that conversation what a neighbour of one of the presenters said well, namely that if you can do it, then we can do it too. Perhaps this is an encouragement for Members to see that paragraph 8 of the IDB Decision is being used, and can be used, and maybe encourage them to reach out to the Secretariat. This is just a suggestion to add to the next version of that report.

4.18. The Committee took note of the Secretariat report and statement made.

4.3 List of Members' official websites with tariff information and import statistics (G/MA/IDB/W/13/Rev.8)

4.19. 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 revision of this document had been prepared by the Secretariat, after consulting with Members informally, and had been circulated in document G/MA/IDB/W/13/Rev.8.

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

4.21. Information on the list of Members' official websites is shown, in addition to the document, in a separate website linked to the Market Access for Goods gateway of the WTO website.[7] On this webpage, it is possible to see and access all the different weblinks provided by Members. This

[6] https://www.wto.org/english/blogs_e/data_blog_e/data_blog_e.htm
[7] https://www.wto.org/english/tratop_e/markacc_e/tariffandimpofwebsites_e.htm

information is also accessible from each Member's profile webpage of the WTO website. Let me remind Members to please inform the Secretariat of any change to the weblinks so that we can update them in the next revision.

4.22. The Chairperson urged Members to test the links and inform the Secretariat as soon as possible of any change so that this information was kept up to date. In particular, those Members should get in touch with the Secretariat where information was missing.

4.23. The Committee took note of the Secretariat report.

4.4 Status of the CTS database

4.24. 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 in document RD/MA/115 and on eAgenda prior to the meeting.

4.25. The Secretariat (Ms Alya Belkhodja) indicated the following:

4.26. The Secretariat has made CTS files available to all Members on the TAO.[8] Out of the 135 CTS files: 75 are available in HS 2017; 29 are available in HS 2012; 18 in HS 2007; 11 in HS 2002; and two remained in HS 1996. All legal instruments which are used to prepare the CTS files are available through the Goods Schedule e-Library.[9]

4.27. In addition, the Secretariat has published on TAO, in June 2021, the complete CTS database in MS Excel. Each Member's file reflects the latest information on its bound commitments, as included in the CTS MS Access files. However, the CTS files in Excel follow the presentation used in the legal instruments, as in, for example, the Uruguay Round Schedule of concessions. The CTS files in Excel are also available on each Member's page of the Goods Schedule e-Library website. An updated version of the CTS Excel files was posted to TAO on 25 April 2023.

4.28. The Committee took note of the Secretariat report.

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

5.1. The Chairperson drew Members' attention to the notifications of QRs from 17 Members. He proposed that the Committee examine each notification following the order indicated in the airgram, and that, after that, the Committee consider the Secretariat's annual report, which had been circulated in document G/MA/W/114/Rev.5.

5.2. He recalled that if a connection problem prevented any Member from indicating that it wished to have more time to examine a notification, and thus keep the notification on the agenda for the next formal meeting, that Member would have until 5 May 2023 to inform the Secretariat accordingly.

5.1 Notifications

– *Australia*

5.3. The Chairperson drew Members' attention to a notification from Australia that had been circulated in document G/MA/QR/N/AUS/5/Add.5. This notification contained information on the termination of a measure introduced in response to COVID-19.

5.4. The representative of Canada indicated the following:

5.5. I would like to thank Australia for providing that information in terms of the termination of its measure that it took in relation to COVID-19. I think that this is a great practice that we should all

[8] https://tao.wto.org
[9] https://goods-schedules.wto.org

be emulating when we take these measures and then remove them. If I am not mistaken, this is one of the lessons learned that will be reflected in the document that we will be looking at a little later.

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

– *Costa Rica*

5.7. The Chairperson drew Members' attention to a new complete notification by Costa Rica for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/CRI/5. The notification also contained information on the termination of a COVID-19-related measure.

5.8. The Committee took note of this notification.

– *Georgia*

5.9. The Chairperson drew Members' attention to a new complete notification from Georgia for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/GEO/3.

5.10. The Committee took note of this notification.

– *Hong Kong, China*

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

5.12. The Committee took note of this notification.

– *Japan*

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

5.14. The Committee took note of this notification.

– *Kyrgyz Republic*

5.15. The Chairperson drew Members' attention to seven new notifications from the Kyrgyz Republic that had been circulated in documents G/MA/QR/N/KGZ/1/Add.18-G/MA/QR/N/KGZ/1/Add.24 .

5.16. The Committee took note of these notifications.

– *Malaysia*

5.17. The Chairperson drew Members' attention to a new complete notification from Malaysia for the biennial period 2020-2022 that had been circulated in document G/MA/QR/N/MYS/2. The notification also contained a measure introduced in response to COVID-19.

5.18. The Committee took note of this notification.

– *New Zealand*

5.19. The Chairperson drew Members' attention to a new complete notification from New Zealand for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/NZL/6. The notification also contained a COVID-19-related measure.

5.20. The Committee took note of this notification.

– *Nicaragua*

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

5.22. The Committee took note of this notification.

– *Philippines*

5.23. The Chairperson drew Members' attention to a new complete notification from the Philippines for the biennial period 2022-2024 that had been circulated in document G/MA/QR/N/PHL/3.

5.24. The Committee took note of this notification.

– *Singapore*

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

5.26. The Committee took note of this notification.

– *Thailand*

5.27. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notifications by Thailand in document G/MA/QR/N/THA/2/Add.1-G/MA/QR/N/THA/2/Add.7. Questions remained by the European Union. Since then, Thailand had submitted a new complete notification for the biennial periods 2020-2022 and 2022-2024 that had been circulated in document G/MA/QR/N/THA/3, which also contained information on the extension of a COVID-19-related measure.

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

5.29. We thank Thailand for its latest biennial notification on QR. As noted in previous meetings, we would like to reiterate our concerns with Thailand's import licensing requirements for feed wheat, which in our view are non-automatic licensing requirements.

5.30. The European Union also reiterates our concerns about the import procedures for feed wheat, including the local corn purchase requirement, introduced by Thailand in late 2016. These have been in place for more than six years, although they were presented as being of "temporary nature", and remain despite the increase in average domestic corn prices over the last years. Thailand put in place temporary suspensions of the local corn purchase requirement from May to July 2022, and for imports of 130,000 tonnes of feed wheat in 2023 for seven shrimp feed millers, in response to complaints on increasing production costs. These are a clear indication that the measure is not temporary. The system in place raises questions in terms of its WTO-compatibility, as well as in terms of transparency in the decision-making process.

5.31. The European Union refers to the detailed points raised in the last meeting of the Committee on Import Licensing.[10] We urge Thailand to address the concerns we have repeatedly expressed.

5.32. The representative of Thailand indicated the following:

5.33. Thailand would like to thank the European Union for its continued interest and questions regarding Thailand's import policy on feed wheat. Thailand takes good note of the concerns raised by the EU today, as well as those it raised in previous meetings of the CMA and the Committee on Import Licensing, which have already been forwarded to our Capital for consideration.

[10] See document G/LIC/M/55, Agenda Item 11.

5.34. We would like to reaffirm our commitment to the WTO obligations, refer to our statements delivered in the previous meetings of the CMA and Committee on Import Licensing, and reiterate that the review of the feed wheat import measure is still ongoing.

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

– *Türkiye*

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

5.37. The Committee took note of this notification.

– *Ukraine*

5.38. The Chairperson drew Members' attention to four new notifications from Ukraine that had been circulated in documents G/MA/QR/N/UKR/6/Add.1-G/MA/QR/N/UKR/6/Add.4.

5.39. The representative of Ukraine indicated the following:

5.40. Despite the full-scale war unleashed by Russia, that has lasted now for over 14 months, we would like to underline that Ukraine remains strongly committed to the fundamental rules of this Organization and makes every effort to ensure the transparency of measures adopted by the Government of Ukraine under martial law.

5.41. During this winter, Ukraine's energy system was subject to numerous barbaric missile and drone attacks by Russia. In order to ensure a proper preparation for the autumn-winter heating period of 2022/2023, the Government of Ukraine introduced a coking coal licensing and quota regime, which was notified in document G/MA/QR/N/UKR/6/Add.1. This was a necessary step also to ensure balance in the energy sector under martial law. As the situation slowly stabilized, an additional quota for coking coal export was introduced (G/MA/QR/N/UKR/6/Add.2 and G/MA/QR/N/UKR/6/Add.4).

5.42. For the same reason, fuel wood and wood in chips or particles had also become subject to export restriction (G/MA/QR/N/UKR/6/Add.3). However, this measure was in effect for only three months, and has not been applied since 1 March 2023.

5.43. Despite the ongoing war, Ukraine remains committed to transparency and keeps on notifying Members of its measures taken. Ukraine ensures that such measures are regularly reviewed and, to the extent possible, replaced by less restrictive ones, or abolished altogether.

5.44. We appreciate all the assistance provided by countries around the globe to support the restoration of Ukraine's energy grid, which has been severely damaged by Russia's war against Ukraine. We reiterate our sincerest gratitude to all WTO Members that stand with Ukraine in the face of the unprecedented, illegal, and terrifying aggression of Russia.

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

5.46. As there were some parts of Ukraine's statement that fall outside the mandate of the Committee, I wanted to remind Members of the Terms of Reference of the Committee on Market Access, as adopted by the General Council. According to the document, the Committee on Market Access shall: (a) in relation to market access issues not covered by any other WTO body: supervise the implementation of concessions relating to tariffs and non-tariff measures; provide a forum for consultation on matters relating to tariffs and non-tariff measures; (b) oversee the application of procedures for modification or withdrawal of tariff concessions; (c) ensure that GATT Schedules are kept up to date, and that modifications, including those resulting from changes in tariff nomenclature, are reflected; (d) conduct the updating and analysis of the documentation on QR and other non-tariff measures, in accordance with the timetable and procedures agreed by the Contracting Parties; (e) oversee the content and operation of the IDB; and (f) report periodically to the Council for Trade in Goods.

5.47. Mr Chairman, let me particularly underscore that consideration of matters of global or regional security concerns, UN Charter enforcement or compliance does not fall under the mandate of the present Committee. As there were some parts of Ukraine's statement that fall outside the mandate, and due to the fact that usually under this agenda item a number of delegations take the floor, I urge those delegations to exercise self-restraint on this item, in this regard, and to respect the decisions previously taken by WTO Members, and specifically as concerns the Terms of Reference of the Committee, as well as the time of the delegates who are convened here for the present meeting to talk trade rather than politics.

5.48. The representative of Canada indicated the following:

5.49. Canada is extremely grateful to Ukraine for continuing to update their quantitative restriction notifications to the WTO, and for carrying out their obligations while under an illegal invasion. Canada continues to unequivocally condemn Russia's illegal, unprovoked and unjustifiable invasion of Ukraine, which is a blatant violation of international law and the rules-based international system. It continues to threaten Ukraine's participation at the WTO, directly affecting its participation, including in the CMA, which Ukraine continues to carry out as best it can.

5.50. Ukraine's commitment to the multilateral trading system while under attack is commendable and an example to us all. Canada's support for Ukraine and its people is unwavering, and we will work to find ways to use trade to support Ukraine as it rebuilds its economy and its society. Finally, Canada urges Russia to immediately cease all hostile actions against Ukraine.

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

5.52. The European Union would like to thank Ukraine for its effort and commitment to transparency, through the notification procedure for QR, even at a time when the country continues to suffer daily from Russia's unprovoked and unjustified aggression. We also thank Ukraine for its statement today, which we think is relevant in full, highlighting both the state of play due to the war and its origin, which is Russia's war of aggression against Ukraine. Ukraine's commitment to following WTO rules even in these extremely difficult circumstances is highly commendable and underscores the continued fundamental importance of the rules-based international trading system, based on international law.

5.53. The European Union once again expresses its full solidarity with Ukraine and reiterates its resolute condemnation of the Russian Federation's war of aggression against Ukraine, which undermines international security and stability and clearly has no place in the 21st century. The European Union's support for Ukraine's independence, sovereignty, territorial integrity, and right of self-defence is unwavering.

5.54. The representative of Japan indicated the following:

5.55. Japan thanks Ukraine for its notification and for sharing their information. Given that this effort is relevant to the work of this Committee, we appreciate Ukraine's commitment to transparency, despite its current circumstances.

5.56. Japan strongly condemns Russia's aggression against Ukraine and its missile attacks against civilian infrastructure and cities across Ukraine. Japan once again strongly urges Russia immediately to stop its aggression and withdraw its forces from the territory of Ukraine to within its internationally recognized borders. Japan will also continue to work firmly on the two pillars of imposing strong sanctions against Russia and providing robust support to Ukraine, in cooperation with the international community.

5.57. The representative of New Zealand indicated the following:

5.58. New Zealand would also like to echo those that have commended Ukraine for its QR notification, in view of the challenges that it faces as a result of Russia's unprovoked and illegal war in Ukraine. QR notifications are a critical part of Members' commitment to transparency and predictable trade, and the CMA also provides an opportunity for Members to outline the context in which they have QRs in place, and in this case, we welcome Ukraine's effort to maintain its WTO obligations in the face of Russian aggression.

5.59. New Zealand remains united with the international community to hold Russia to account for its violations of humanitarian and international law, and for its unprovoked and illegal invasion of Ukraine. We stand in full solidarity with Ukraine and its people and reaffirm our unwavering support for the independent sovereignty and territorial integrity of Ukraine.

5.60. The representative of Norway indicated the following:

5.61. Norway thanks Ukraine for its notification. We are grateful for their commitment to fulfilling their notification obligations even under the extremely difficult circumstances that they are facing. Norway condemns, in the strongest possible terms, the military aggression of the Russian Federation against Ukraine, and reiterates its full solidarity with Ukraine and the Ukrainian people.

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

5.63. The United States again commends Ukraine on its QR notifications and its steadfast efforts to maintain its WTO obligations in the face of Russia's deadly, brutal, unprovoked, and unjustified war of aggression against Ukraine.

5.64. The United States continues 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 the challenges it faces.

5.65. The representative of the Republic of Moldova indicated the following:

5.66. We would also like to thank Ukraine for their update in this Committee, and to add our voice of support, along with that of the European Union and other Members that have spoken before us. Indeed, from the first day of the war, the Republic of Moldova has condemned Russia's aggression in Ukraine, and a war that causes destruction and suffering in our neighbouring country.

5.67. The economic and social repercussions of this war are strongly felt in and around Ukraine, including in Moldova. From the market access perspective, it should be noted that, due to the war initiated by Russia against Ukraine, Moldova's economic agents and exporters have lost access to an important share of market and transit routes to Asian partners. Some of the exports have been totally blocked, such as those, for example, of fresh apples, and other fresh vegetables, and our exporters must either face going bankrupt or else reorient their trade flows. Full or partial loss of export markets has also been exacerbated by the energy crisis and high inflationary pressures.

5.68. Despite these challenges, Moldova, with the help of its donor partners, has been able to withstand these crises and to offer the necessary shelter and assistance to people fleeing from the war, and also to facilitate transit routes for Ukraine's trade. In this context, we would like to reiterate our support and will continue to stand in solidarity with Ukraine, and the Ukrainian people, for as long as it takes.

5.69. The representative of Switzerland indicated the following:

5.70. Switzerland would like to thank Ukraine for the efforts they are making in complying with their notification obligations, notwithstanding their current situation. Like proceeding delegations, Switzerland condemns the illegal aggression of Russia against Ukraine in the strongest possible terms. It is a flagrant violation of international law, especially that of the use of force and the principle of territorial integrity of States. Switzerland would like to appeal to Russia to comply with its international obligations, to bring an end to the hostilities, to immediately withdraw their troops from the territory of Ukraine, and to contribute to de-escalating the situation.

5.71. Switzerland calls upon all of the parties to comply strictly with international law, and especially humanitarian law. The parties must guarantee protection of the civilian population and persons who are not involved in the conflict, and also comply with the rules of war. Attacks against civilians or against civilian infrastructure are prohibited, and they must immediately be brought to an end. The only way to bring this conflict to an end is through diplomacy and dialogue. Switzerland is worried by the consequences of this military aggression, which affects all Members, especially the most vulnerable.

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

5.73. The Republic of Korea joins others in commending Ukraine for its continued efforts and commitments to transparency through its QR notifications, despite its devastating situation. Korea also strongly condemns Russia's armed invasion against Ukraine. Ukraine's sovereignty, territorial integrity, and independence should be respected.

5.74. The representative of Australia indicated the following:

5.75. Australia would like to thank Ukraine for its notification. It is very relevant to the work of this Committee. I would also like to welcome the Republic of Moldova's statement about the market access implications for Ukraine's neighbours. We commend Ukraine's continued commitment and demonstration of its commitment to WTO transparency, noting the very difficult circumstances that it faces due to Russia's illegal and immoral invasion. Russia's invasion is a gross violation of international law and the UN Charter. Australia strongly supports Ukraine's sovereignty and territorial integrity, and we again call upon Russia to cease its aggression.

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

5.77. Once again the delegations that have taken the floor have decided to violate the mandate of the Committee to remind the Membership that the WTO is a rules-based organization. All the interventions that we have just listened to are clearly irrelevant to the mandate of the Committee.

5.78. One of the aims of these interventions is to justify the measures that these Members have introduced in clear violation of their basic WTO commitments. Such measures have consequences for world trade and the world economy. Such consequences could have been avoided if the WTO Members that have just taken the floor had not breached basic WTO rules. Specifically, the following measures are clearly inconsistent with the provisions of the WTO: (i) implementation of import tariffs above most-favoured-nation (MFN) rates; (ii) import bans on products of Russian origin, including energy products; (iii) restrictions on export to Russia of various goods; (iv) blocking of Russian financial institutions, transportation companies, and export support agencies; and (v) ban on the use of seaports. All of the additional costs due to these unilateral measures are passed on to global consumers, resulting in growing global price levels.

5.79. The Committee took note of these notifications and the statements made.

– *United Kingdom*

5.80. The Chairperson drew Members' attention to a new notification from the United Kingdom that had been circulated in document G/MA/QR/N/GBR/2/Add.1. The notification contained information on a modified measure in relation to COVID-19.

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

5.82. The United Kingdom will intervene on QRs covering both Ukraine and the United Kingdom together.

5.83. Firstly, we wanted to thank the Delegation of Ukraine for their intervention just now, including the helpful explanation around the rationale behind the measures represented by their notifications on the agenda today. Indeed, within this Committee, Members sharing details on the context underpinning their own measures enhances overall transparency and awareness around QRs more broadly.

5.84. And separately, like others, we wanted to underline how much the United Kingdom values Ukraine's continued steadfast commitment to the rules of this Organization, including on transparency. This is aptly demonstrated by the fact that, despite relentless, illegal, bombardment, Ukraine keeps on relentlessly notifying, reviewing, and replacing its measures, as appropriate.

5.85. Secondly, we wanted to provide transparency on some UK measures. The UK QR listed here represents the removal of various measures on essential medicines, noting that we review each UK medical restriction tri-monthly to ensure that we are keeping up to date. Also, for transparency,

the United Kingdom wanted to note that we have in fact submitted a further UK QR covering certain measures implemented since our biennial QR notification was filed in September. This extra addendum covers UK measures with regards to bilateral trade with the Russian Federation. Such measures were necessary because of the egregious violations of international law and the UN Charter committed by Russia against Ukraine.

5.86. While Russia continues to violate international law, human rights, and multiple commitments to peace and security, the United Kingdom will continue to take any necessary measures aimed at cutting off the funding of Putin's illegal and unprovoked war. And, until Russia withdraws to end its unilateral invasion, the UK will continue to stand alongside Ukraine for as long as it takes. In closing, should any Members have any questions on either the United Kingdom's medical or Russia measures, our delegation remains fully at Members' disposal to provide any extra information.

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

– *United States*

5.88. The Chairperson recalled that, at its last 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 and 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, and G/MA/QR/N/USA/5/Add.3; and 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.

5.89. The representative of China indicated the following:

5.90. In March 2018, the United States imposed Section 232 tariffs on imported steel and aluminium products on the grounds of so-called national security, and then selectively lowered tariffs on some trading partners. This practice has set a dangerous precedent and fully demonstrated the arbitrary and discriminatory nature of the implementation of US trade policy. It contradicts the letter and spirit of the WTO Agreement and the history of the multilateral trading system.

5.91. Recently, according to a Bloomberg report, the United States is seeking an end to the Section 232 tariffs on steel and aluminium in exchange for an exemption from the European Union's Carbon Border Adjustment Mechanism (CBAM). As China has mentioned the background to this issue many times in this Committee, the US and the EU reached a TRQ agreement on steel and aluminium in 2021. As part of the arrangement, the EU suspended litigation under the WTO dispute settlement mechanism on the legality of Section 232 tariffs. The US and the EU will negotiate the so-called sustainable global steel and aluminium arrangement under the EU-US Trade and Technology Council (TTC) framework.

5.92. According to the US 2023 trade policy agenda, sustainable global steel and aluminium arrangements are essential to the US' accelerated decarbonization and environmentally sustainable trade policies. However, this arrangement now carries too many tasks, including addressing the national security concerns of the US in steel and aluminium products, reducing the emissions of the global steel and aluminium trade, and seeking exemptions for its own steel and aluminium products from the EU's CBAM. How can a measure designed to address environmental concerns be transformed into an effort to alleviate national security concerns? We do not deny the importance of climate change, but it must be pointed out that the US implementation document for the Section 232 tariffs was silent on climate change.

5.93. The WTO Dispute Settlement Body has previously ruled that the US' Section 232 tariffs on steel and aluminium products do not comply with the WTO's rules. In consequence, its derivative measures, including exemptions for specific trading partners, may also be suspected of violating WTO rules. The US aims to legitimize trade protection measures in the name of national security and addressing climate change. This violates the WTO's interpretation of the national security exception provision and seriously affects global cooperation on climate change. Accordingly, we call on all WTO Members to strengthen the oversight and scrutiny of such measures.

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

5.95. I am taking the floor because we used to raise concerns and comments on US quantitative restrictions on imports of sturgeon when discussing the QR notifications by the United States. Just to clarify that these comments and concerns remain, and we will address them under Agenda Item 42.

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

5.97. We take note of the comments and questions raised by China regarding the WTO-consistency of the Section 232 quotas. The United States has invoked Article XXI:(b) of the GATT 1994 and the actions are therefore wholly consistent with the WTO. Regarding questions related to the operation of the Section 232 quotas, we refer Members to the relevant proclamations issued under Section 232, and to quota implementation information published on the website of US Customs and Border Protection. We also thank the EU for its comment on sturgeon, and we are prepared to respond in full to this question under the later agenda item.

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

– *Uruguay*

5.99. The Chairperson drew Members' attention to a new notification from Uruguay that had been circulated in document G/MA/QR/N/URY/4/Add.1.

5.100. The Committee took note of this notification.

5.2 Quantitative Restrictions - Factual Information on Notifications Received – Report by the Secretariat (G/MA/W/114/Rev.5)

5.101. The Chairperson drew Members' attention to document G/MA/W/114/Rev.5, entitled "Quantitative Restrictions: Factual Information on Notifications Received", where the Secretariat summarized the content of the QR notifications that had been received.

5.102. The Secretariat (Mr Simon Neumueller) reported the following:

5.103. This report provides an overview about the latest notifications, including the types of restrictions that are contained in the quantitative restriction notifications, the products most concerned, what were the WTO justifications used, what were other justifications that were used in relation to international conventions, and some resources for those Members that have not yet notified.

5.104. Since the report's last update , one additional Member has submitted a QR notification, which was Nepal. This results in a total of 1,926 notified QRs, corresponding to 2,406 measures. This means that some of the QRs can have more than one measure attached. For example, there can be a non-automatic licence, both for imports and for exports, which is implementing a conditional prohibition. In this case, there would be four measures attached to one QR.

5.105. Of those 1,926 QRs, there are 1,247 of what we call "active" quantitative restrictions. Imagine a case where a given quantitative restriction was notified in a first complete notification, and then was again notified in a further notification. We would then only consider, for the purpose of this report, the latest version of the quantitative restriction. As we have had many notifications since 2012, there are around 1,250 QRs that are "active" of the 1,926 QRs that we have information on in total. All of the report's information, and also the information in this presentation, can be accessed on the QR database.[11]

5.106. In terms of types of restrictions, we see that 59% of measures relate to imports, and 41% to exports, with the most predominate measures being in relation to non-automatic licensing, followed by prohibitions and prohibitions under certain conditions. We have a few other measures in

[11] https://qr.wto.org/en#/home

relation to different types of quotas, state-trading enterprises, and minimum price requirements triggering QRs.

5.107. In terms of the top HS chapters affected, we see that 17% of QRs are in relation to chapter 29, which is about organic chemicals, and chapters 38 and 28, which also relate to chemical products, as well as pharmaceuticals, which is chapter 30. Accordingly, we can see that most restrictions relate to chemicals and pharmaceuticals.

5.108. On a positive note, the quantitative restrictions that do not have information on HS codes have dramatically reduced in number, to only 3% of the active QRs, whereas in the past, we had 16% of QRs not including information on HS codes. This represents a big improvement in how HS codes are reflected in the notifications.

5.109. In terms of the WTO justifications that are mentioned in the notifications, the vast majority, at 95% of the measures, refer to the GATT, of which a vast majority, at almost 50% of the measures, refer specifically to Article XX(b) of the GATT. Other justifications that are often cited include Article XX(a), Article XX(g), and Article XXI of the GATT. We also have 45 QRs that do not mention a specific WTO justification.

5.110. In terms of other justifications, 59 of the active QRs are in relation to CITES, 54 relate to the Montreal Protocol, while others relate to the Basel, Rotterdam, and Stockholm Conventions, and the three UN Conventions on narcotics, as well as several others.

5.111. Members can find useful references and information on how to prepare QR notifications in document JOB/MA/101/Rev.2, in the QR database, as well as in the Trade Policy Review reports.

5.112. The Chairperson emphasized that QR notifications were an important transparency tool in the WTO. The experience with this notification during the COVID-19 pandemic was a case in point. The notifications submitted by Members under the QR Decision effectively contributed to increasing transparency on trade measures taken in response to the COVID-19 pandemic, and spurred more Members to notify. Despite this, the compliance level with the QR Decision was far from being satisfactory.

5.113. The deadline to notify for the current biennial period 2022-2024 was 30 September 2022. As of 26 April 2023, 79 Members had never notified their QRs. In addition, there were also Members that had notified measures introduced in response to the COVID-19 pandemic, and that had indicated that they would submit a complete notification with all QRs in force at a later date, but that had not yet done so. Therefore, the Chairperson urged Members to comply with this notification obligation, and to get in touch with the Secretariat in case Members needed any assistance.

5.114. In this regard, the Chairperson took the opportunity to make a brief report about the Capacity-Building Workshop on Notification of Quantitative Restrictions that had been organized by the Secretariat.[12] The objective of this workshop had been to train Capital-based officials in charge of QR notifications on how to prepare such notifications for the first time, or how to improve on their existing notifications. The Secretariat had indicated that there had been more than 80 applications, from 57 Members, and that the WTO had been able to finance the participation of 29 Capital-based officials in charge of their QR notifications, who were also present at that day's meeting.

5.115. The Chairperson informed the Committee that he had chaired the first part of the workshop, on the previous Monday morning. The workshop had also been open to Geneva-based delegates, and had featured presentations by the Secretariat, as well as experience-sharing by five Members. The workshop had been well attended, demonstrating Members' strong interest in better understanding and improving the quality and timeliness of their QR notifications.

5.116. The workshop had been structured around three main sessions. During the first session, the Secretariat had introduced the WTO rules on QRs and their notification requirements. Since 2022 had marked the 10th anniversary of the QR Decision's implementation , the session had looked at the evolution of notifications under this Decision. The second session had explored the linkages between QRs and import licensing and discussed the WTO's Trade Policy Reviews as sources of

[12] https://www.wto.org/english/tratop_e/markacc_e/qres_2404202310_e/qres_2404202310_e.htm

information for QR notifications. Finally, in the third session, Canada, Colombia, Mali, Thailand, and the United States had shared their experiences concerning how they coordinated the preparation and work on these notifications at the national level.

5.117. From discussions held at the workshop, it had seemed that Members continued to face challenges with respect to the identification of QRs and internal coordination among all the government agencies involved in this process. A number of ideas had been shared by participants concerning how to overcome some of these challenges. For instance, participants noted that information on QRs could be found in other Members' notifications, Trade Policy Review reports, the QR database, as well as through other resources present in the QR database, such as the link to the Environmental Database and the WCO Interconnection Table. It was also mentioned that single windows could be used as a source of information to prepare the QR notification as they usually consolidated in one place all the regulations issued by the country that contained some type of quantitative restriction.

5.118. In terms of how to improve internal coordination, it had been suggested to identify appropriate contact points in other ministries that were responsible for measures falling under the purview of the QR Decision. This could be done, for instance, in the context of the preparatory work for the Trade Policy Review, where a national coordinating committee was usually put in place to gather all the necessary information for the report. Some participants had also suggested using the National Committees on Trade Facilitation, which consisted of several agencies tasked with the implementation of import and export regulations, identifying and contacting the relevant agencies, as well as reaching out to the teams working on negotiating free trade agreements on trade in goods. It was also highlighted that it was important to clarify QR concepts and notification requirements to domestic stakeholders, who might not be familiar with this specific issue, and to consider more streamlined processes to notify quantitative restrictions, for instance through online notification systems or portals.

5.119. The Chairperson expressed his appreciation to the speakers for their valuable contributions in helping make the Capacity-Building Workshop on the Notification of Quantitative Restrictions a successful event. He also thanked all those who attended the workshop, particularly Capital-based delegates travelling from near and far. Finally, he thanked the Secretariat staff from the Market Access Division for delivering the course, and the Institute for Training and Technical Cooperation for supporting it with the logistics.

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

5.121. The European Union thanks the Chairperson for this feedback on the workshop that has just been organized. It was also interesting to receive feedback from colleagues on the possible improvements. The EU thanks the Secretariat for the update as well, and for the Chairperson's update on the situation on notifications.

5.122. The European Union took part in some of the Monday morning session, which was very interesting. Some of the comments were especially interesting, such as on the importance of transparency, the fact that notifications of QRs are complex to issue, and possible thoughts for the future. The EU observes that substantive progress has been made with the submission of notifications, specifically in terms of the digital tools and the notification portal on QRs. There are other changes that could also be made, including improvements to facilitate information on notifications more generally connected with quantitative restrictions.

5.123. Some examples could be shared to help to facilitate the submission of notifications, focusing in particular on the notifications portal. We have a template for submitting notifications, but sometimes it is difficult to find it on the website. A clear link that is more visible would be helpful. In fact, some colleagues from LDCs, in particular, had asked for that, and asked, too, whether they could submit notifications online, as is possible in some other Committees, for example in the Committee on Import Licensing. With a stage-by-stage assistance, just with the overall objective of facilitating information, some information that was received on Monday and shared in other sessions of the workshop could be added to the notifications portal, which would ensure that everything is consistent with the QR database.

5.124. The representative of Canada indicated the following:

5.125. Canada wanted to express its sincere thanks to the Secretariat and to the Chairperson, but most directly for the interest from the delegates that are here from Capitals, and those who joined online. It is very heartening that there is such an interest in learning about and providing the QR notifications that we are all supposed to provide every couple of years.

5.126. In some respects, this notification is one of the most important at the WTO. The information that is contained in this notification has a direct impact on trade. The subsidy notification is important and interesting, and it is useful to understand that some of the other notifications are also important. Beyond this, one can only think of import licensing and customs valuation notifications that might be more important, and that provide information to Members, to the private sector, and to traders on the situation that they face.

5.127. Canada also wanted to thank specifically the gentleman from Mali who joined online. Mali's presentation was excellent and stood out because it was a different voice. It was a well thought through and well-presented explanation of the challenges that Mali faced in pulling together this notification. As mentioned at the meeting that morning, it is heartening to see that we, big and small delegations, all have the same job; and we all have the same challenges in many ways, in terms of pulling together this notification. Canada thanks Mali and the power of technology that brought the delegate here from his Capital. Canada thinks that it is a testament to one of the significant benefits of the Interprefy platform to the WTO, which allows much more Capital-based participation in our meetings.

5.128. Canada finds the numbers that the Secretariat presented to be very useful. The one number that sticks out is the 79 Members that have not notified. That is very good if one looks back and reads the minutes of Council and Committee meetings in the 1970s and 1980s, because this issue of QR notifications has been a "bugbear" of this Organization for a long time. Canada considers that this is thanks to the Decision that was taken in 2012 by the Committee to modernize the notification process. If anyone has seen or looked at what happened before 2012, they will know that it was a file report in the WTO building, where the pieces of paper that we all submitted were kept. If a delegate wanted to look at the information, he or she had to go to the file room and get an actual copy of it. Canada thinks that the 2012 decision represents a huge step forward in terms of the information, and the ability of Members to provide that information. In fact, the notification template itself is an update, as perhaps there was no such template before 2012.

5.129. It is an iterative process, it takes time, and the actual notification itself takes time, but Canada thinks that the number of Members that have not yet notified will decrease. The expressions of interest from the delegates that have come is a testament to that. Canada hopes that it will be a lot smaller next time. To reduce that number, one has to initiate the process to do that notification. This is one of the things that Canada found, as we improve our notification: each year it gets better, and it is also easier as we have a base to work from, and something there to build upon. In many respects, as the Secretariat has mentioned, there are a number of QRs that continue, there are long-standing ones, so it is not all that difficult to update the notification. It is then just a "copy/paste" exercise which may include an update of a reference or a link to some legislation that may have changed.

5.130. Canada also wanted to commend the Secretariat for continuing these workshops. They are important. And this is one of those things, in the context of improving the functioning of the Committee, that we are also considering, including how we can continue to ensure that delegates, both here in Geneva and in Capitals, will understand the role of the Committee, the responsibilities they have as a delegate, and a Member, and provide the access to the training that enables us to do our jobs. Canada appreciates the interest of the people that are here. It is great to have this room full of people. Thanks go especially to the Secretariat and the Chairperson for holding these workshops, and for continuing to do so.

5.131. The representative of Ecuador indicated the following:

5.132. Ecuador thanks the Secretariat for this activity. Ecuador enjoyed good participation and had experts from Capital here as well, which is one of the best things for the notification that we had to do. This activity is extremely useful, because it clarifies a number of doubts that we have in Capital and in Geneva. I also want to highlight the importance of allowing the participation of delegates in Geneva to one part of the workshop. This is very important because we are the ones who guide the

process very often, and sometimes we do not have all the information that we need. This type of workshop is also useful for Geneva-based missions. Ecuador would recommend continuing this practice so that colleagues from Geneva can come and listen to the presentations, and clarify the doubts that they may have.

5.133. Ecuador also has a logistical suggestion. Most participants arrived in Geneva late on Sunday, and then on Monday they had quite a technical session that lasted all day on Monday. Therefore, Ecuador suggests that participants could arrive a day earlier. Ecuador understands that there are budgetary constraints, but the objective is to get the most out of these activities, especially when Capital-based participants are involved. The session on Monday morning was very difficult for some participants, and we hope that this option could be considered.

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

5.135. The Dominican Republic wanted to thank the Secretariat for the workshop. We also had a Capital-based delegate who attended the workshop. She has a lot of experience to share with colleagues who have to notify quantitative restrictions, even with those who are not involved in agriculture, because we are very much involved in that area. What is also important is that this workshop has allowed delegates from missions to participate in the first introductory session, which looked at the overall framework for QR notifications. Given such great efforts to organize this workshop, a possible suggestion for future is to have a larger room, so that Geneva-based delegates can also participate in the entire workshop. The Dominican Republic does not think that it would be a major cost for the Secretariat in this case, because there would be no need to support developing country delegates with travel. The Dominican Republic would appreciate this suggestion being taken into account.

5.136. The representative of Nepal indicated the following:

5.137. Nepal thanks the Market Access team and the Institute for Training and Technical Cooperation (ITTC) for organizing this important workshop. For the Capital-based officials, the workshop was important as it allowed them to learn about the WTO provisions on quantitative restrictions. The morning session of the first day, which was attended by Geneva-based delegates, was also useful to understand quantitative restrictions. The experience-sharing session was quite helpful to understand other practices, especially the part on the coordination among agencies. Nepal would like to ask the WTO to continue this type of activity in the future.

5.138. The representative of Thailand indicated the following:

5.139. Thailand thanks the Chairperson and the Secretariat for organizing the workshop. Our participant from Capital can attest to the benefits she received when it comes to the comments on her presentation, and also the presentations by other colleagues. We acknowledge that with our QR notification there is some room for improvement. We will use the advice that we have received from the workshop to improve our QR notifications. Thailand would also like to thank the Secretariat for the advice that was provided to us in preparation for the QR notification workshop.

5.140. The Committee took note of the report by the Secretariat, the Chairperson's report on the QR workshop, and the statements made.

6 SITUATION OF SCHEDULES OF WTO MEMBERS (G/MA/W/23/REV.19)

6.1. The Chairperson drew Members' attention to a new revision of the report by the Secretariat describing the current situation of Members' WTO Schedules of concessions that had been circulated in document G/MA/W/23/Rev.19. The full version of the Secretariat's report and presentation was available in document RD/MA/113, and had been uploaded on eAgenda prior to the meeting.

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

6.3. The document "Situation of Schedules of WTO Members" (G/MA/W/23/Rev.19) provides an overview of the procedures that have been undertaken by Members to rectify or modify their Schedules of concessions.

6.4. As of 13 April 2023, Members have submitted 699 notifications pursuant to the Decision of 26 March 1980 on Procedures for Modification and Rectification of Schedules of Tariff Concessions (the "1980 Procedures").[13] This figure has not changed since the circulation of the report.

6.5. Of the current 699 procedures, the vast majority of changes to WTO Schedules (497 procedures) were the result of the different HS transpositions. When the HS transposition files are approved by this Committee in the HS multilateral review process, the subsequent step is to submit them under the 1980 Procedures so that the changes can be certified. Other types of changes include the results of sectoral negotiations, such as the Information Technology Agreement (ITA), the ITA Expansion, and the Agreement on Pharmaceuticals (Pharma), which also have to undergo the 1980 Procedures for their certification and formal inclusion in the Schedules of concessions. There are also other types of changes that need to be introduced in the Schedules from time to time, at the request of Members, or also as a result of negotiations that Members undertake in the context of GATT Article XXVIII negotiations (see Agenda Item 7).

6.6. Despite the high number of procedures, the vast majority of them (665 procedures) have been concluded and certified (i.e. 95%), while 34 procedures are ongoing. Leaving aside those procedures that are currently within the three-month period for review (12 procedures), and the four procedures that have been withdrawn, there remain 18 procedures which are pending either because of existing reservations raised on these procedures by some Members (15 procedures), or because the Member proposing the change has not yet completed its domestic procedures (three procedures).

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

7 REPORT BY THE SECRETARIAT ON THE STATUS OF RENEGOTIATIONS UNDER ARTICLE XXVIII OF THE GATT 1994 (G/MA/W/123/REV.10)

7.1. The Chairperson drew Members' attention to a new revision of the "Factual Report on the Status of Renegotiations under Article XXVIII of the GATT 1994" that had been circulated in document G/MA/W/123/Rev.10. The full version of the Secretariat's report and presentation was available in document RD/MA/114, and had been uploaded on eAgenda prior to the meeting.

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

7.3. Under this agenda item I will make a brief report on the status of renegotiations under Article XXVIII of the GATT 1994. The revision prepared by the Secretariat provides an overview of all the renegotiations which have been undertaken by WTO Members pursuant to Article XXVIII of the GATT 1994 since the establishment of the WTO, from 1995 to 2023.

7.4. As of 11 April 2023, Members have undertaken a total of 49 renegotiations, which are at different stages. Since the last report, in 2022, two more procedures have been concluded and certified. Therefore, the overall status of Article XXVIII renegotiations is as follows. There were nine procedures that were initially notified by the Members but were subsequently withdrawn. There was one request to initiate a renegotiation under paragraph 4 of Article XXVIII of the GATT that has not been approved by the Council for Trade Goods (CTG). There are nine renegotiations that remain ongoing, and 30 that have been concluded.

7.5. Of the 30 concluded renegotiations: four renegotiations have been concluded (step 1), and the draft changes to the Schedules have been submitted by the relevant Members under the 1980 Procedures (step 2), but they have not yet been certified. The remaining 26 renegotiation procedures are considered to be fully completed since the negotiations have been concluded and the modifications to the WTO Schedules have been certified by the Director-General under the 1980 Procedures.

7.6. The Committee took note of the Secretariat report.

[13] BISD 275/25.

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

8.1. 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 11 April 2023, as contained in document G/MA/W/157/Rev.6. 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.4. The third item related to a communication submitted by Niger, which had been circulated in document G/MA/W/183. He suggested that the Committee consider the three sub-items together.

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

8.3. The update with respect to the summary report of export restrictions and trade-easing measures relating to the COVID-19 pandemic will be brief. As background, from the Secretariat side, in early March 2023, we reached out to all those Members that, according to our information, still had COVID-19 export restrictions in force, either formally notified or also based on information from the WTO's trade monitoring exercise. We then encouraged these Members to verify whether these measures were in fact still in force, and if not, to notify the termination of these measures. As a result, Australia notified the termination of an export restriction. The Secretariat would like to encourage all Members that still have export restrictions in place to notify any changes to those measures so that the report can be further updated.

8.4. The report contains no change in the number of export restrictions. However, three measures have been phased out, and one measure has been extended since the previous version of the report. As a result of the COVID-19 experience-sharing sessions by LDCs, Niger sent a unilateral communication on trade-easing measures, which had been circulated as document G/MA/W/183. Overall, there are only very minor changes. Based on the information in the report, 25 export restrictions are still in force, and there is a slight change with regard to the status of the measures since the autumn of 2022. 24% appear still to be in force, 33% have been notified as terminated, and 43% appear to have expired. For the trade-easing measures, there has only been one additional communication. Hence, overall numbers have not changed significantly, and no detailed update on this section can be reported.

8.5. The Chairperson thanked those Members that had contacted the Secretariat about updating the information contained in the document, which was very important in terms of having an accurate picture of their situation. He also reminded those that had not yet done so to notify the termination of their COVID-19 measures.

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

8.7. The European Union would like to thank the Secretariat for the update with the latest developments. Just a few general comments to highlight how useful it has been to have this regular reporting, throughout the crisis, about the status and character of the measures taken in response to the pandemic. We acknowledge the fact that this reporting was not really complete because it was based on measures that were notified or submitted in the context of the trade monitoring exercise, and also that there were a number of measures that were not notified or submitted for information; but at least we had a basis for discussion, and that was welcome. Since the beginning of the pandemic, there were calls for trade restrictive measures to be proportionate, targeted, and time-bound, and I think that this reporting was very useful to incentivize Members to check how we had translated these principles in practice, and to assess whether, and how, we had done so. We also reiterate our appreciation to Members who voluntarily notified or informed the Committee about a measure that facilitated trade, or continues to facilitate trade, because I understand from the report that a number of the measures have been made permanent, and this is also a useful source of inspiration. We do believe that this kind of reporting will assist Members in case of similar future crises.

8.8. The representative of Canada indicated the following:

8.9. Just to add my voice to the comments from the EU. This has been a very good ongoing exercise. I will pick up on the Secretariat's point, namely that I appreciate the active outreach to delegations

that at least had notified their export restrictions, but had not yet notified their termination. I think it is useful for the Secretariat to remind Members of the fact that the notification exists, and when there are updates to provide. It is also useful to remind delegates that the QR Decision from 2012 (G/L/59/Rev.1) actually calls for Members to notify changes to a quantitative restriction as soon as possible, but not later than six months from their entry into force. I draw our attention to one of the next agenda items, regarding lessons learned from COVID-19, which was to keep trading partners, as much and as quickly as possible, up to date on the measures that Members were taking, especially in the context of a crisis. It was a good reminder for us to keep track of, and review, what measures we have taken, and when there are changes to them.

8.10. The representative of Australia indicated the following:

8.11. I wanted to thank the Secretariat on the outreach regarding our notification, which was a temporary measure around rapid antigen tests. Just for the record, that measure was adopted in January 2022 and withdrawn on 17 April 2022. It was our intention to notify that cessation, and this was an oversight on our part. I would also like to thank Canada for its earlier comments around that notification. I would encourage others that have any notification that has been revoked to advise the Committee accordingly.

8.12. The Chairperson proposed that, given the current situation of these measures, this report would only be updated if the Secretariat received additional information from Members about the measures contained in Annex 1 of the document.

8.13. The Committee took note of the report by the Secretariat, the communication by Niger, and the statements made.

9 REPORT BY THE CHAIRPERSON ON THE EXPERIENCE-SHARING SESSIONS IN RELATION TO TRADE IN COVID-19 RELATED GOODS (G/MA/409)

9.1. The Chairperson reported to the Committee on the recent developments in the Committee's activities in the area of trade in COVID-19-related goods and possible next steps. He recalled that the full version of the report had been circulated in document JOB/MA/161, and that it had also been included on the eAgenda. Therefore, in the interests of time, he only highlighted a few elements of the report.

9.2. On 9 February 2023, he had invited all Members to informal open-ended consultations with the objective of hearing Members' views on: (i) the next steps in relation to the Committee's work on trade in COVID-19-related goods, including on lessons learned; and (ii) on whether the Committee should engage in additional technical dialogues, either through experience-sharing sessions or other formats, on other topics and, if so, which. The consultations were attended by more than 50 delegations, including with the active participation of several least developed countries (LDCs).[14]

9.3. The main outcome of these consultations was the request by LDC Members to organize an additional experience-sharing session on trade in COVID-19-related goods, focusing on their own experience, which took place on 24 March 2023.[15] The following topics were addressed at the session: (i) the identification of COVID-19 essential goods; (ii) measures used by LDCs to ease trade in these goods; (iii) LDCs' practices and experiences with respect to export restrictions; and (iv) lessons learned from the pandemic. In addition, the second part of the session focused on Members' reflections across the entire series of experience-sharing sessions, and the main lessons learned. Eight LDC Members participated as speakers at the session to share their national experiences on these topics, and eleven additional Members took the floor to contribute to the discussions.

9.4. The Chairperson thanked the representatives from these Members for enriching the Committee's discussions on this important topic. He also echoed the general sentiment that the CMA experience-sharing sessions on trade in COVID-19-related goods had been very useful for Members to better understand how they had collectively reacted during such an unprecedented

[14] The Chair's follow-up email to the informal consultations on 9 February 2023 was circulated in document RD/MA/110.

[15] https://www.wto.org/english/news_e/news23_e/mark_24mar23_e.htm.

situation, and also how they could do better in the future, both as individual Members and as an Organization.[16]

9.5. Regarding next steps concerning the Committee's work on trade in COVID-19-related goods, he noted that Members recognized that the experience-sharing sessions had been thorough, and had helped them to identify best practices. They also appreciated the flexible and bottom-up approach used by the CMA in conducting these sessions. At the same time, some delegations pointed to the fact that this workstream was quite demanding, and suggested to make better use of the formal and informal meetings to hold similar discussions in the future.

9.6. The Chairperson encouraged interested Members to continue to share information with the Committee on the actions that they had taken in response to the pandemic, for example through voluntary written submissions, or by including specific agenda items in either formal or informal meetings of the CMA. This was a continuous process from which they could all learn something new that could be applied in the case of future crises.

9.7. Regarding the document on lessons learned, the Chairperson recalled that, during the informal consultations of 9 February 2023, several Members were of the view that this document provided a good reflection of the discussions that had taken place during the experience-sharing sessions, and that it reflected the practices that Members might want to consider in the event of future emergencies. There was also wide support among Members for converting the note by the Secretariat into a document by the Committee that could be used for future reference.

9.8. He recalled that, on this basis, at the last experience-sharing session of 24 March 2023, he had proposed that the Secretariat update the document with the inputs shared by the LDCs, and use a written procedure to adopt and circulate the document on lessons learned as a Committee document. On 31 March 2023, the Chairperson had emailed the draft document on lessons learned to all Members, with a deadline for comments of 14 April 2023. He informed the Committee that, before the deadline, one Member had provided written comments, which had been incorporated by the Secretariat into a revised version of the document, which had been emailed to Members on 17 April 2023. He recalled that, in that email, it had been indicated that, in the absence of objections by 19 April 2023, the document would be circulated as a Committee document.

9.9. The Chairperson reported that, since no objections had been received on the revised draft, on 20 April 2023 the document on lessons learned had been circulated in document G/MA/409, as agreed by Members. Following the circulation of the document, the Chairperson informed the Committee that one Member had sent additional comments on the document. Since this was a living document that was intended to be updated based on contributions from Members, the Chairperson asked the Secretariat to prepare a revised draft with the proposed changes, which would be shared with Members, for their consideration, after this meeting.

9.10. The Chairperson congratulated all Members for their active engagement throughout this very significant process, and for the document on lessons learned, which contained a rich set of information and practices that would certainly prove useful in supporting Members' response to this pandemic and to future emergencies.

9.11. Finally, with respect to the additional technical dialogues to be held by the Committee on new topics, the Chairperson observed that Members were of the view that the flexible approach that had been used by the CMA in discussing COVID-19-related issues had worked well, and could be replicated in other areas, provided that they were of relevance to the Committee's work. In this regard, he recalled that some preliminary topics had been suggested by Members and compiled in documents RD/MA/109 and RD/MA/110. He therefore suggested that Members further consider these proposals and then discuss, at the Committee's next informal meeting, under which topic they would like to undertake additional technical dialogues.

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

[16] The summary reports of all the sessions are available in document JOB/MA/152/Add.1-JOB/MA/152/Add.5.

9.13. The United Kingdom welcomes the Chairperson's report and expresses how valuable this process has been. The stakeholder session last November, and the recent session with LDCs on 24 March, exemplifies the wide range of engagement this exercise has received throughout.

9.14. The creation of the Committee document from the Secretariat's lessons learned report is, in the UK's view, a key success of this process. We hope that, in time, this document can act as a playbook of best practices, which summarizes key reflections for use as a reference point for future pandemics and crises. The UK also wishes to reiterate the importance of continuing to reflect on lessons learnt from the pandemic at the WTO. There are real-world practical implications to conducting this work. The socio-economic impacts of the pandemic were, particularly among developing countries, devastating. When a future crisis hits, this work will help us to address shocks to global trade at the multilateral level by coordinating more effectively through the WTO. Because of its success, we would welcome the CMA process being shared across the WTO as a model for pandemic lessons learnt work, and to potentially utilize when another crisis emerges.

9.15. We look forward to hearing and reflecting on any further ideas that Members may have on lessons learnt from the pandemic. Moving ahead, the UK would be interested in a more forward-looking discussion on supporting sustainable supply chains, taking into account crisis-preparedness more broadly, and again incorporating the crucial development angle. Given the unstable global trading environment we are all facing, in an interconnected world, this really does feel like an area that could benefit from further technical and expert analysis through this Committee. Therefore, we welcome the input from other delegations on potential thematic topics of mutual interest, including on sustainable supply chains. The UK will continue to reflect on this, and we look forward to continuing that conversation. The UK thanks the Chairperson, the previous Chairperson, and the Secretariat for facilitating this process and taking forward actions on the important issues raised.

9.16. The representative of Colombia indicated the following:

9.17. Colombia would like to highlight this collective effort, involving a very high level of interaction between Members, the WTO Secretariat, and other international organizations. Colombia's understanding is that this work, which involved reviewing the trade-related rules adopted by Members in response to the COVID-19 pandemic, extended over almost two years. As part of this work, experience-sharing sessions were held and the Secretariat compiled the document you have mentioned, which compiles the lessons learned, the measures taken, and the practices of some Members. We hope that all this work will serve as a reference point and be useful for future crises or pandemics.

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

9.19. The United States thinks that the COVID-19 experience-sharing sessions have been really successful and helpful in identifying best practices that we should consider if we are ever faced with another global pandemic. We are glad to have taken part in them.

9.20. The Committee took note of the Chairperson's report, the adoption of the document on lessons learned from the experience-sharing sessions on trade in COVID-19 goods, as circulated in document G/MA/409, and the statements made.

10 MC12 IMPLEMENTATION MATTERS

10.1. The Chairperson recalled that there were two sub-items for consideration by the Committee under this agenda item. The first sub-item was about the CMA report to the CTG on the WTO response to the pandemic. The second sub-item was about ongoing discussions on improving the functioning of the Committee, and included the communication from Argentina, Colombia, Ecuador, Paraguay, and Uruguay circulated in document JOB/MA/158/Rev.1. He suggested that the Committee consider the two sub-items separately.

10.1 WTO Response to the Pandemic (G/L/1459)

10.2. The Chairperson recalled that, on 24 October 2022, the Chairperson of the CTG had requested the 14 Chairpersons of its subsidiary bodies to prepare two reports, under their own responsibility and with the assistance of the Secretariat.

10.3. The first report related to the Committee's work in relation to the COVID-19 pandemic. He recalled that, with a view to ensuring transparency, and to avoid any possible error, the draft version of this report had been circulated to Members on 23 November 2022, with a week for comments. Since no comments had been received by the deadline, he had submitted the CMA report on the WTO response to the pandemic to the CTG on 1 December 2022, in document G/L/1459. He also recalled that, together with the other Committee Chairs, he had taken the opportunity to present this report at the informal CTG meeting of 31 January 2023.

10.4. The Chairperson noted that, since the report had been submitted at the end of 2022, it did not contain information about the Committee's most recent work in relation to COVID-19. For example, there was no reference to the sixth experience-sharing session that had taken place in March 2023, or to the Committee document on lessons learned. Therefore, in light of the importance of these developments, and under the guidance of the CTG Chair, he informed Members that he intended to update his report in document G/L/1459 to reflect these new developments. As was done with the report's previous version, he would circulate a draft to Members for their comment before submitting the revised report to the CTG.

10.5. It was so agreed.

10.2 Improving the Functioning of the Committee on Market Access (G/L/1460; G/C/W/824/Rev.1) - Communication from Argentina, Colombia, Ecuador, Paraguay and Uruguay (JOB/MA/158/Rev.1)

10.6. The Chairperson recalled that the second report that he had prepared with the assistance of the Secretariat, at the request of the Chairperson of the CTG, had been a report describing the current functioning of the CMA. A draft version of this report had also been emailed to Members for comments on 23 November 2022 and, since no comments had been received, it had been submitted to the CTG for its consideration, and had been circulated in document G/L/1460. The Chairperson had also presented the main highlights of this report at the CTG's informal meeting of 31 January 2023.

10.7. He recalled that, at the informal meeting of the Committee that had taken place on 21 February 2023, following January's CTG meeting , he had invited Members to reflect on whether the CMA should begin a process for discussing improvements to its functioning and, if so, what areas should be improved. A number of ideas had been raised at the meeting, and he had been asked by Members to compile them in a document that could be used as a reference for future discussions.

10.8. He informed Members that, on 9 March 2023, the Chairperson of the CTG had sent a communication to the Chairpersons of the CTG's subsidiary bodies asking them to organize discussions on how to improve the functioning of their committee with a view to allowing Members to identify possible areas for improvement, and taking into account the comparative matrix that had been prepared by the Secretariat. On this basis, on 4 April 2023, he had sent an email to Members with a preliminary list of issues that had been raised by Members on how to improve the functioning of the CMA, and asked them to provide additional inputs by 19 April 2023.

10.9. The Chairperson recalled that a revised version of the preliminary list, including inputs received, had been circulated before the meeting in document JOB/MA/162, and that it was also available on eAgenda. The list also reflected the communication from Argentina, Colombia, Ecuador, Paraguay and Uruguay on the functioning of the CTG and its subsidiary bodies, circulated in document JOB/MA/158/Rev.1, which had been included on the agenda of this formal meeting at the request of the co-sponsors of this document. He clarified that this list was not exhaustive and could be updated as necessary.

10.10. The Chairperson further highlighted that, as had been mentioned by many delegations on previous occasions, the CMA had already taken action on a number of issues that had been identified

through this process. Indeed, the CMA was a committee that was constantly improving its working procedures, and appeared to be in a relatively good position.

10.11. In this regard, he indicated some of the areas where the Committee had already taken action with respect to the issues identified in document JOB/MA/162. For example, under item 1 "Assistance to delegates", paragraph (a), the Secretariat had already held regular introductory sessions on its functioning for delegates, both in Geneva and in Capitals. The presentation that the Secretariat had used in the past for these sessions could be found in document RD/MA/89.

10.12. Under item 3, "Work procedures", with respect to the Annotated Agenda, he recalled that the CMA had been using an annotated agenda for many years. The latest version used for this meeting had been circulated in document JOB/MA/159, and included direct weblinks to the WTO Trade Concerns Database for those concerns that had been previously raised in other meetings, so that Members could have access to the full record of past discussions.

10.13. Under item 3.2, "informal meeting", he observed that the Secretariat had also circulated follow-up emails by the Chairperson with a document symbol, as suggested by Members at the last informal meeting. The most recent had been circulated as document ICN/MA/9/Add.1. Under item 3.3, "Other", paragraph (d), the Secretariat had already included hyperlinks in all the documents circulated by the CMA. Finally, under item 4, "Digital tools", paragraph (d), he noted that the CMA had already used the official WTO e-Registration system for contacting delegates.

10.14. This being said, he noted that there were certainly areas where the CMA could improve its functioning. On the other hand, the list also contained issues that seemed to be cross-cutting, or that applied to the Organization as a whole, which might deserve a more horizontal discussion, as well as issues that depended on actions by Members rather than the Secretariat.

10.15. Due to the long agenda of the formal meeting, he suggested to organize substantive discussions on this topic at the next informal meeting of the Committee, which had been scheduled to take place on 13 June 2023, so that Members could have more time to consider the list, propose new ideas, and have a more thorough discussion under each item.

10.16. The representative of Uruguay indicated the following:

10.17. Uruguay thanks the Chairperson for including this item on the agenda and for presenting a preliminary list of issues for discussion in this Committee. I would like to recall that, at the last meeting of the CTG, the delegation of Brazil had indicated that they wished to co-sponsor this document.

10.18. Uruguay recognizes that these discussions will take place in informal mode, and that this Committee has made progress as regards many of the issues identified. Nevertheless, the co-sponsors requested the inclusion of the communication circulated in document JOB/CTG/21, so as to make Members aware of it, and have duly submitted the document for consideration by the Chair of this Committee.

10.19. The communication was drawn up on the basis of the matrix presented by the Secretariat to the CTG (G/C/W/824), which includes reports submitted by the 14 subsidiary bodies. It identifies challenges that could hinder the work of delegations and thus hamper progress on issues in what is a consensus-based Organization. The aforementioned communication seeks to create a common dialogue in the various subsidiary bodies in order to align their practices and avoid the risk of increasing disparities in their working procedures. In this regard, in the context of the extensive discussions that are taking place at the CTG, both in informal and formal modes, we understand that there seems to be support for discussing proposals in certain areas in the subsidiary bodies (see document RD/CTG/19). These include, for example, issues relating to: (i) assistance to delegates in Capitals and in Geneva; (ii) improvements in the planning and organization of meetings, and in the working procedures; and (iii) improvements in the preparation of the agendas of meetings. These are issues that, as has been mentioned, have already been implemented, to a great extent, by the CMA.

10.20. We, the co-sponsors, will continue to closely follow and actively participate in the continuation of these discussions at the Committee's next informal meeting.

10.21. The representative of India indicated the following:

10.22. We welcome the paper submitted by Argentina, Colombia, Ecuador, Paraguay, and Uruguay, which focuses on improving the functioning of the CMA. We have ourselves made similar suggestions in various forums, including the CTG and this Committee. We would prefer that the CMA meet in informal mode and take up each Member's suggestion individually. This approach will give the Members an opportunity to discuss and debate each point, and help to develop consensus.

10.23. The representative of Canada indicated the following:

10.24. I support the proposal to hold informal consultations to go through the list. As I also sit on the CTG, and if I understood correctly from the last CTG meeting, there would be some sort of communication coming from the CTG Chair to the subsidiary body Chairs. I think it would be useful for CMA delegates who do not sit on the CTG to be made aware of the results of the CTG meeting held earlier in April, and the document it stemmed from, about some of the trial changes that we are working through in the Council. Not all of them will be applicable to the CMA, obviously, but it would be useful for CMA delegates to know what is happening in the Council when we consider how to improve the functioning of the CMA when we meet in June.

10.25. The representative of Paraguay indicated the following:

10.26. Paraguay welcomes that the CMA is one of the best functioning subsidiary bodies of the CTG, and of the WTO in general, and that it is already implementing many of the issues identified in the list.

10.27. However, I wish to reiterate that Paraguay, and other delegations, such as those that have co-sponsored the document presented today by Uruguay, place great value on aligning, as much as possible, the procedures and documents relating to regular Committee work, while taking into account the specificities of the various subsidiary bodies. Efficient and appropriate procedures are useful, and what we aspire to, but if they are very different to those of other subsidiary bodies, or those of the CTG, this still poses an additional difficulty for delegates covering several committees.

10.28. With regard to trade concerns and the use of eAgenda, I have a personal suggestion for Members. As it is difficult to follow-up on trade concerns raised in the CMA, owing to the multiple concerns that deal with the same issues, it would be useful, in my view, to try to consolidate these concerns under the same ID number, where possible. This is what Paraguay did at this meeting with a trade concern that we submitted. Please do not misunderstand me. As you are aware, Paraguay is the first delegation to complain about, and reject, any mandatory element that restricts Members' freedom to submit their concerns as they see fit. This is simply a suggestion for consideration by those Members that submit trade concerns, in order to keep better track of the same concern over time, and also to have a clearer understanding of which Members raise or support a specific concern. For example, in the case of Paraguay, I noticed that my delegation had to make several interventions under different agenda items in previous meetings, and this makes it difficult to understand the position of Paraguay on a specific concern.

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

10.30. The United Kingdom would very much support India's suggestion regarding covering these issues individually in a next CMA informal meeting. We would also like to reiterate our appreciation to the co-sponsors of document JOB/MA/158/Rev.1 for a really pragmatic paper. Also, we reiterate our thanks to the LDC Group for what are, in some cases, complementary ideas reflected in document JOB/GC/223/Rev.1.

10.31. Many ideas on the table have been talked through already during some really productive CMA informal discussions, and we commend the Chair and Secretariat for collating the various ideas for ease of consideration. As said before, the UK is approaching this work through the dual lens of efficiency and inclusivity. We think that, the more inclusive this Organization is, the richer the dialogue will be, which will be to everyone's benefit.

10.32. In terms of the overview from the Chair, and reflecting on the discussions across Committees, we wanted firstly to underline how impressed we are by the CMA's functioning already.

To cherry-pick just a few examples of first-rate CMA processes, the UK would highlight: (i) the circulation of rapid, concise and neutral reports following informal meetings. These are exceptionally useful for transparency, especially for those who cannot attend. While the Committee on Technical Barriers to Trade (TBT Committee) does likewise, we would like to see this practice extended; (ii) the use of the eAgenda, to facilitate the sharing of statements and help delegations provide input to the Secretariat to assist with the minutes. Again, we think that this could be helpful across other WTO bodies; and (iii) the digital tools (including the QR Database), as well as the brilliant proactive training, the likes of which we have seen this week. This should be an enduring example of best practice across the WTO.

10.33. In terms of preparation for the upcoming June informal meeting, the UK has just circulated document JOB/MA/163, which represents our views on the functioning of the CMA specifically, including on possible ideas for improvement. It builds on the UK CTG Communication as circulated in document JOB/CTG/26.

10.34. Our paper also makes some reflections on CMA Committee culture. Here we wanted to mention how impressed we were with the efficacy of the most recent CTG. In fact, we were so inspired by the approach of other delegations in that meeting of the CTG that we redrafted several STC interventions on the spot to shorten them. With such succinctness in mind, I will end my statement there.

10.35. The representative of Chile indicated the following:

10.36. Chile would like to thank Argentina, Colombia, Ecuador, Paraguay and Uruguay for the document, as we consider that this has a number of useful elements that could guide our discussions towards strengthening the work of this Committee, bearing in mind its own operation and specificity. Even if the objective is not to have formal horizontal procedures for all the bodies, we consider that the Committee can identify areas where its functioning can be improved. It would therefore be interesting to look at those practices that have proven to be useful in other committees to see if they can be relevant to the work carried out in this Committee.

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

10.38. We think this is a helpful compilation of ideas and issues to help improve the functioning of the CMA. We are open to considering changes both large and small. For example, re-ordering the agenda to differentiate between "new" STCs and "previously raised" STCs could be a big change in the operation of these meetings.

10.39. On the other hand, small changes already being implemented are impactful: my colleagues in Capital noted that the annotated agenda for today's meeting included direct links to the trade concerns database for many STCs. Being able to quickly reference past discussions on each trade concern helped streamline the preparation of my instructions for the meeting. The United States remains ready to work with Members and the Secretariat to implement meaningful improvements.

10.40. The Chairperson confirmed that the Committee will continue its discussions on this topic at its next informal meeting, on 13 June, and invited Members to share their ideas in writing for inclusion on the list.

10.41. The Committee took note of the Chairperson's report; the Communication from Argentina, Colombia, Ecuador, Paraguay, and Uruguay (JOB/MA/158/Rev.1); and the statements made.

11 ANGOLA – IMPORT RESTRICTING PRACTICES (ID 46) – STATEMENTS BY THE EUROPEAN UNION AND THE UNITED STATES

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

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

11.3. To recall, on 14 January 2019, Angola published Presidential Decree No. 23/19 in its official journal. One core element of the Decree is a set of quantitative restrictions and import licensing

requirements on a list of various products. In view of the lack of progress on this issue, including at the bilateral level, the European Union underscores once again its concerns about the compatibility of Presidential Decree No. 23/19 with WTO rules. The European Union strongly urges Angola to review the relevant measures in order to ensure their compliance with WTO rules.

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

11.5. Despite raising our concerns for seven consecutive meetings of the CMA, the United States has not seen tangible progress on this measure and will be raising our concerns with Angola's Presidential Decree No. 23/19 for the eighth and final time in this Committee.

11.6. While the United States has appreciated Angola's past engagement on this issue through the US Embassy in Luanda, and through Angola's consideration of revisions to this decree, we have failed to see any concrete changes since first raising this measure in November 2019. US exporters remain concerned by the uncertainty this decree creates in the Angolan market, particularly for perishable goods.

11.7. The United States once again urges Angola to either repeal or revise this decree to address Member concerns and ensure that this decree is in compliance with WTO rules and obligations. We remain willing to work with Angola to resolve our concerns.

11.8. The representative of Angola indicated the following:

11.9. Angola maintains the same position as at the Committee on Import Licensing last year. Angola does not apply restrictive measures and the objective of Angola is only to diversify exports.

11.10. These are longer-term considerations. Angola is still working to gradually change this situation. Angola has tried to promote an increase in domestic production, and to stimulate the development of national products. Nevertheless, Angola is firmly committed to transparency, and to fulfilling its WTO commitments. Our hope is to abide by all of the WTO Agreements. In this regard, we try to be more and more transparent. We would like to reinforce that our country has great potential. In spite of the overall social challenges, including the need for qualified human resources. More than just importing, we would like to be your partner. For this reason, we would like to invite you to invest in our country. We still have some challenges in the agricultural, economic, educational, industrial, mining and technology sectors; indeed, we have many challenges, and this is why we are trying to tell you that we do not restrict trade, but rather, we are trying to grow our economy.

11.11. Next year, Angola will revise all of its commercial decrees and the scope of the revision of its commercial policies, and we are ready to provide the data that you need to prove Angola's imports. We are not importing the same volume, the same quantity; rather, we are trying to be more diversified in terms of exports. This is our focus now, but we are here to give any declaration that you need for this.

11.12. The Committee took note of the statements made.

12 AUSTRALIA – MATURATION REQUIREMENTS FOR IMPORTED ALCOHOL (ID 94) – STATEMENT BY BRAZIL

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

12.2. The representative of Brazil indicated the following:

12.3. Brazil makes reference to STC 636 of the TBT Committee regarding Australian Customs Notice No. 2007/19 on technical requirements on the importation of alcoholic beverages. This regulation imposes a minimum period of two years of maturation for importation of sugarcane alcohol beverages, including cachaça from Brazil. This technical requirement has no exceptions and is not linked to any sanitary standard applicable to the Brazilian cachaça, which creates several difficulties for Brazilian exporters to access the Australian market. Although Brazil has raised this STC in the TBT Committee nine times, starting in May 2020, Australia has failed to update the relevant legislation. The absence of a timely and concrete response to the concern raised by Brazil in the TBT Committee, and the maintenance of the two-year maturation requirement for sugarcane

alcoholic beverages constitutes a ban on the importation of cachaça, and therefore a quantitative restriction under the terms of Article XI:1 of the GATT.

12.4. Brazil acknowledges that the Australian border force has explored a possible update in the Customs Act 1901, to include a list of exceptions under section 105A, without eliminating the maturation requirement.

12.5. After more than three years of discussions, there is an absence of evolution in the adoption of the new regulation. Brazil has therefore decided to raise this STC under the CMA, as the Brazilian exporters of cachaça are facing a quantitative restriction to have access to the Australian market. This leads us to pose a question, namely, does Australia intend to notify its current regulation on the maturation requirement as a QR under the relevant notification obligations in this Committee? Brazil thanks Australia for the bilateral meeting that we had prior to this Committee meeting. Brazil is ready to engage with Australia on achieving a timely and concrete solution to this concern.

12.6. The representative of Australia indicated the following:

12.7. We acknowledge Brazil's interest in Australia's review of maturation requirements for certain imported alcohol products. We acknowledge that this is a matter that Brazil has raised on a number of occasions in the TBT Committee. We thank Brazil for their proactive engagement with Australia on this topic.

12.8. Australia established a whole-of-government working group in 2022 to consider trading partners' concerns regarding the maturation requirements for the importation of certain alcohol products, and the domestic maturation requirements of brandy, whisky, and rum. The working group is considering the legislative framework for the importation of certain unmatured alcohol products under section 105A of the Customs Act. The working group will also consider whether any corresponding changes are required for domestic maturation requirements. This year, in 2023, the working group is continuing to work through the policy and legislative complexities, and stakeholder views, in order to make progress on a way forward.

12.9. We understand Brazil's particular interest in the time-frames for any changes which may occur, and just to make a reference to the TBT discussions recently, on any implications for labelling requirements. The Australian government will notify the TBT Committee of any proposed legislative changes to section 105A of the Customs Act, and of any other changes to alcohol import requirements, in accordance with Australia's obligation under the TBT Agreement.

12.10. The Committee took note of the statements made.

13 AUSTRALIA – DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT (ID 39) – 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. Without any evidence, Australia has imposed a ban on Chinese communications equipment enterprises. It has prohibited the purchase of relevant Chinese products, which seriously violates the WTO's fundamental principles of MFN treatment and the General Elimination of Quantitative Restrictions.

13.4. To date, Australia has not provided a rationale for this measure. We believe that this discriminatory measure is inconsistent with the WTO rules. We urge Australia to bring its action into line with the WTO rules, and to provide Chinese enterprises with a fair, transparent, and non-discriminatory business environment.

13.5. The representative of Australia indicated the following:

13.6. China first raised this issue elsewhere in the WTO in 2018. Since that time, Australia has engaged constructively and in good faith to explain the rationale for our position. We reiterate that our position on 5G networks is country-agnostic, transparent, risk-based, non-discriminatory, and

fully WTO-consistent. Australia also notes that other WTO Members have made similar decisions in their national interest on equipment for national 5G networks.

13.7. The Committee took note of the statements made.

14 CANADA – DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT (ID 79) – 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 has imposed a ban on Chinese communications equipment enterprises. It has prohibited the purchase of relevant Chinese products, which seriously violates the WTO's fundamental principles of MFN treatment and the General Elimination of Quantitative Restrictions.

14.4. Canada has still not provided a rationale for this measure. We believe that this discriminatory measure is inconsistent with the WTO rules. We urge Canada to bring its action into line with the WTO rules, and to provide Chinese enterprises with a fair, transparent, and non-discriminatory business environment.

14.5. The representative of Canada indicated the following:

14.6. The Government of Canada takes the security of Canadians, their data and information, and its telecommunications system very seriously. Canada's decision to amend the Telecommunications Act was carefully considered and took into account a changing technological and global environment.

14.7. Canada's critical infrastructure is becoming increasingly interconnected, interdependent, and integrated with cyber systems, particularly with the emergence of new technologies, such as 5G.

14.8. Every country, including China, has its own domestic laws and regulations on telecommunications. The Government of Canada is taking important steps to further protect Canada's critical infrastructure systems in a way that is consistent with Canada's WTO commitments, while championing emerging technologies, such as 5G.

14.9. The Committee took note of the statements made.

15 CHINA – TRADE DISRUPTIVE AND RESTRICTIVE MEASURES (ID 58) – STATEMENT BY AUSTRALIA

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

15.2. The representative of Australia indicated the following:

15.3. Australia appreciates the opportunity to update the Committee on recent developments relevant to this item. Australia values our mutually beneficial trade relationship with China. We are free trade partners through the China-Australia Free Trade Agreement and the Regional Comprehensive Economic Partnership. We share the benefits, as do all WTO Members, of a stable, predictable and open global trading system. This is why we wish to see the removal of all the trade disruptive and restrictive measures that Australia has faced in recent years.

15.4. Members are well aware of Australia's concerns regarding these measures on a wide range of Australian products, which have been applied without adequate transparency or justification for over two years. These measures continue to impact a range of products.

15.5. Australia acknowledges recent positive developments in our bilateral and trade relationship with China, including agreement to enhance dialogue at all levels on the path to resumption of normal trade. We have seen some trade in certain Australian products begin again, specifically coal, copper ores and concentrates, and cotton. We also welcome the agreement recently reached with

China to review its duties on Australian barley. These developments are in both Australia's and China's interests. Notwithstanding these developments, measures impeding our trade in other commodities remain. While they do, Australia will continue to raise its concerns here, and in other WTO bodies.

15.6. We look forward to continuing to work constructively with China, through the WTO and our Comprehensive Strategic Partnership, to build on the progress made thus far.

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

15.8. We will keep this statement short. However, we want to continue supporting Australia's concerns about trade restrictive measures taken by China. We appreciate that some measures have been lifted. This is a welcome step in the right direction, and we hope full resolution will follow.

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

15.10. As stated in previous meetings, including the Council for Trade in Goods three weeks ago, the European Union shares Australia's concerns with regard to the matters it is once again raising in this Committee on China's implementation of trade disruptive and restrictive measures. Australia has reported some progress on a number of products and measures, while others, however, have remained unresolved now for a very long time.

15.11. In this respect, the European Union wishes to reiterate the points it has made before. The form, number, and wide-ranging effects which China's measures seem to have is in itself a cause for concern. Informal, unpublished, and non-transparent trade restrictions are not in line with the WTO's rules and spirit. A separate problem is the alleged purpose of the measures in question, which seem coercive, placing those measures into incompatibility with general international law.

15.12. In addition, the European Union is continuing to pursue a WTO dispute with China in relation to a range of measures negatively affecting its trade with China, where the facts indicate that there has also been such a coercive intention.

15.13. The representative of New Zealand indicated the following:

15.14. New Zealand also continues to have systemic interest in the concerns raised by Australia and others, and we note and also welcome the positive updates and steps that have been taken to resume trade in some commodities. We will refer to our previous statements made on this matter, mainly on the need for transparency in trade measures, and to ensure that trade continues to take place predictably, efficiently, and with the least friction possible.

15.15. The representative of Japan indicated the following:

15.16. Japan shares the concerns expressed by Australia with respect to China's trade measures, including trade remedy measures. If China is implementing its trade measures in an arbitrary manner as reported, this runs counter to a free, fair and rules-based international trading system. We call on China to respond to Australia's concerns in good faith and in a timely manner.

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

15.18. The United States takes note of Australia's intervention, including its report of recent bilateral developments and its concern that China continues to apply trade restrictive measures on a wide range of products without adequate transparency or justification. The United States reiterates that it shares Australia's concerns. We remain deeply troubled by the information provided by Australia and that we have heard from other, credible sources.

15.19. 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, or pretextual manner. In this connection, we reiterate our concern with reports that Chinese authorities have instructed importers not to purchase certain goods.

15.20. 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, EU products with Lithuanian content, Chinese Taipei pineapples, and Canadian barley.

15.21. 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 other governments.

15.22. 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 ends.

15.23. The representative of Chinese Taipei indicated the following:

15.24. My delegation wishes to echo the concerns raised by Australia regarding China's implementation of trade disruptive and restrictive measures targeting a broad range of Australian goods.

15.25. China's trade measures, which appear to hamper certain Members' trade interests, and seem to be based on unrelated bilateral issues, whether imposed formally or taken by the direction or instruction of its authorities, have systemically undermined the rules-based multilateral trading system, and created a negative trade impact, not only on Australia's exports, but also on exports from all other Members.

15.26. We therefore urge China to engage in dialogue with the relevant Members, in good faith and in a constructive manner, aiming to address Members' legitimate trade concerns, and to upholding China's commitments to the principles and obligations of the WTO rules.

15.27. The representative of Canada indicated the following:

15.28. Canada thanks Australia for raising this issue again. Canada remains concerned with the ongoing, long-term challenges posed by China's continued adoption of trade disruptive and restrictive measures. China's repeated use of discriminatory trade restrictions that are inconsistent with established international practices negatively impact Canadian exports as well.

15.29. Canada calls on China to facilitate technical engagement to address and resolve these ongoing trade concerns. The use of trade disruptive and restrictive measures challenges and destabilizes the rules-based international trading system. We encourage all WTO Members, including China, to abide by their WTO commitments.

15.30. The representative of China indicated the following:

15.31. We want to reiterate that the relevant measures taken by China against some of the Australian products at issue aim to protect the legitimate rights and interests of domestic industries and the health and safety of consumers. The business decisions made by Chinese enterprises are based on market and demand conditions. All these measures align with Chinese laws and regulations, international practices, and the China-Australia Free Trade Agreement.

15.32. In 2022, our bilateral trade exceeded USD 220 billion, bringing tangible benefits to Chinese and Australian businesses and people. We look forward to working with Australia to strengthen our economic and trade cooperation.

15.33. The Committee took note of the statements made.

16 CHINA – DRAFT REVISION OF CHINESE GOVERNMENT PROCUREMENT LAW (ID 81) – 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 last year, China published a draft for revision of the Government Procurement Law. As for the scope of the revised law, "other procurement entities" has been added in Article 2 and Article 12. As a result of this revision, if local content requirements are made, including even procurement beyond "procurement by governmental agencies", which is stipulated in Article III:8(a) of the GATT, we are concerned that this may violate GATT Article III:4. Therefore, the State Council's definition of what constitutes "other procurement entities" based on Article 12 of the revised bill should not be expanded without limit.

16.4. In addition, 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 points out that this can also not be accommodated under the government procurement exception of Article III:8(a) of the GATT.

16.5. At the meeting of the Council for Trade in Goods in November of last year, China stated that, with regard to government procurement, it treats foreign and domestic companies equally, except for government procurement related to national security. However, these new provisions in the draft amendments do not meet the standards required by the WTO Government Procurement Agreement, which China has already been negotiating to join for many years. Rather, these new provisions in fact represent a move in the opposite direction. Given this fact, we must question whether China is willing to meet the standards of the Government Procurement Agreement and other high-standard agreements to which it has applied for membership.

16.6. The representative of China indicated the following:

16.7. We thank Japan for its interest in this issue. Supporting domestic products through government procurement is a common international practice. In drafting the amendment to China's Government Procurement Law, we have considered other Members' relevant practices and experience.

16.8. China is also willing to communicate with Japan on related issues within the framework of its accession negotiation to the Government Procurement Agreement. China is also keen to strengthen its engagement with relevant Members to accelerate China's Government Procurement Agreement accession process.

16.9. The Committee took note of the statements made.

17 CHINA – DRAFT OF CHINESE RECOMMENDED NATIONAL STANDARD (GB/T) FOR OFFICE DEVICES (INFORMATION SECURITY TECHNOLOGY-SECURITY SPECIFICATION FOR OFFICE DEVICES) (ID 80) – STATEMENT BY JAPAN

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

17.2. The representative of Japan indicated the following:[17]

17.3. As we have pointed out at this Committee and some other bodies in the past, Japan has learned that the draft amendment of the Recommended National Standards in China requires as follows: (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.

17.4. If the recommended national standards including such requirements are introduced and practically enforced as mandatory, 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

[17] The delegation of Japan indicated at the meeting that a longer written version of the statement would be provided for inclusion in the minutes.

compared with domestic products. This would be inconsistent with the Article 3:4 of the GATT. In addition, there is also 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. Also, we are concerned that the implementation of this transfer of technology would be forced through this National Standard if the technology has to be provided to China for development and production within China. This could also violate Article 7.3 of China's Protocol of Accession.

17.5. We understand that the process for revision is under way under the instruction of the National Information Security Standardization Technical Committee (TC260). At this juncture, we would like to request China to share the following information: (i) the status of consideration of the draft National Standard and its contents; (ii) the schedule for its enactment, including the timing for public comment; and (iii) the contents of the draft National Standard, especially the scope of application of the National Standard, including the definition of critical information infrastructure operators, the requirements for the development and production of office equipment and its components in China, and the provisions requiring information proving that they were developed and produced in China.

17.6. So far, China has not provided any convincing explanations in response to the concerns raised by Japan and other Members at several meetings, such as the CTG, the TRIMs Committee, and the TBT Committee, as well as in this Committee. At the last CMA meeting, in October, China stated that, "China has no plans to revise the recommended national standards related to printers and copiers in the near future." However, on 30 October—only one week later—the National Information Security Standardization Technical Committee (TC260) notified that the drafting process for this matter had been completed. Also, at the last CTG, on the third of this month, China stated that, "[T]he recommended standard is currently under application for revision and the notice for its revision application was published on 22 December 2022. So far, no objections have been received." On the other hand, we recognize that the announcement of 22 December 2022 was a notice of intent to revise the standard in question, and that the proposed revisions themselves were not published.

17.7. Although China did not refer to public comments at the last CTG meeting, we believe that if the public comment process carries on without the aforementioned concerns being resolved, this could raise doubts about China's commitment to the WTO. Moreover, if such an announcement is made suddenly, and without any explanation or notice, as was the case at the last CMA meeting, we believe that these doubts will be deepened even further. We hope that the concerns raised here will be well taken care of before public comment.

17.8. Japan strongly hopes that the amendment of these national standards will not be realized in a form raising concerns over discrimination against foreign and domestic products or producers, and effectively forcing technology transfer. We also call on China to ensure that measures incorporating similar requirements will not be planned and introduced in other areas, either.

17.9. The representative of China indicated the following:

17.10. Regarding the recommended national standards for office devices, the Standardization Administration of China has received a project application for revision, and publicized it on the website of the National Standard Information Public Service Platform, from 22 December 2022 to 5 January 2023. No objections have been received during that period.

17.11. The project was officially established on 21 March of this year. The national standard revision plan is named "Information Security Technology Office Equipment Safety Specifications" and is currently in the drafting stage. The formulation and revision of Chinese national standards have always been based on openness and transparency. If Japan has any comments, it is welcome to submit them through the routine procedures and channels for revising Chinese national standards in the following public consultation stage.

17.12. The Committee took note of the statements made.

18 DOMINICAN REPUBLIC – DISCRIMINATORY TAXATION ON SOME FOOD IMPORTED PRODUCTS (ID 82) – 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. We would like to thank the Dominican Republic for the bilateral contacts we have had on this issue. This is an issue where there are expectations that some positive progress would be possible in the near future.

18.4. The European Union raised this issue for the first time at the Committee in October 2022. To recall, the concern relates to the discriminatory application of the Tax on the Transfer of Industrialized Goods and Services (ITBIS in Spanish) or VAT) of 18% on imported products, mostly on imported matured and cream cheeses, hams, canned vegetables and some other food products. The tax does not apply to the "like" domestic products, resulting in a discriminatory treatment of imported products. Although we were told that there is no legal basis for the discriminatory application of the tax, evidence at retailers indicates that such discrimination unfortunately does happen on the ground. We have therefore insisted that the principle of national treatment must be observed both *de jure* and *de facto*.

18.5. The European Union has been raising the issue with the authorities of the Dominican Republic since 2015. Last week, we have been informed by some stakeholders, and through the local press, that the Directorate General of Internal Taxes had instructed local ham processors and retailers to apply ITBIS to domestic hams in order to respect international commitments and guarantee equal treatment. To date, the measure has not been officially communicated by the Dominican government, nor has it been possible to verify its implementation in points of sale. If confirmed, this would be a positive development in the case of hams, as discrimination would be terminated. A final solution will only happen once this is replicated for the remainder of the affected products. We look forward to receiving confirmation from the Dominican Republic that progress has been made on this issue, which we would welcome. We request the Dominican Republic to terminate its discriminatory taxation for all types of imported products, and we will continue to monitor the matter closely.

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

18.7. The United States continues to share 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. As we stated at the meeting of 18-19 October 2022, the Dominican Republic's legal system does not include any discriminatory tax measures. Accordingly, we reiterate that the Tax on the Transfer of Industrialized Goods and Services (ITBIS) is levied at rates of 18% and 16% on goods and services that have been produced or leased domestically, and on those that have been imported.

18.10. Following the multiple communications and statements from the European Union, the Dominican government has begun to conduct assessments of how this tax is being implemented in the country's various commercial sectors. As we indicated at the previous meeting, this assessment showed that certain local food producers had been claiming exemptions for goods that are not eligible for such exemptions under the Tax Code. Changes have therefore been made to their tax returns, with sanctions applied, where appropriate, in line with the Dominican legal system.

18.11. Lastly, we reiterate the Dominican government's commitment to complying with the agreements signed by the country and working with the European Union and all our trading partners to resolve any difficulties identified in the area of trade, which we view as a fundamental instrument for promoting our country's development.

18.12. The Committee took note of the statements made.

19 EUROPEAN UNION – DRAFT COMMISSION REGULATION AMENDING ANNEXES II AND V TO REGULATION (EC) NO. 396/2005 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARD MAXIMUM RESIDUE LEVELS FOR CLOTHIANIDIN AND THIAMETHOXAM IN CERTAIN PRODUCTS (ID 86) – STATEMENT BY INDONESIA AND PARAGUAY

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

19.2. The representative of Indonesia indicated the following:

19.3. Indonesia intends to convey its concern to the European Union regarding the Draft Commission Regulation as regards the Maximum Residue Levels (MRLs) for Clothianidin and Thiamethoxam. Indonesia is of the view that the draft regulation could potentially limit international trade, particularly for products containing these substances.

19.4. Indonesia understands that the European Union's environmental concerns are not part of Regulation (EC) No. 396/2005, because these aspects have been fully covered by Regulation (EC) No. 1107/2009 regarding the use of pesticides in the European Union. Therefore, Indonesia is of the view that data related to environmental impacts cannot be used by the European Union as a basis for implementing an MRL which is more stringent than international standards, and nor as a basis for setting import restrictions.

19.5. Furthermore, Regulation (EC) No. 396/2005 cannot regulate the use of pesticides outside the territory and jurisdiction of the European Union. Thus, this can conflict with the rights and sovereignty of other WTO Members, resulting in the draft EU regulation being extra-territorial in nature, which has the potential to be inconsistent with EU commitments in the WTO and other international agreements.

19.6. Therefore, Indonesia hopes that the European Union may consider referring the application of the MRL to international standards, for example the international Codex Alimentarius, as a reference for clothianidin and thiamethoxam standards in or on certain products.

19.7. Indonesia also asks the European Union to review the draft MRL regulation, so that it complies with WTO principles and regulations, especially Article XI of the GATT 1994 regarding the General Elimination of Quantitative Restrictions.

19.8. The representative of Paraguay indicated the following:

19.9. My delegation reiterates its concerns as to the incompatibility of the measure notified by the European Union with the market access and non-discrimination obligations set out in Articles XI and III of the GATT 1994.

19.10. The imposition of restrictions on international trade as set out in this Regulation will 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 benefit from emergency authorizations to continue using these substances.

19.11. Paraguay shares a genuine interest in environmental conservation and biodiversity and prioritizes the protection of human, animal and plant health, as well as the protection of pollinators, which play a key role in global food production and biodiversity and boost yields of important crops. However, each country has particular needs and challenges in its agricultural production, on the basis of its geography, ecosystem and local scientific capacities, as part of the quest to attain and maintain sustainability in agriculture. This situation is reflected in regulatory frameworks based on sound scientific evidence that are applied to registration processes to assess the risks of pesticides and their uses, including the assessment of risk to the environment and pollinators.

19.12. In this regard, my delegation, like several other Members, submitted comments on notification G/TBT/N/EU/908 within the established deadline. However, only 23 days after the end of the comment period, the Standing Committee on Plants, Animals, Food and Feed (ScoPAFF) of the EU approved the proposal to reduce the MRLs for these substances, without any modification.

This proposal was then approved again on 3 February 2023, through Commission Regulation (EU) 2023/334, without taking into account comments from Members.

19.13. I would like to point out that this Regulation mentions Paraguay among the several countries "outside the Union" that have restricted the use of these products to protect pollinators, including bees, which is not true. The resolution cited in footnote 19 does not exist in Paraguay. We hope that this can be corrected, as the EU responded to our representation in Brussels that it would do so almost 50 days ago, more than twice as long as it took to consider Members' comments.

19.14. Paraguay, like other Members, has submitted, in this and other Committees, questions on the emergency authorization mechanism to understand: (i) how this is consistent with the obligation of non-discrimination; (ii) how long it takes to approve an emergency authorization; and (iii) what the average cost of the approval process for an emergency authorization is. However, we have still not received detailed responses.

19.15. There are now additional questions on the scope and implications of the recent ruling of 19 January 2023 of the Court of Justice of the EU (CJEU), which confirmed that EU member States cannot derogate from the use of seeds treated with plant protection products expressly prohibited by EU legislation with emergency authorization. I would like to know the scope of this for emergency authorizations in general, as well as for other uses of these same substances, especially considering that we identified at least five new emergency authorizations with validity periods after the CJEU judgement, and even authorized after the CJEU judgement. We will continue to wait to receive answers to these questions, but we hope to get sufficient clarification as soon as possible.

19.16. The representative of China indicated the following:

19.17. There is neither sufficient scientific evidence nor international consensus to support claims that environmental problems such as bee colony decline can be addressed through MRL measures. The scientific basis for the EU to revoke and lower the MRLs of clothianidin and thiamethoxam due to the risk to bees is insufficient. It is still a matter of academic debate whether neonicotinoid pesticides are the leading cause of the decline in bee colonies. Some studies have concluded that the combination of parasites, pesticides, pollen deficiency, and climate change is the real reason.

19.18. In the face of increasing restrictions on various active compounds, which may be the basis of agricultural production, the proposed EU regulation would create an unnecessary barrier to international trade as it would significantly impact upon WTO Members. China recommends that the EU provide data and reports on the risk assessment of neonicotinoid pesticides on bees to confirm the assessment's scientific validity and completeness.

19.19. The MRLs should be formulated to protect consumer health and promote fair trade in food. As per Article 2.2 of the TBT Agreement, Members shall ensure that technical regulations are not prepared, adopted, or applied with a view to, or with the effect of, creating unnecessary obstacles to international trade. Revoking or lowering MRLs for clothianidin and thiamethoxam will not affect the EU's agricultural production, since their approvals expired earlier. However, the proposed EU regulation will create unnecessary obstacles and *de facto* trade barriers that will significantly affect WTO Members that export food to the EU.

19.20. In addition, as per Article 5.1 of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), China believes that it would be better if the EU could fully consider the differences in various pesticide products, application periods, and treated crops when conducting risk assessments of neonicotinoid pesticides on bees. Clothianidin and thiamethoxam can also be applied to non-nectar or flowering crops. In particular, the limit of crops harvested before flowering or being cultivated indoors should be revoked, and a complete and reasonable risk assessment should be considered. The EU's measures expand the scope beyond the purpose of protecting bees and create unnecessary trade barriers for other Members, especially for developing Members. Therefore, China suggests that the EU formulate MRLs reasonably, and in line with the Codex Alimentarius Commission, while effectively safeguarding the safety of bees and other non-target organisms.

19.21. The representative of Argentina indicated the following:

19.22. We thank proponents for including this item on the agenda as we also share this concern. Argentina would like to repeat the statement made by my delegation at the last meeting of the TBT Committee, in March 2023, and we ask the Secretariat to reflect it in the minutes.[18]

19.23. We thank the European Union for the replies provided, without prejudice to which, the concerns and the substantive issues raised by Argentina remain valid. The measure adopted by the EU, establishing MRLs for these neonicotinoids, is not clearly justified and constitutes a disguised restriction to international trade because it is disproportionate to the objective that it claims to protect, and unduly restricts trade as it prevents marketing of any product that has been treated with these neonicotinoids that may exceed the maximum limits, even though the EU cannot demonstrate that the MRLs at the level established by the Codex may affect the health of consumers, which ultimately is the intended purpose of an MRL.

19.24. The representative of India indicated the following:

19.25. India will make a consolidated statement for Agenda Items 19 and 20. We have been raising the issue of the European Union's measures regarding clothianidin and thiamethoxam in various forums, including the Council for Trade in Goods, the Committee on Agriculture, the Committee on Sanitary and Phytosanitary Measures, and the Committee on Technical Barriers to Trade.

19.26. There is a broader issue that we observe in several instances, including this one, of the European Union establishing demanding standards for its own producers, and then exporting their standards to others. The EU is making effectively regulatory choices for third countries. This EU measure results in an economy-wide choice for third countries in the name of managing their imports, which are a fraction of what the other countries are producing.

19.27. The European Union ignores differences in production conditions in third countries. For example, imported products will be disproportionately affected where the local environmental conditions make it more challenging to produce food and feed without the covered active substances, or safe, effective, and affordable alternatives.

19.28. Through the proposed measure, the EU seeks to impose its own policy choices and priorities regarding agricultural yields and pollinator protection on third countries. The EU is hence taking away the right of Members to make sovereign decisions with regards to the regulation of agricultural production and pollinator protection within their territory. The decisions that Members may not be able to make due to the EU regulation include the chosen level of protection, risk assessment methods, and risk management procedures.

19.29. The responsible use of active substances long used in agriculture, but which now the European Union seeks effectively to ban, improves agricultural yields. Higher yields are important to combat poverty in developing countries, increase food security, combat climate change, and reduce global pressure on land-use change and thereby deforestation. Members should make their own determination of balancing these legitimate and critical policy objectives with pollinator protection.

19.30. For trans-boundary measures, the European Union needs to focus on cooperation and not on the imposition of its regulatory choices on others.

19.31. The representative of Australia indicated the following:

19.32. Australia shares the concerns raised by Paraguay, Indonesia, and other Members about the European Union's use of maximum residue limits 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 June and July.

19.33. The representative of Uruguay indicated the following:

[18] See document G/TBT/M/89, paragraphs 2.313-2.315.

19.34. Uruguay thanks Indonesia and Paraguay for including this item on the agenda and reiterates its concern regarding the approval, without substantive amendments, of EU Regulation No. 2023/334 amending the MRLs for clothianidin and thiamethoxam, despite the numerous comments submitted by some 21 trading partners in the aforementioned consultation process, and made by many WTO Members in recent meetings of the Council for Trade in Goods and the SPS, TBT, and Market Access Committees.

19.35. As regards this Committee's scope of action, we understand 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.

19.36. In addition to this, and without prejudice to the potential impact of the recent ruling on this topic of the Court of Justice of the EU (CJEU) of 19 January 2023, we understand that certain points that have been raised by the delegation of Paraguay in relation to the institution of emergency authorizations, which have been available for producers in European countries without a similar mechanism being in place for producers in third countries, and this mechanism's link to the principle of non-discrimination laid down in Article III of the GATT, merit further consideration.

19.37. In view of the foregoing, and without prejudice to the various elements that have been raised with respect to this measure in other WTO bodies, Uruguay would appreciate hearing the EU's comments or observations regarding the consistency of the measure with, and its justification under, the provisions of the GATT 1994.

19.38. Lastly, we reiterate that Uruguay shares concerns about promoting the protection of pollinators, in line with protecting the environment and biodiversity, and supports the establishment of regulatory environments based on scientific criteria, so as to avoid putting food security at risk and erecting barriers to trade. In this connection, Uruguay reaffirms that it stands ready to work cooperatively with other Members to identify mechanisms that can be used to achieve these objectives without unnecessarily restricting trade, while also ensuring the conservation of the environment and the protection of human, animal and plant health.

19.39. The representative of Ecuador indicated the following:

19.40. Ecuador would also like to reiterate its concern in relation to this matter, in line with what we have already expressed at the Council for Trade in Goods and the Committee on Sanitary and Phytosanitary Measures.

19.41. We stress that the proposed regulation would distort the objective of Regulation 396/2005, since it would shift the approach to "European consumer" protection and add unilateral consideration of "environmental factors" in countries outside the territory and jurisdiction of the European authorities.

19.42. Such an approach invalidates the adequacy of the regulatory policies of other countries, disregarding their processes and internal technical analyses for establishing the conditions for food production and agricultural activity in their jurisdictions.

19.43. Furthermore, and as we have already indicated, the even heavier burden placed on small producers is a cause for greater concern, as adapting to new MRLs would increase the cost or quantity of fertilizers and pesticides.

19.44. Ecuador firmly believes that sustainability rests on three pillars: social; economic; and environmental. When adopting measures on MRLs, the negative effects they will have on the other sustainability pillars in the European Union's trading partners, particularly developing countries, should be considered. For these reasons, we once again urge the European Union to maintain the current maximum levels for third countries, as import tolerances.

19.45. The representative of the European Union indicated the following.[19]

19.46. The European Union takes note of the comments by Paraguay, Indonesia, and other Members on this issue.

19.47. The European Union informed WTO Members for the first time about this matter already more than two years ago, through WTO document G/SPS/GEN/1797 of June 2020. Since then, the European Union has regularly updated the SPS and TBT Committees on all the relevant developments. The European Union has organized information sessions and provided detailed information through various communications. The EU also remains open to engage and provide further information.

19.48. As announced in the European Union Farm to Fork Strategy, the European Union has committed to taking environmental objectives into account when setting MRLs for substances no longer approved in the European Union due to environmental concerns of a global nature, while respecting WTO standards and other international obligations. As explained, the European Union addresses this matter on an incremental basis, considering and reviewing the position of each particular active substance on a case-by-case basis, founded on the best available scientific evidence and ensuring that its measures are not more trade restrictive than necessary to achieve their objective.

19.49. On the specific cases of clothianidin and thiamethoxam, the draft Regulation on lowering the maximum reside levels for these two neonicotinoid substances was notified to the TBT Committee on 6 July 2022 (G/TBT/N/EU/908). A communication, for information, was also submitted to the SPS Committee. The European Union has carefully studied and replied to all of the comments received from WTO Members during the notification process.

19.50. Last February, the new rules were adopted through Commission Regulation (EU) 2023/334. This Regulation is the first one implementing the new policy announced in the European Union Farm to Fork Strategy on imported food in relation to pesticides residues.

19.51. The European Union has extensively explained in previous meetings the rationale for these measures, and refers to those explanations. The environmental objectives of global concern 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.

19.52. The European Union's objective is to ensure that food and feed consumed in the EU do not contribute to the global decline of pollinators, independently of whether the product is produced in the European Union or imported from third countries.

19.53. 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 equally contribute to the objective of protecting pollinators. Based on current knowledge, reducing the use of neonicotinoids is an effective action to tackle pollinator decline. The European Union is acting in full compliance with WTO rules, which allow Members to adopt measures if they are necessary to achieve a legitimate objective.

19.54. Regarding possible trade impacts, firstly, the Regulation defers the application date to 36 months after entry into force (instead of six months, which is the standard period given in the European Union). It allows products placed on the market before the application date to remain on the market until the end of their shelf life. The Regulation will therefore become applicable only at the beginning of 2026.

19.55. Secondly, the European Union acknowledges that third countries may face production conditions and pest pressures different from those in mainland Europe. Therefore, import tolerances

[19] The delegation of the European Union indicated at the meeting that a longer written version of their statement would be provided for inclusion in the minutes.

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.

19.56. Thirdly, the European Union continues to provide technical assistance to developing countries and LDCs in improving SPS capacity and market access, directly or through other international organizations and partnerships, such as the WTO-hosted Standards and Trade Development Facility (STDF).

19.57. Regarding emergency authorizations, the European Union has already provided general information and clarifications regarding emergency authorizations, as in documents G/SPS/GEN/1970 and G/SPS/GEN/2038. In addition, more information is available in guidance document SANCO/10087/2013/Rev.1.

19.58. Briefly, the purpose of an emergency authorization is to allow serious dangers for plant health to be dealt with in emergency situations where there are no better alternatives. In this regard, the European Commission has taken action to verify whether such emergency authorizations granted by member States are justified, and if not, the case, the European Union has taken measures to prevent the repetition of any such emergency authorizations.

19.59. According to a recent ruling of the European Court of Justice (case C-162/21), European Union member States may no longer grant anymore emergency authorizations for any outdoor use of thiamethoxam or clothianidin, whether these are for coating seeds for outdoor sowing or for other any other outdoor uses, such as foliar spraying. Nor can they grant emergency authorizations for the sowing of seeds that have already been coated with either of these substances.

19.60. The Commission is considering the implications of the judgement for the granting of other emergency authorizations, for example, for other substances or for substances that have not been approved or have not been renewed in the European Union because of risk to human/animal health or the environment.

19.61. The Committee took note of the statements made.

20 EUROPEAN UNION – PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON SHIPMENTS OF WASTE AND AMENDING REGULATION (EU) NO. 1257/2013 AND (EU) NO. 2020/1056 (ID 96) – STATEMENT BY INDONESIA

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

20.2. The representative of Indonesia indicated the following:[20]

20.3. Indonesia repeats its previous statement delivered at the meeting of the TBT Committee held in March 2023. Indonesia thanks the European Union for its notification in document G/TBT/N/EU/893, on the proposed European Parliament Regulation on the transfer of waste, including amendments to Regulation (EU) No. 1257/2013 and (EU) No. 2020/1056 (COM (2021) 709 final) ("proposal"), which was submitted on 25 May 2022. Indonesia submitted an enquiry to the EU on 23 December 2022, requesting further clarification and detailed information on the action on the regulation in question. However, to date, we have not yet received any answer to this question.

20.4. Indonesia appreciates the European Union's intention to take serious action to minimize risks of harm to public health, as well as the environmental impacts that may arise from the delivery of unmanaged waste. However, Indonesia wishes to echo the discourse contained in the TBT Agreement that the steps prepared to achieve legitimate goals are assumed not to create unnecessary obstacles to international trade.

20.5. Indonesia is concerned that there are indications of discrimination in this proposed regulation, in which the European Union will restrain exports of non-hazardous waste by establishing excessive administrative arrangements for export destinations outside EU member States and OECD countries.

[20] The delegation of Indonesia indicated at the meeting that a longer written version of their statement would be provided for inclusion in the minutes.

In addition, this draft proposal does not differentiate the processing of B3 waste and non-B3 waste (green list), which can be reused as industrial raw materials to support a circular economy.

20.6. The pulp and paper industry will be one of the sectors that will be significantly affected by this proposed regulation. The provisions in this proposal also regulate export restrictions and the mechanism for recycled paper, which is the raw material for the Indonesian paper industry. While domestic scavengers have not been able to meet the demand for recycled paper supply, both in quality and quantity, importing recycled paper from the EU is the preferred solution. The value of recycled paper imports has reached USD 17.4 billion, with a volume of 1.9 million tonnes.

20.7. Indonesia has the same intention towards environmental preservation, which has become a global issue, and the need to increase the application of a circular economy, reduce greenhouse gas emissions (Net Zero Emissions), and others, in overcoming this problem. However, the recycling rate is still very low, so there is still a shortage of recycled materials, one of which is recycled paper. Indonesia's recycled paper is only able to meet industrial needs for around 50% of the total demand, while the need for packaging paper in the country is increasing. Packaging paper is urgently needed as a supporting industry for other developing industrial sectors, such as the packaging industry, food and beverage industry, shoe industry, electronics industry, and so on.

20.8. As for Indonesia's imports of recycled paper, most of it comes from the European Union, so if the EU implements this proposed regulation, which we believe can hinder our industry from obtaining raw materials, then this will not be in line with the circular economy programme, either in Indonesia, or in the EU itself. We have received information that the total availability of recycled paper raw materials in the EU is 54.4 million tonnes; however, only 47.9 million tonnes can be absorbed by the EU pulp and paper industry.

20.9. The Indonesian government has a strong commitment to managing climate change issues, reducing emissions, and improving environmental aspects. Gradually, Indonesia is committed to increasing its GHG emission reduction target, in line with the Long-Term Strategy for Low Carbon and Climate Resilience (LTS-LCCR 2050) policy towards net-zero emissions in 2060 or sooner.

20.10. Indonesia's GHG emission reduction target with its own capabilities in the Updated Nationally Determined Contribution (UNDC) increased to 31.89%, while the target with international support in the UNDC increased to 43.20% in the Enhanced Nationally Determined Contribution (ENDC).

20.11. In light of the above, and in order to minimize potential technical barriers to trade due to the EU WSR proposal, Indonesia would like to urge the EU to respond to our questions. Indonesia urges the EU to respond to Indonesia's questions, and to list Indonesia as one of the "Registered Countries" to be exempted from time-consuming and costly administration and certification requirements. Furthermore, we are ready and eager to fulfil our commitment, as stated in enhancing NDC. Indonesia looks forward to further engagement with the EU on this matter.

20.12. The representative of Türkiye indicated the following:

20.13. We would also like to thank the European Union for their cooperation, as we have had a chance to exchange opinions on this issue both bilaterally, and also on the margins of meetings here.

20.14. That said, we still have concerns regarding this regulation that we would like to state today, as we did in the last meeting of the TBT Committee. In fact, Türkiye shares the stated EU objective of this regulation, namely supporting the transition to a green and circular economy. However, we believe that the monitoring and inspection requirements and measures envisaged in the draft for waste shipments, especially of recycled raw materials of certain industries, go beyond the stated legitimate environmental objectives. In this regard, we believe that the trade restrictive nature of these measures might be incompatible with the EU's international commitments.

20.15. First of all, the draft lacks clear conditions for the monitoring of export and safeguard procedures, and for the inspection requirements of the importer facilities. These might lead to restrictions on waste exports, imposing additional burden and cost on importers, while creating technical barriers to trade.

20.16. Secondly, the draft legislation does not distinguish potentially hazardous waste streams, such as mixed plastic waste, from secondary raw materials being used as a raw material in certain industries. This approach undermines the benefits of trade in certain secondary materials, which contribute to low emission production and thus boost global circularity. In this sense, we believe that draft legislation may endanger the supply of raw materials for third countries' recycling facilities, tampering the already functioning circular economy in these countries, such as in the case of the Turkish recycling industry and steel production, which is highly dependent on the EU in terms of the supply of ferrous scrap and non-metal waste.

20.17. On the other hand, it is important to underline that the Basel Convention, and related OECD decision, already set the rules for trans-boundary movements of hazardous waste.

20.18. In that respect, Türkiye would kindly ask the European Union what constitutes its basis for the implementation of additional requirements in the draft, including imposing certain measures to monitor and, when necessary, restrict trade of ferrous scrap and non-metal and non-hazardous waste for environmental protection concerns. We would also like to ask whether similar additional monitoring and auditing requirements will be introduced for the EU member States as well.

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

20.20. We have concerns that proposed revisions to the European Union's Waste Shipment Regulation may pose an unfair burden on international trade. The draft language appears to restrict non-hazardous waste and scrap exports and treat exports outside of the EU more strictly than internal shipments.

20.21. We have heard concerns that a restriction with respect to EU non-hazardous waste and scrap exports might create a global distortion which, among other things, will put a strain on producers' access to high-quality, low-carbon inputs.

20.22. The United States understands that the proposed Regulation would require that EU exporters demonstrate, through regular independent inspections of facilities in importing countries, that their exports will be managed in an environmentally sound manner, regardless of destination country. This could prove burdensome for exporters, imposing additional financial and time-delay costs on them and their customers in other markets, and in turn discouraging exports and limiting options for environmentally sound recovery. We encourage the EU to ensure that the auditing requirements do not impose an additional burden on EU exporters and their customers in other markets.

20.23. Should the proposed Regulation move forward without consideration of these factors, it could lead other countries to impose similar measures, which would further undermine global decarbonization objectives.

20.24. Legitimate trade in recycled commodities creates opportunities for economic growth and environmental sustainability by diverting end-of-life materials from landfills and providing high-quality, low carbon feedstock to manufacturing inputs. We encourage the EU to remove non-hazardous scrap materials, such as metals, that pose negligible risks to the environment, and that international producers are reliant upon, from the scope of the regulation.

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

20.26. The European Union would like to thank Indonesia and other Members for their comments on the waste shipment regulation proposal. The European Union notified the proposal to the TBT Committee in May 2022 (EU Notification G/TBT/N/EU/893).

20.27. In line with the European Union's commitments under the European Green Deal, the Circular Economy Action Plan, and the Zero Pollution Action Plan, the proposal aims to ensure that the EU does not export its waste challenges to third countries. It seeks to tackle illegal waste shipments and seeks to contribute to the circular economy by facilitating shipments of waste for reuse and recycling in the European Union.

20.28. The current waste shipment regulation already stipulates that waste can only be exported outside the European Union if it is managed at destination in an environmentally sound manner, to

conditions that are broadly equivalent to those of the European Union. The lack of detailed provisions and implementing mechanisms have led to weak enforcement, which the new waste shipment regulation is trying to remedy. The measure is necessary because the European Union exports a lot of waste (33 million tonnes in 2020), and this quantity has substantially increased in the last decade, by more than 75% since 2004.

20.29. The proposal lays down transparent, non-discriminatory, and proportionate criteria to demonstrate that exported waste is managed in an environmentally sound manner. The notified draft continues to distinguish between hazardous and so-called "green-listed waste" relating to the applicable respective procedures for such wastes. The new requirements on the export of waste will apply three years after the entry into force of the new regulation, leaving enough time for all relevant actors to comply with the new regime.

20.30. The Committee took note of the statements made.

21 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM (ID 69) – STATEMENTS BY CHINA, INDONESIA AND THE RUSSIAN FEDERATION

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

21.2. The representative of China indicated the following:

21.3. China believes that to effectively respond to climate change, realize global sustainable development, and build a community with a shared future for humankind, Members need to earnestly implement the goals, principles, and requirements of the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, reducing barriers, and promoting trade and investment liberalization and facilitation.

21.4. The European Union's CBAM seems to have no scientific basis for its implementation. Many studies have pointed out that the European Emission Trading System (EU ETS) does not lead to carbon leakage, and CBAM makes little contribution to global emission reductions. Therefore, we believe that CBAM's aim is not to eliminate the so-called carbon leakage, but rather to protect European enterprises from international competition.

21.5. Meanwhile, the European Union is imposing an inadequate burden of measuring carbon emissions on exporters in other Members through its CBAM. Developing Members need more capacity and funding to collect the carbon emission data of their products. As UNCTAD has pointed out, developing Members are obliged to adopt the same environmental standards as developed Members through CBAM.

21.6. In the past, developed Members exported their emissions by outsourcing the carbon-intensive production to developing Members. With the advantage of owning and controlling green technology, developed Members are promoting production reshoring. This will hinder the green economic transition of developing Members.

21.7. The unilateral CBAM deviates from the basic principles of Common but Differentiated Responsibilities and Respective Capabilities and Nationally Determined Contribution Arrangements of the UNFCCC and the Paris Agreement. In addition, it may not align with the fundamental WTO principle of non-discrimination.

21.8. We are willing to enhance our engagement with the European Union on its CBAM. We hope that the EU will actively participate in the thematic sessions relating to CBAM in the WTO to ensure that any environmental measures comply with WTO rules and avoid creating new trade barriers.

21.9. The representative of Indonesia indicated the following:

21.10. Indonesia has once again submitted its objections to the European Union regarding the approval of the CBAM proposal.

21.11. We are of the view that the intention of the CBAM policy is contrary to the principles of national treatment and most favoured nation (MFN) in the WTO; therefore, it is discriminatory.

21.12. Regarding the national treatment principle, Indonesia understands that the CBAM will refer to the European ETS, where each sector has a free allowance limit. Thus, the charges that will be applied to EU domestic products will be cheaper than imported products. Even though the European Union promised to gradually eliminate free allowances in all sectors, we have yet to obtain clarity on when and how the reduction in allowances will be carried out.

21.13. Regarding the MFN principle, we understand that not all WTO Members have a good carbon market and carbon accounting system, especially for those WTO Members that do not apply the ETS scheme. Thus, the mechanism for determining carbon prices will differ from one WTO Member to another. In addition, we are of the view that the grouping of WTO Members with low or high emission reduction in determining carbon prices will likewise not be based on solid and clear criteria.

21.14. Regarding Article II of the GATT 1994, Indonesia is of the view that the CBAM has the potential to create additional burdens for producers outside the European Union, with additional levies that go beyond the tariffs set out in the European Union's Schedule of Concession.

21.15. Regarding this issue, Indonesia requests further clarification of the European Union's plans to expand the product sectors covered by CBAM. We would like to ask the European Union to re-evaluate this proposal so that it complies with WTO regulations, specifically Article II of the GATT 1994, as well as the WTO principles of MFN and national treatment.

21.16. We would also like to remind the European Union that every environment-related policy , including the CBAM, should be subject to the principles of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC), as contained in the UNFCCC and the Paris Agreement. This principle stipulates that developing countries have fundamental responsibilities, capabilities and obligations that are different from developed countries.

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

21.18. On 18 April 2023, the European Parliament adopted the Carbon Border Adjustment Mechanism, on which an inter-institutional deal was reached last December.

21.19. Analysis of the text shows that the European Union has failed to make the CBAM compatible with the WTO's rules. Contrary to its declared aim of tackling climate change, the CBAM seems to pursue strictly economic goals. In this regard, we would like to make the following points.

21.20. First, the CBAM may constitute a systemic threat to the multilateral trading system. In fact, the EU will discriminate "like products" based on carbon footprint, and hence on the ways of production, i.e. production processes. The foundation of the multilateral trading system, where there has been a long-standing consensus on the content and concept of a "like product", will be threatened.

21.21. Second, speaking of the impact of the CBAM on climate change, the Members with fewer resources for modernizing their production to reduce greenhouse gas emissions will pay higher CBAM charges. Thus, the CBAM will worsen the problem of climate change by depriving WTO Members of financial resources, thereby delaying the achievement of climate goals for many WTO Members.

21.22. Third, the product scope is questionable. Specifically, questions arise with regard, for example, to the inclusion of hydrogen. Hydrogen is a key technology for low-carbon transition as it does not emit any greenhouse gas at the point of use. Thus, there is no doubt that the inclusion of hydrogen in the regulation aims to attract investment in renewable hydrogen, decreasing competitiveness of other kinds of such energy sources, in particular those derived from natural gas, methane, and so on. Along with that, iron ores, which are primary raw materials for the manufacturing of steel products, were also added to the product scope, obviously to protect the EU's domestic production of recycled steel products. Thus, the provisions of the CBAM aim at the discrimination of not only goods, but the production methods, as well.

21.23. Fourth, the CBAM violates the European Union's MFN commitments by giving special treatment to Members with a carbon pricing mechanism, as well as to Members with emissions trading systems linked with the EU ETS, or which apply the EU ETS.

21.24. Finally, the European Union has stated on various occasions that the CBAM's intention is to reduce so-called carbon leakages. It is noteworthy that no international organization, either the WTO itself, or those organizations under the auspices of the United Nations, has confirmed the link between carbon leakage and globally determined climate goals. In fact, the Paris Agreement allows its Parties to decide on their own ways of achieving climate goals that are "most effective" for them, and each Party is responsible for its own emission levels.

21.25. Measures applied by one or more Parties to the Paris Agreement should not be imposed on the other parties as the only right way to combat climate change. Thus, even when there is a risk of carbon leakage, it may be the result of the EU's short-sighted policy leading to an increase in energy prices and creating a disadvantage for EU production. In this regard, one may ask the following fair question: why should other WTO Members pay for the localization of production capacities on EU territory? And what provisions of the WTO Agreement justify such measures?

21.26. In sum, we call upon the European Union to respect its WTO commitments.

21.27. The representative of India indicated the following:

21.28. This statement applies to Agenda items 20, 21, and 22 of the revised airgram as they have some overlapping considerations.

21.29. India has been raising this issue as a systemic concern in various bodies, including the Council for Trade in Goods and the CMA. India has also presented a paper in the Committee on Trade and Environment, in document JOB/TE/78, which talks about India's broader concern about WTO Members undertaking various trade-related climate measures.

21.30. The European Union's CBAM is an example of one such measure, which we believe is unilateral, appears to have a protectionist design, and is being applied extra-territorially.

21.31. The European Union's legislation on Deforestation-Free Commodities is another such example, where the European Union is imposing regulatory choices on other WTO Members using blunt measures that may not solve the problem of deforestation, but which may quite possibly lead to a massive disruption in trade flows. The proposed regulation does not account for national afforestation and other forestry measures that each Member undertakes as part of its sovereign policy choices.

21.32. India shares the global objective of addressing environmental and climate change issues. India's own Nationally Determined Contributions make the policy and sectoral choices charting the pathway of emissions intensity reduction.

21.33. When we collectively address this key global issue, we need to ensure that commitments made in one forum, like the UNFCCC, are not upended by policy choices being imposed by Members in other international bodies, like the WTO.

21.34. Since the European Union has clarified that both the CBAM and Deforestation-Free Commodities are climate or environmental measures, rather than trade measures, it should fully comply with the settled and long-held international environment law principle of Common but Differentiated Responsibilities and Respective Capabilities.

21.35. Additionally, we understand that the reporting obligations under these measures will be coming into force by 1 October 2023. However, the final version of the legislation has not been formally released. This unpredictability for businesses, especially micro, small and medium-sized enterprises (MSMEs), creates a situation that is itself trade-restrictive. This situation also undermines the gains made in certainty and predictability through the Trade Facilitation Agreement.

21.36. Specifically, the Deforestation measure as currently proposed will hurt agriculture exports in the chosen commodities to the EU. Its worst effects will be felt by small and marginal farmers in

developing countries. The agriculture sector in developing countries, including India, is a key driver for the employment and economic well-being of a large part of the population, especially women and those associated with MSMEs. It is unfortunate that the EU is making policy choices that directly harm the economic interests of these socio-economic groups.

21.37. We welcome the European Union's offer made in the Committee on Trade and Environment of conducting technical sessions on these measures on the margins of the upcoming June 2023 meeting of the Committee on Trade and Environment.

21.38. The representative of Türkiye indicated the following:

21.39. We welcome increased efforts at the global level to mitigate the impacts of climate change and deem it important to discuss how cooperation at the WTO could help facilitate the transformation to environmentally sustainable economic growth globally, in an inclusive and just manner.

21.40. As such, we are closely following the ongoing legislative processes under the European Green Deal and the CBAM, and continue a cooperative bilateral dialogue with the EU on these issues.

21.41. We would also like to take the opportunity provided by this multilateral platform to share some of our considerations regarding the CBAM while the European Commission is solidifying the implementation aspects of the transition period.

21.42. The most crucial issue with regard to CBAM is to make sure that it is designed and applied in a non-discriminative way that is not more burdensome than necessary to achieve its objectives, meaning not putting importers and imported goods at a competitive disadvantage compared to their EU counterparts. For this to be achieved, there might be stumbling blocks in the design of the CBAM, some of which we would like to indicate here.

21.43. The first of these potential stumbling blocks is the difference between the scope of the EU ETS and that of the CBAM. As you may know, while CBAM applies to products identified by CN codes, the ETS applies to installations identified in terms of their activity/production process, subject to minimum capacity or total rated thermal input thresholds. Therefore, it is possible that some producers of CBAM goods will be covered by the CBAM regulation even though they would be exempt from EU ETS if they were EU producers.

21.44. A second issue is related to the treatment of precursors. We are not aware of a requirement brought under the EU ETS on EU producers to obtain and report the embedded emissions of the precursors they use. In our view, for any precursor identified for CBAM goods, both the EU producers and third country producers using these in their production processes should be subject to the same monitoring, reporting, and verification (MRV) requirements.

21.45. On the other hand, in the EU ETS, due to such practices as over-allocation of free allowances and EU companies' ability to trade allowances, the state aid provided by member States with regard to CO_2 costs related to electricity use, as well as funding opportunities through the Modernization and Innovation Funds, it seems to us that EU producers would benefit from a competitive advantage against third country producers. Hence, remedies to address these imbalances should be sought.

21.46. In that sense, we believe that the allocation of CBAM revenues to the financing of green transformation projects of developing countries and LDCs would be more in line with the climate change mitigation objectives underlying the draft regulation. In this process, ensuring access by developing countries and LDCs to critical technologies will also be key to inclusivity and overall success.

21.47. The representative of Paraguay indicated the following:

21.48. Paraguay believes that these types of measures would probably have little or no impact on reducing emissions, but are rather aimed at levelling the playing field. Most, if not all, developed countries have developed their economies using the highly polluting methods that they now wish to prohibit, and have generated extra money that is now used to subsidize production methods that comply with the measures. Demanding the same from developing countries does not level the playing field. On the contrary, imposing such measures makes the situation even worse.

21.49. The principle of Common but Differentiated Responsibilities and Respective Capabilities must be taken into account, as well as current policies such as environmentally harmful subsidies that the same developed countries that are seeking to implement carbon border adjustment measures provide. As recent studies have shown, Paraguay contributed nothing to the current climate change crisis, rather, it is a carbon sink, which positively contributes to carbon sequestration. Despite this, Paraguay is severely affected by it due to its high dependence on agriculture.

21.50. Other political approaches and domestic conditions must be taken into account when analysing these types of measures. Paraguay, for example, does not use carbon price measures, but it is still a carbon sink through sustainable farming practices and unpaid ecosystem services, among others. 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; rather, they will prevent it. Even worse, if they are extended to agricultural products with a certain level of industrialization, profit margins will be reduced, which, as a result, 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.

21.51. Paraguay would like to know if, like the CBAM, the EU has foreseen any other mechanism to provide preferential access for those with a lower carbon footprint, or from developing countries like mine, which are carbon sinks, and which are greatly impacted by the negative effects of climate change. We ask the EU to provide clarification as to when and how it intends to notify these measures to the WTO.

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

21.53. The Republic of Korea recognizes that climate change is one of the most pressing issues on which all WTO Members should continue to jointly focus, with a view to finding effective ways of tackling it. Yet Korea is concerned that, unlike in its original intent, the European Union's CBAM may impose an excessive administrative burden on exporters, while treating them less favourably than the EU-based businesses which are subject to the EU's ETS. To address these concerns, Korea believes that it is essential to promote a common understanding regarding the design of relevant international standards through sufficient discussions in international forums.

21.54. In an effort to implement rules targeting common global challenges, an inclusive approach would be more effective than requiring trading partners to comply with specific standards, such as the methodology for calculating the emissions of products. Korea will continue to engage closely with the EU with a view to resolving our concerns.

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

21.56. We thank the proponents for raising the subject matter of the CBAM.

21.57. From our perspective, while the European Union has stated that the proposed mechanism will be in conformity with the WTO rules and the EU's other international obligations, the EU has 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, its main objective is in fact to maintain the competitiveness of 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 for global trade, and we believe that its measures are unilateral and trade-protectionist in nature, and provide specific protection to the EU's domestic industry.

21.58. 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's obligations and commitments regarding MFN, national treatment, rules of origin, and non-tariff barriers (NTBs), lies on the EU.

21.59. 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, 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 that is prohibited by the WTO Agreement. Therefore, we request the EU to provide further clarification of this matter.

21.60. The Kingdom of Saudi Arabia kindly requests the European Union to specify the articles in the WTO Agreements that allow it to adopt this unnecessarily 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 will not create any unnecessary barriers to trade, be used as a means of arbitrary or unjustifiable discrimination, act as a disguised restriction on international trade, or be applied in a manner that constitutes protection to EU domestic industries.

21.61. Finally, we look forward for further details and reflections from the European Union on this proposed mechanism, and the Kingdom is ready to engage with the EU and interested Members.

21.62. The representative of Kazakhstan indicated the following:

21.63. Kazakhstan reiterates its position as expressed at the previous meeting of the CMA, and continues to follow the developments around the EU's Carbon Borer Adjustment Mechanism. Kazakhstan again urges the European Union to fully consider the CBAM's compatibility with the WTO rules and regulations, and to ensure that any such mechanism does not create obstacles to trade.

21.64. The representative of Japan indicated the following:[21]

21.65. In order to achieve net-zero emissions worldwide by 2050, it is crucial to ensure a level playing field and prevent carbon leakage; at the same time, policy coordination is integral to the production and introduction of products with low carbon intensity. Also, when discussing policy coordination, each country has been making reduction efforts in the past according to their own circumstances and, in principle, the focus should be on "carbon intensity" as the "result" of such efforts.

21.66. In other words, if the "carbon intensity" of a country or sector is low, this would be the result of that country or sector having taken sufficient measures, such that there were no problems in terms of the level playing field or carbon leakage. In this regard, the EU's CBAM is designed to levy a charge at the border based on the level of specific policy in place, such as an explicit carbon price at the present stage. In this case, even if the product has the same actual carbon intensity, and does not cause any carbon leakage, taxation will occur due to the explicit difference in carbon price. In this respect, the environmental objective itself cannot be justified from the viewpoint of preventing carbon leakage, but sufficient consideration is required from the viewpoint of ensuring fair, competitive conditions. In addition to the aforementioned institutional design issues, we reiterate that it is a prerequisite that this measure be designed consistently with the WTO rules, as has repeatedly been stated.

21.67. We acknowledge that the European Parliament recently approved the CBAM. Nevertheless, we would like to request the EU to fully discuss with each country, the measurement method of CO_2 emissions of products, including through expert meetings, so as not to introduce the CBAM without sufficient international understanding and thereby cause trade disputes with other countries.

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

21.69. The European Union would like to thank China, Indonesia, India, Türkiye, Paraguay, the Republic of Korea, the Kingdom of Saudi Arabia, and Kazakhstan for their interest 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 European Union policies targeted at achieving environmental sustainability and carbon neutrality.

[21] The delegation of Japan indicated at the meeting that a longer written version of their statement would be provided for inclusion in the minutes.

21.70. Our engagement will continue. We will also be giving a technical presentation on European Union trade-related climate measures, including the CBAM and the Deforestation Regulation, during the WTO trade and environment week in June.

21.71. The provisional political agreement on the European Union CBAM was reached in December 2022. Currently, the CBAM is still undergoing an internal legislative process before it becomes law.

21.72. The CBAM Regulation will enter into force in October 2023, with a two-year transitional period during which importers will have to report their emissions, but will not have any financial obligations. The border adjustment will enter into application with a gradual phase-in over nine years, from 2026 to 2034, by when CBAM will be fully operational. As already explained in previous meetings, the phase-in of the border adjustment will be mirrored by a phase-out of free allowances in the European Union ETS for the sectors covered under the CBAM. It should be noted that the rate of reduction of free allowances will be low in the first years, which will correspond to a proportionate and low border adjustment.

21.73. The introduction of a CBAM seeks to address the risk of carbon leakage and thereby avoid having EU climate action undermined. The CBAM is only one of many components of the European Green Deal, which sets out a path towards achieving the European Union's climate targets. It aims to provide market incentives for the private sector to green their production.

21.74. It is in line with the European Union's Paris Agreement commitments, and we need to implement our climate policies. The WTO does not reduce the right to regulate environmental measures.

21.75. As said, the CBAM is a purely climate-oriented, environmental policy tool. It will be applied in a non-discriminatory and even-handed manner in compliance with our international obligations. The charge considers the actual carbon content of a product.

21.76. Nor does the CBAM target third countries. It is addressed to companies as it applies to goods in certain carbon-intensive sectors, and it takes into consideration the application of carbon pricing systems by third countries, opening possibilities for reduction or non-payment of the CBAM charge. It also takes into consideration the carbon footprint of individual producers, such that the CBAM will be charged according to the actual emissions of imported goods.

21.77. The European Union is ready to further engage with trade partners and international organizations to inform and, where possible, assist with the implementation of the measure.

21.78. The Committee took note of the statements made.

22 EUROPEAN UNION – DEFORESTATION-FREE COMMODITIES (DFC) (ID 84) – STATEMENT BY INDONESIA AND THE RUSSIAN FEDERATION

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

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

22.3. Russia notes that the European Parliament, on 19 April 2023, adopted the text of the so-called Deforestation Regulation, over which the main institutions of the European Union reached an agreement last December.

22.4. In this regard, we would like to point out the following. First, the regulation on deforestation-free commodities is a trivial quantitative restriction measure that discriminates products by their origin. The measure is incompatible with Article XI and Article I of the General Agreement on Tariffs and Trade. Despite the fact that this particular legal act establishes the concept of the mechanism to be imposed, there is no doubt that it will have a severe impact on trade across a wide range of agricultural products.

22.5. Second, there is also a lack of clarity regarding the implementation of the measure. How is the European Union going to classify countries of origin depending on the situation with deforestation? How, and on what basis, is the EU is going to determine whether human rights are violated or not? What are the specific requirements to be applied to due diligence expertise, and so on? There are many questions to this regulation, and to how it is supposed to work.

22.6. To conclude, the Russian Federation would like to note that the number of unilateral measures taken by the European Union under the environmental pretext is growing. Such measures ignore WTO rules and discussions at the United Nations, making all potential international arrangements in the field of combating common challenges, as well as the work itself at the global level, pointless.

22.7. The representative of Indonesia indicated the following:

22.8. Once again, we intend to voice our concerns regarding the European Union's DFC policy proposal, which includes mandatory due diligence on seven products that are considered to have a potential impact on deforestation, namely soybeans, beef, palm oil, wood, cocoa, rubber, and coffee.

22.9. We are of the view that the intended DFC proposal has the potential to provide different treatment between European Union domestic products and imported products. With regard to the mandatory due diligence mechanism, we are of the view that the said due diligence has the potential to become a trade barrier, which could limit import access of the seven listed products into the European market.

22.10. Indonesia is very concerned that this DFC proposal could interfere with the rights of developing countries to realize their development potential, and believes they violate the legal sovereignty of other WTO Members, considering that the regulations drawn up by the European Union cannot be imposed unilaterally on other WTO Members.

22.11. With this issue, we intend to request further explanation and elaboration from the European Union of the solid basis for determining the commodities covered by the DFC, of the plans to expand the list of DFC commodity coverage, and of the details of the mandatory due diligence mechanism. Furthermore, Indonesia urges the European Union to review its proposal to ensure that it does not interfere with international trade, nor conflict with Article XI of the GATT 1994 regarding the General Elimination of Quantitative Restrictions.

22.12. Lastly, Indonesia emphasizes that the European Union should, in the process of preparing such a regulation and proposal, as well as in its implementation, take into account the CBDR-RC principle, which provides different treatment between developed and developing countries.

22.13. The representative of Paraguay indicated the following:

22.14. 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, in particular those of this Organization, relating to environmental measures with a trade impact.

22.15. The transition towards sustainability in productive systems needs to be gradual and determined by Members themselves, according to their economic and social development needs. Local circumstances in different regions and their specific productive, social, and environmental characteristics must also be respected.

22.16. 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, the preservation of biodiversity, and pollution. However, while only EU producers benefit from significant subsidies, whether directly to comply with these measures or not, but certainly reducing their costs by doing so, producers from countries such as Paraguay, which 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.

22.17. We recall that, while some Members 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 or not at all contributed to climate change, as in the current situation, 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 and Respective Capabilities.

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

22.19. Lastly, we note that the Regulation was recently approved by the European Parliament after the internal negotiation process, and now just awaits formal endorsement by the Council before being published and entering into force. We would like to know when and how the EU plans to notify these measures to the WTO.

22.20. The representative of Ecuador indicated the following:

22.21. Ecuador views with concern the development of policies under the Green Deal and rules on DFC, since they are unilateral decisions that have international ramifications and could affect third countries. Decisions that affect other Members must take into account the views that other Members may have on a particular environmental matter.

22.22. 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. As we have already indicated, Ecuador considers the Paris Agreement to be a solid basis for avoiding a situation where any standard that is adopted in relation to the control of greenhouse gases and deforestation is imposed on a specific country or established unilaterally with effects on third parties.

22.23. Ecuador would be grateful if the European Union could provide information in response to the comments made at this meeting of the Committee.

22.24. The representative of Argentina indicated the following:

22.25. Argentina is closely following the EU's legislative process on deforestation, and reiterates its concern about the single model concept that the EU seeks to impose. In Argentina's view, this model does not take into account the different characteristics of the production models of the various countries. Argentina remains concerned about the consistency of this measure with WTO principles.

22.26. The representative of Türkiye indicated the following:

22.27. We would like to refer to the statement we made at the last CTG meeting, and indicate here certain points of importance with regard to the European Union's proposed regulation on deforestation-free commodities.

22.28. In this context, we believe that it is important that the technical requirements of the proposed regulation, like certification or verification, which third country operators will face when they place these products on the EU market, should be the same as for EU operators. In that regard, it is considered critical that no additional administrative burden should be placed on third countries.

22.29. Besides, in order for a regulation to serve its purpose without preventing the trade of any product, Türkiye believes that possible extensions in the scope of the legislation should be determined on the basis of solid data, showing that the products covered are indeed the largest contributors to global deforestation.

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

22.31. The European Union would like to thank Indonesia, Paraguay, Ecuador, Argentina, and Türkiye for their interventions and interest.

22.32. The main driver of deforestation and forest degradation is the expansion of agricultural land, linked in particular to the production of a series of commodities of which the European Union is a major consumer. The seven commodities covered by the scope of the regulation – beef, wood, palm oil, soya, coffee, cocoa, and rubber, as well as some of their derived products, such as leather, furniture, print products, or chocolate – are the commodities through which the European Union has a greater impact on the world's forest degradation. These commodities have been selected objectively, based on the best available scientific data.

22.33. The Regulation will introduce mandatory due diligence rules for operators who place those commodities and their derived products on the EU market, or export from it. Only products that are both deforestation-free and legal according to the laws of the country of origin will be allowed onto the EU market.

22.34. The Regulation will apply equally to commodities produced inside and outside the European Union. It relies on concepts developed at the international level, and specifically on the work of the FAO, to determine what is to be considered a "forest" or "deforestation" under the Regulation. There will be no ban on any country nor commodity. All countries, including those considered at high risk of deforestation, will be able to continue to sell their commodities on the EU market – provided that the operators, so those who place them on the market, can demonstrate that those commodities are deforestation-free and legal.

22.35. The Regulation is an environmental measure that complements global and multilateral action, and is developed in compliance with the European Union's international commitments, including its trade agreements, and WTO requirements. Great importance has been given to the external dimension of this Regulation, both in its design stage, and currently, in the implementation phase.

22.36. The regulation is an opportunity to enhance trade in deforestation-free products and to boost opportunities for sustainable actors around the globe.

22.37. The Committee took note of the statements made.

23 KINGDOM OF SAUDI ARABIA, KINGDOM OF BAHRAIN, THE UNITED ARAB EMIRATES, THE STATE OF KUWAIT, OMAN, AND QATAR – SELECTIVE TAX ON CERTAIN IMPORTED PRODUCTS (ID 35) – STATEMENTS BY SWITZERLAND AND THE UNITED STATES

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

23.2. The representative of Switzerland indicated the following:

23.3. My delegation is not in a position to report any progress on the selective tax since our meeting of last October, despite our requests for information in this Committee and in the Council for Trade in Goods.

23.4. According to the information available, the current state of play is as follows: the selective tax is still an *ad valorem* tax, whose rates are 100% in the case of energy drinks, and 50% for other sweetened beverages. The Gulf Cooperation Council (GCC) members have on several occasions underlined that they are reforming the tax. Thus, the current *ad valorem* tax will be replaced by a volumetric tax.

23.5. We have acknowledged the explanation that we have received from our colleagues from the GCC members, namely that the process of reform is complex and will take time. Nevertheless, we reiterate our request to the GCC member States to clarify whether or not they have completed their domestic consultations, and for possible updates with regard to the reform.

23.6. Until the reform is adopted and implemented, we reiterate our long-standing request, namely for an harmonization of the tax rate at 50% for all sweetened beverages, in contrast to the current

discrimination between energy drinks and other sweetened beverages, which has been in place since the implementation of the tax. We urge the GCC not to wait until the reform is implemented to address our concern.

23.7. We thank our colleagues here in Geneva for looking into possible time slots for a bilateral meeting, which we hope to hold soon in order to clarify certain open issues.

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

23.9. 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.

23.10. While we appreciate the information provided during the last Committee meeting – as well as separate discussions with GCC 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.

23.11. 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.

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

23.13. The European Union already explained in detail our concerns, which remain, with regard to the GCC "Treaty on Excise Tax" of December 2016, including at the CTG at the beginning of this month. Today, the European Union would like to reiterate once again the importance of harmonizing the implementation of the Excise Tax law, and urge the GCC member States to ensure close engagement with private industry stakeholders in the process of revising the tax.

23.14. The European Union looks forward to further engaging with the GCC member States on this important issue.

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

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

23.17. Regarding the timeline of the ongoing process for the new GCC excise tax model and its implementation, I would like to reiterate that the revision of the excise tax on beverages is still under way, given that it is a complex exercise that requires significant efforts, extensive coordination between multiple entities, and comprehensive evaluation. The GCC Working Group on Tax Issues is dedicated to completing this exercise in order to provide the GCC member States with appropriate results and high standard excise tax models.

23.18. In conclusion, GCC member States have adopted appropriate procedures and timelines for the revision of their excise tax regime. Once the process is completed, the relevant information will be immediately shared with WTO Members.

23.19. The Committee took note of the statements made.

24 INDIA – QUALITY CONTROL ORDER FOR CHEMICAL AND PETROCHEMICAL SUBSTANCES (ID 98) – STATEMENT BY INDONESIA

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

24.2. The representative of Indonesia indicated the following:

24.3. Indonesia would like to repeat its previous statement at the TBT Committee meeting in March 2023, where we have not received adequate solutions and firm elaborate explanations from India to be able to provide us with an adequate transition period to allow Indonesian industries to comply with the intended Indian regulations, which would be at least 12 months from publication or until 23 October 2023.

24.4. In addition, Indonesia will also request India to accept the conformity assessment results issued by foreign conformity assessment bodies, or inspection bodies, under the MRA/MLA and accreditation framework. Indonesia believes that this will accelerate the audit and certification process, while also reducing certification costs.

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

24.6. We remain concerned by the proliferation of Quality Control Orders (QCOs) in India, and in particular the increasing number of chemicals for which India's Ministry of Chemicals and Fertilizers intends to mandate compliance with standards set by the Bureau of Indian Standards.

24.7. US industry remains concerned about the cost and administrative burdens these QCOs pose, and we encourage India to consult with stakeholders to determine a less trade restrictive measure to fulfil the government's stated objectives.

24.8. The representative of India indicated the following:

24.9. This is an issue related to the TBT Agreement. It is being discussed in the TBT Committee , as well as in the Council for Trade in Goods. We are engaging with interested Members on this issue in the appropriate forums .

24.10. The Committee took note of the statements made.

25 INDIA – BASIC CUSTOMS DUTY (BCD) ON SOLAR PHOTOVOLTAIC CELLS AND MODULES (ID 87) – STATEMENT BY CHINA

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

25.2. The representative of China indicated the following:

25.3. As China pointed out in the last formal meeting of this Committee, India has significantly increased the BCD on solar photovoltaic (PV) cells and modules, exceeding the bound rates to which India had committed itself in the ITA. Implementing such measures has already disrupted the global industrial supply chain in solar PV, and will do nothing to achieve emission reduction targets.

25.4. China urges India immediately to correct its unlawful practices that are violating the WTO rules, and to revoke the BCD imposed on solar PV cells and modules.

25.5. The representative of India indicated the following:

25.6. We thank the delegation of China for their interest in this issue. We are currently reviewing the questions raised by the delegation of China and will revert to them in due course.

25.7. The Committee took note of the statements made.

26 INDIA – APPROVED LIST OF MODELS AND MANUFACTURERS (ALMM) OF SOLAR PHOTOVOLTAIC MODULES (ID 88) – STATEMENT BY CHINA

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

26.2. The representative of China indicated the following:

26.3. As China pointed out in the last formal meeting of this Committee, India has promoted the implementation of the approved list of models and manufacturers of solar PV modules, which China

believes violates the principle of national treatment in the GATT 1994. Implementing such measures will disrupt the international trade order of solar PV products and impose unnecessary burdens on solar PV enterprises.

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

26.5. The representative of India indicated the following:

26.6. We thank the delegation of China for their interest in this issue. We request the delegation of China to explain what specific market access problems they have faced on account of this proposed standard, so the same may be examined.

26.7. The Committee took note of the statements made.

27 INDIA – IMPORT POLICIES ON TYRES (ID 61) – STATEMENTS BY THE EUROPEAN UNION, INDONESIA, THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU AND THAILAND

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

27.2. The representative of Indonesia[22] indicated the following:

27.3. Indonesia again conveys its objections to India, since Indonesia has not received an adequate solution from India regarding the issue of limiting tyre imports. Moreover, exports of Indonesian tyre products to India are still hampered from entering the Indian market.

27.4. Indonesia asks for further clarification from India regarding the policy of limiting tyre imports, and the policy of imposing a marking fee on the use of the Indian Standard Mark (IS Mark) on tyre products exported to third countries.

27.5. As stipulated in Notification No. 12/2015-2020 by the Indian government on 12 June 2020, Indonesia understands that the Indian government has made amendments to its tyre import policy from "free" to "restricted". Furthermore, we are of the view that India's current import policy has become increasingly stringent, in which every container containing imported tyres sent to India needs to be sampled for customs purposes, to fulfil provisions related to warehouse registration where the imported tyre products are stored.

27.6. Indonesia is aware that as a form of the said tyre import restriction policy, India has required importers to make separate statements via electronic mail (email) regarding import restrictions for certain types and size categories of tyres that can be produced domestically in India. Indonesia is of the view that the restriction on tyre imports based on certain types and sizes is a form of quantitative restriction, which is prohibited under Article XI of the GATT regarding the General Elimination of Quantitative Restrictions.

27.7. Indonesia is of the view that the restriction on imports of Indian tyres is discriminatory, because it is applied selectively, namely only to a certain number of WTO Members that have the potential to become a threat to domestic Indian tyre manufacturers; in this way, the said policy potentially conflicts with one of the main principles of the WTO, namely the principle of non-discrimination. Not only that, Indonesia is also of the view that the policy of limiting imports of Indian tyres has actually hampered market access for Indonesian tyre products to India.

27.8. Indonesia would like to ask for further clarification from India regarding the imposition of a marking fee on tyre products marked with the Indian Standard (IS) Mark that will be exported to

[22] The delegation of Indonesia indicated at the meeting that a longer written version of their statement would be provided for inclusion in the minutes.

third countries. Indonesia is of the view that the imposition of the IS Mark marking fee can burden tyre business actors beyond the costs that are necessary.

27.9. Therefore, Indonesia urges the Indian government immediately to review its policy on limiting imports of tyre products to ensure the policy's compliance with India's commitment to Article XI of the GATT 1994 regarding the General Elimination of Quantitative Restrictions, as well as the WTO principles of transparency and non-discrimination.

27.10. The representative of Thailand indicated the following:

27.11. Like Indonesia, Thailand would like to reiterate our concerns, which we have raised on numerous occasions in various WTO bodies, regarding India's import policies on tyres.

27.12. In 2022, the exports of car tyres from Thailand to India declined in volume by 57% compared to 2021, and fell by a staggering rate of 71% relative to 2019, before this measure was implemented. The first two months of 2023 have also seen a continuing sharp drop in the exports of tyres from Thailand to India, by 54% compared to the same period in 2022, and by 77% compared to the first two months of 2019. Globally, however, as a result of this restrictive import measure, in 2022, India's total imports of car tyres from around the world declined by 40%, and India's imports of tyres for transport vehicles and trucks fell by 32%. All these figures indicate that India's restrictive import policy on tyres has still considerably affected Thailand's and those of India's other trading partners' exports of the products to India, which has aggravated over time. A question to India is, "How far must these import figures decline before India stops implementing this measure?"

27.13. Also, we regret to say that we have yet to receive any response from India regarding the request for information that we first made in October 2022, which is a simple and straightforward request to which it should not take India long to respond. Nevertheless, we are going to reiterate our request once again on this occasion, which is 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 recent period; and (iii) the distribution of such licences among supplying countries.

27.14. The representative of Chinese Taipei indicated the following:[23]

27.15. The Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu has consistently expressed its concerns regarding India's licensing regime on the importation of pneumatic tyres under Notification No. 12/2015-2020. This notification amended certain pneumatic tyre's import regulation from "Free" to Restricted".

27.16. We remain disappointed that India has not adjusted or revoked its existing measures, nor clarified its criteria for granting licences, or explained the reasons for its refusals.

27.17. According to the Ministry of Commerce and Industry of India's statistics, the quantity of our tyre exports to India from 2020 to 2022 sharply decreased, by 50% compared to our tyre exports in 2019. This clearly indicates that the measure has significantly hampered our tyre products' access to the Indian market, resulting in substantial adverse effects on trade.

27.18. We urge India to abide by the relevant provisions of the WTO Agreement on Import Licensing Procedures. This specifically requires that import licensing measures shall neither restrict nor distort trade, and that India publishes complete information about the import licence application, ensuring transparency so that foreign manufacturers are able to understand the criteria for licence approval, and the detailed reasons for potential licence rejections.

27.19. It is evident that India's measures have resulted in a quantitative restriction on tyre imports. We request India to provide a WTO-consistent justification for its restrictive measure. Otherwise, we strongly urge India to ensure that all import licence applications that fully comply with the required quality standard for tyre products are granted a licence without any quota limitations at all.

[23] The delegation of Chinese Taipei indicated at the meeting that a longer written version of their statement would be provided for inclusion in the minutes.

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

27.21. As mentioned by other co-sponsors, this is a long-standing issue. It is very worrying that there has been no progress made, despite this issue being raised on multiple occasions in this and other WTO Committees.

27.22. The European Union continues to be concerned about the effect of this measure on imports of tyres into India. As in the case of Thailand, European Union exports of tyres to India have been decreasing since June 2020. Only a limited number of licences have been granted to EU tyre manufacturers. In addition, these licences are limited in terms of duration, quantity, and type of tyres. This is a blatant discrimination against EU tyre manufacturers.

27.23. The European Union continues to urge India to reconsider and eliminate any implicit or explicit quantitative or other restriction on the import of replacement tyres that run contrary to WTO requirements.

27.24. The representative of Canada indicated the following:

Canada would like to express its continuing concerns, which have been raised on a number of occasions in various WTO bodies, with India's non-automatic import licensing system for tyres. Canada urges India to eliminate this quantitative import restriction in accordance with its WTO obligations.

27.25. The representative of India indicated the following:

27.26. India would like to thank Indonesia, Thailand, Chinese Taipei, the European Union and Canada for their continued 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 CMA, and the Committee on Import Licensing.

27.27. 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.

27.28. The procedural requirements on marking fees are also compliant with the relevant provisions of the TBT Agreement.

27.29. The Committee took note of the statements made.

28 INDIA – IMPORT RESTRICTION ON AIR CONDITIONERS (ID 62) – STATEMENTS BY JAPAN AND THAILAND

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

28.2. The representative of Japan indicated the following:

28.3. Japan reiterates its concerns regarding India's import ban on air conditioners, including refrigerants. This is a measure that unreasonably imposes a restructuring of corporate supply chains. Japan is strongly concerned that this measure is likely to be inconsistent with Article XI:1 of the GATT and Article 2.1 of the TRIMs Agreement.

28.4. With regard to the IS Mark certification based on the Quality Control Orders for air conditioners and their related parts, we acknowledge that the scheduled implementation date has been extended from January to October 2023. Nevertheless, we again request India to ensure that the factory testing for foreign manufacturers is conducted smoothly by the Bureau of Indian Standards (BIS). Otherwise, we call on India to consider introducing some alternative procedures in the case that its officials are facing difficulty in travelling overseas, or else to extend the implementation date again.

28.5. We would like to recall that, at the CTG's previous meeting, India stated that it had already reported to the Committee on Import Licensing, in notification document G/LIC/N/2/IND/21. In addition, it is unfortunate that Japan had raised this issue in the CTG and other bodies in view of the strong market share of Japanese firms in India over the past three years. However, the notification that India has submitted to the Committee on Import Licensing is related to the importation of refrigerants themselves, not to refrigerants enclosed in air conditioning equipment, which is the subject of this issue; the notification is therefore not relevant to this measure.

28.6. The representative of Thailand indicated the following:

28.7. Thailand would like to echo Japan's concerns regarding India's import prohibition on air conditioners containing refrigerants. Despite our interventions on numerous occasions, and our esteemed Indian delegate's statement that our concerns had been conveyed to New Delhi for analysis, four months have passed, and we have heard absolutely nothing back from India.

28.8. Although the ban at issue might be justified under Article XX of the GATT 1994, we believe that there is no rational connection between this measure and India's objective of protecting the ozone layer, as required under Articles XX(b) or XX(g) of the GATT 1994. India's Notification No. 41/2015-2020 merely lists two HS Codes for air conditioners that are subject to India's import prohibition if they contain refrigerants. The Notification does not specify the types of prohibited refrigerants, nor, for instance, does it explain whether these are the ozone-depleting substances listed in the Montreal Protocol.

28.9. Moreover, India's Ozone Depleting Substances Regulation and Control Rules, read together with their 2014 Amendment, provide for many exceptions for India's domestic products that contain ozone-depleting substances, including air conditioners. This suggests that India applies its import ban "in a manner that constitutes a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail", within the meaning of the chapeau of Article XX of the GATT 1994. In this regard, Thailand refers to its statements delivered at previous meetings of the CMA and Council for Trade in Goods, where numerous examples of these exceptions were provided. We request India to enlighten us on its justification for continuing to implement this restrictive measure.

28.10. Last but not least, we have also found that India's notification to the Committee on Import Licensing, in document G/LIC/N/2/IND/21, is at odds with this import restriction on air conditioners with refrigerant. According to the notification, the importation of hydrofluorocarbons is allowed, given that a non-automatic import licence is granted. Ironically, if an air conditioner contains the same substance, the importation of this air conditioner into India will be banned. Thailand fails to understand why India always refers to this notification when it in fact contradicts the ban at issue. Accordingly, Thailand requests India to provide an explanation as soon as possible of its self-contradictory and discriminatory action.

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

28.12. The Republic of Korea shares the concerns expressed by Japan and Thailand regarding India's import restriction on air conditioners. Korea believes that the measure appears to be inconsistent with the WTO rules, particularly Article XI:1 of the GATT 1994, thereby creating an unnecessary obstacle to trade. Korea requests that India resolve the issue in a timely manner. We stand ready to further engage with India.

28.13. The representative of India indicated the following:

28.14. India would like to thank Japan, Thailand, and the Republic of Korea for their continued interest in this issue. We would also like to refer to our response provided in other WTO bodies on this issue. My delegation has already shared details of these measures with delegations, including as concerns their intent, and ongoing developments. The measure taken is linked to our compliance with the Montreal Protocol with respect to refrigerant-based cooling.

28.15. The Committee took note of the statements made.

29 INDONESIA – COMMODITY BALANCE MECHANISM (ID 99) – STATEMENT BY THE EUROPEAN UNION

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

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

29.3. The European Union has commented in several WTO bodies on Indonesia's import restrictive policies and practices. The European Union has repeatedly stressed its deep concerns over the increasing number and scope of Indonesian restrictions, which have negative impacts on trade flows.

29.4. The European Union is particularly concerned by the restrictive impact that the Commodity Balance Mechanism may have. Under the mechanism, import licences will only be granted if domestic demand cannot be met by domestic supply. We are concerned that the scope of application of the mechanism keeps expanding. We welcome efforts to ensure a coordinated and streamlined approach on the management of import and export licences. But we are concerned that the mechanism might lead to further restrictions to trade flows, in turn raising questions about its WTO compatibility.

29.5. We lack clarity as to the actual implementation of the Commodity Balance Mechanism, including in terms of its scope and timelines for the application to different groups of products. This creates additional challenges for economic operators in terms of legal certainty and predictability.

29.6. The European Union would therefore like to ask Indonesia for its clarifications of the implementing measures that it intends to take, and also urges Indonesia to ensure that the relevant policies and measures are compliant with Indonesia's WTO obligations.

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

29.8. The United Kingdom shares the concerns raised by the European Union. Although we do support Indonesia's effort to be more transparent, it appears that Indonesian regulations related to commodity balance will be trade restrictive. UK businesses already experience procedural delays in entering the Indonesian market, particularly in the agricultural, food and drink sectors. We therefore continue to request both that Indonesia reconsider its import substitution programme, and that it reduce local content requirements across all sectors.

29.9. The United Kingdom also requests further information on the exact goods that will be covered by Indonesia's commodity balance mechanism, preferably by means of specific Harmonized System codes. The UK would welcome further information from Indonesia on any future developments regarding this policy, and looks forward to future engagement on this subject.

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

29.11. The Republic of Korea shares concerns expressed by other Members regarding Indonesia's Commodity Balance Mechanism. It has been reported that our exporters are facing challenges brought about by the Commodity Balance Mechanism, such as undue delays in the issuance of the recommendation, and limited quantity of import quarter.

29.12. In particular, Korea believes that Indonesia's import restrictions, which are based on its own projection of domestic supply and demand, would undermine the transparency of the mechanism itself. Accordingly, Korea requests that Indonesia enhance the transparency and improve the functioning of the mechanism to avoid it serving as an unnecessary obstacle to trade. Korea stands ready to deepen our engagement with Indonesia to fully resolve this matter.

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

29.14. The United States joins the European Union in again raising concerns regarding Indonesia's commodity balance policy.

29.15. The commodity balance policy originally appeared to apply to certain agricultural commodities. For example, in 2021, the first stage stipulated that the policy would apply to rice,

sugar, beef, salt, and fish, but the policy has since been expanded to include non-agricultural products, in particular consumer goods such as cell phones. Since the policy was implemented, importers have reported experiencing significant delays in obtaining import licences for certain agricultural products, as well as reductions in the volumes received.

29.16. Please explain how the Government of Indonesia is addressing these administrative delays. Please explain whether importers are entitled to receive a licence covering whatever volume they request. And please explain how the Government of Indonesia determines to which products the policy will apply.

29.17. While Indonesia has previously explained that this policy was designed to build better trade governance and transparency in furtherance of its goal of import substitution, we strongly urge Indonesia not to expand its policy to other products, and to rethink this counter-productive and trade-disruptive policy.

29.18. The representative of Switzerland indicated the following:

29.19. Switzerland echoes the concerns of previous speakers regarding Indonesia's commodity balance mechanism. We have also made our concerns known during previous meetings of this Committee, and also at the CTG.

29.20. Switzerland is keen to get detailed information on the implementation of this policy, including the products covered by the mechanism, and how Indonesia intends to ensure the consistency of these measures with its WTO obligations. We urge Indonesia not to expand this policy to other products.

29.21. The representative of Indonesia indicated the following:

29.22. Indonesia expresses its appreciation to the European Union, the United Kingdom, the Republic of Korea, the United States, and Switzerland, for their interest in the issue of Indonesia's Commodity Balance Mechanism.

29.23. Indonesia intends to reiterate its statement delivered at the previous CTG Meeting, namely that the Commodity Balance is aimed at building better and more orderly global trade governance. In addition, the Commodity Balance does not burden the existing import regime; in fact, the aim of the Commodity Balance is to create and facilitate a better business environment, certainty in doing business, and free trade flows. In addition, the Presidential Regulation on Commodity Balances has not been notified to the WTO as it is still in the revision stage; for this reason, Indonesia has not been able to provide more detailed information.

29.24. The Commodity Balance Mechanism is a policy evaluation tool used by the Government of Indonesia for policy transparency based on accurate data, which will be implemented by the relevant ministries and institutions. Therefore, the Commodity Balance is not an additional burden for the Indonesian import regime. Indonesia intends to once again emphasize that the Commodity Balance Mechanism is not a policy designed to inhibit trade in any way; rather, it is a policy implemented by Indonesia in order to provide ease and certainty, while trying to increase investment and create jobs.

29.25. The Committee took note of the statements made.

30 INDONESIA – CUSTOMS DUTIES ON CERTAIN TELECOMMUNICATION PRODUCTS (ID 42) – STATEMENTS BY THE EUROPEAN UNION AND THE UNITED STATES

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

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

30.3. We continue to be disappointed that Indonesia has not, for the last four years, addressed our concerns with respect to applying tariffs on select ICT products that appear to exceed its WTO bound tariff commitments. We, along with other Members, have been raising this issue with Indonesia

repeatedly across multiple WTO Committees. We have also raised our concerns bilaterally. Indonesia has yet to constructively respond to our concerns.

30.4. We understand that US companies have also engaged the Indonesian government directly on this issue, seeking clarification on Indonesia's application of these tariffs. Despite their efforts, they too have yet to receive a satisfactory response from Indonesia. Indonesia's tariffs not only impose an unfair financial burden on foreign firms, but they also limit access for Indonesian consumers and firms to important high-tech products. The issue at play here is Indonesia's duty-free market access commitments for several commercially significant products, and the tariffs that are being charged at the border.

30.5. We have unfortunately seen similar issues occur in multiple other countries. Earlier this month, several dispute panels found that India's tariff treatment of a number of ICT products was inconsistent with its WTO commitments. We urge Indonesia to engage constructively on this issue and finally address these long-standing concerns to ensure the integrity of its market access commitments.

30.6. The representative of the European Union indicated the following:[24]

30.7. The European Union has made many repetitive calls for Indonesia to align the tariff treatment of certain ICT products classified under subheading 8517.62 with its WTO commitments. We are concerned about Indonesia's significant tariff (10%) on products classified under tariff line 8517.62.10/49/69.

30.8. In this particular category of products (tariff item 8517.62.49), the European Union has recorded a significant drop in its 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.

30.9. During the meeting of the CMA of 6 April 2022, Indonesia informed Members that, according to the 2022 Indonesian customs tariff book, the products concerned were listed at 0% tariff. We understand that the new customs tariff book entered into force on 1 April 2022. Upon verification, we regretted to see that, despite Indonesia's statement in the CMA, the tariff lines 8517.62.10, 8517.62.49, and 8517.62.69, still carry a 10% duty.

30.10. We seek further clarification from Indonesia as to how it intends to address the matter. We invite Indonesia to ensure duty-free treatment in accordance with its WTO commitments, as bound in it its Goods Schedule.

30.11. The representative of Japan indicated the following:

30.12. Japan echoes the concerns raised by the United States and the EU about customs duties on certain telecommunication products in Indonesia.

30.13. Regarding the imposition of 10% customs duties on certain ICT products, and as Indonesia has previously explained in this Committee and in the Committee of Participants on the Expansion of Trade in Information Technology Products (ITA Committee), "certain products may have been affected by the splitting and merging process during the transposition." Indonesia has also explained that it "did not intend to take action beyond its commitments or obligations under the ITA Agreement, and the relevant products are applied duty free as its commitment under the Customs Tariff Book of Indonesia 2022."

30.14. 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. However, no information has been provided so far, and the tariffs at issue continue to be levied.

30.15. At last month's meeting of the ITA Committee, Indonesia stated that domestic consultations were being conducted to resolve this issue. On that note, Japan requests Indonesia to respond in

[24] The delegation of the European Union indicated at the meeting that a longer written version of their statement would be provided for inclusion in the minutes.

good faith by providing more details and information on its future course of action, and to do so as soon as possible, to allow us to examine the facts of the matter.

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

30.17. The Republic of Korea shares the concerns expressed by others regarding Indonesia's customs duties on certain telecommunication products. As noted, Korea believes that ICT products classified under HS 8517.62 fall within Indonesia's ITA commitments, and should therefore be granted duty-free treatment.

30.18. Korea requests that Indonesia resolve this issue in a timely manner by complying with its commitments. We stand ready to further engage with Indonesia.

30.19. The representative of Canada indicated the following:

30.20. Canada's concerns related to Indonesia's tariffs on ICT products expressed in past meetings of this and other WTO bodies remain.

30.21. The representative of Indonesia indicated the following:

30.22. Indonesia expresses its appreciation to the European Union, the United States, Japan, the Republic of Korea, and Canada, for their continued interest in the issue of Indonesia's import duties on telecommunications products. Indonesia is still conducting domestic consultations between the relevant ministries and institutions to review the imposition of import duties on certain telecommunications products.

30.23. Indonesia will continue to strive to comply with all WTO Agreements, including its commitment to the WTO ITA.

30.24. The Committee took note of the statements made.

31 MEXICO – IMPORT QUOTA ON GLYPHOSATE (ID 64) – STATEMENT BY THE UNITED STATES

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

31.2. The representative of the United States indicated the following:[25]

31.3. The United States would like to raise its continued concern with the quantitative restrictions that Mexico has implemented on glyphosate.

31.4. In particular, we are referring to the 19 March 2023 announcement by Mexico's Federal Commission for the Protection Against Sanitary Risks (COFEPRIS) that the total maximum amount of glyphosate authorized for importation in 2023 is 4,131 tonnes of formulated glyphosate, and 314 tonnes of technical glyphosate, as determined by the National Council of Science and Technology (CONACYT).

31.5. Since Mexico began setting import quotas for formulated and technical glyphosate in 2021, it has not provided an opportunity for public comment, submitted a notification to the WTO of these QRs, or provided scientific evidence for the import quotas.

31.6. Can Mexico explain how the 2023 quota levels were determined, and on what basis were they reduced from 2022 quota levels (8,263 tonnes of formulated glyphosate and 628 tonnes of technical glyphosate)? Did Mexico solicit and consider public input when making its determination?

[25] The delegation of the United States indicated at the meeting that a full version of their statement would be provided in writing for inclusion in the minutes.

31.7. What information has Mexico provided to traders on how the quotas are administered? The announcement only states, "total figures that will be distributed equitably among importing companies". What HS codes are affected? How are the quotas allocated?

31.8. Under the 13 February 2023 decree by which various actions regarding glyphosate and genetically modified corn are established, the importation, production, distribution and use of glyphosate will be phased out by 31 March 2024. What scientific evidence is this phase-out based on?

31.9. How does Mexico justify these measures in light of its GATT obligations, including Article XI of the GATT 1994?

31.10. The representative of Canada indicated the following:

31.11. Canada also has continuing concerns regarding Mexico's import quota on glyphosate.

31.12. The Committee took note of the statements made.

32 NEPAL – IMPORT BAN ON ENERGY DRINKS (ID 50) – STATEMENT BY THAILAND

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

32.2. The representative of Thailand indicated the following:

32.3. First of all, Thailand would like to express our appreciation for the bilateral consultation we have had with Nepal regarding Nepal's import ban on caffeinated mixed energy drinks and flavoured synthetic drinks from Thailand since 2019. However, we would still like to raise our concern on this measure once again today.

32.4. Having said that, Thailand would like to convey our empathy to the people of Nepal on the most difficult economic hardships facing the country, which have understandably forced the Government of Nepal to adopt these measures.

32.5. Thailand would like to remind Nepal that WTO Members facing balance-of-payment difficulties may apply import restrictions subject to the provisions under Article XII of the GATT 1994, provided that they do not exceed those that are necessary, that they are progressively relaxed, and that they are maintained only to the extent that the conditions still justify their application.

32.6. Thailand also takes note of Nepal's notification of this measure in document G/MA/QR/N/NPL/1 dated 11 October 2022. However, Nepal has yet to provide any justification and other related details of the said measure. We urge Nepal to do so as soon as possible.

32.7. Thailand would also like to remind Nepal of the provisions in Article 6 of the Understanding on the Balance-of-Payments Provisions of the GATT 1994, where "[A] Member applying new restrictive import measures taken for Balance-of-Payments purposes shall enter into consultations with the Committee on Balance-of-Payments Restrictions within four months of the adoption of such measures", and Article 9 of the Understanding, where "[A] Member shall notify to the General Council the introduction of or any changes in the application of restrictive import measures taken for Balance-of-Payments purposes". We urge Nepal to respect and follow these provisions without delay.

32.8. The representative of Nepal indicated the following:

32.9. Nepal would like to thank Thailand for its statement and continued interest in Nepal's trade policy measures, and notes that this concern has also been raised in the CTG. Accordingly, Nepal wishes to refer to its earlier statements delivered at the meetings of the CMA held in October 2022, and at the CTG meetings held in July 2022 and April 2023, in response to the concern raised today, while noting that Nepal is still facing challenges in its balance of payments.

32.10. Nepal's export-import ratio of trade in goods was 1:2.5 in 2004/2005; after Nepal became a Member of the WTO, it widened and reached 1:15.3 in 2017/2018; and the export-import ratio was more than 1:10 in the year 2022.

32.11. Similarly, the trade imbalance with Thailand has also remained high. Nepal has exported goods worth around NPR 47 million in the year 2022, and has imported goods amounting to more than NPR 11 billion in the same year. Furthermore, Nepal's export-import ratio with Thailand remained more than 1:236 in that same year. The widened trade deficit and import surge have been placing a huge pressure in its balance of payments. The Government of Nepal is assessing the measure periodically in light of the pressure on its balance of payments, and the possible consequences in terms of its trade deficit. I will update the Committee as soon as I receive further information from Capital.

32.12. Finally, my delegation would like to thank Thailand for its constructive presence, and for sharing its recent views at the bilateral meeting held on 4 April 2023. The meeting was useful in order more closely to understand each other's situation. Thank you all.

32.13. The Committee took note of the statements made.

33 PERU – TAX TREATMENT OF PISCO (ID 74) – STATEMENT BY THE UNITED KINGDOM

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

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

33.3. As Members of the WTO, we have all agreed to work together through forums such as this one, to resolve trade issues, adhere to the rules, and to work collaboratively. While my delegation wishes to convey our thanks to the Delegation of Peru for their local engagement since this item last appeared on the agenda, we continue to hold real concerns about the discriminatory environment created by Peru's tax exemptions for Pisco.

33.4. This market access barrier is causing real economic damage. Peru's measures have resulted in tens of millions of pounds of harm to UK exporters. And, as we have heard previously, it is also causing harm to other Members. This is also a long-standing barrier. It has been harming UK exports for over a decade. And it has been maintained even while the UK and Peru have deepened our trade relationship, and the UK has raised this bilaterally on many occasions.

33.5. It is therefore disappointing that, over a year since the UK raised specific concerns on this topic within this Committee, and six months since those concerns were reiterated again at the Committee's last meeting, we have seen no substantive steps forward from Peru in terms of resolution. And while we want to underline that we fully appreciate and understand Peru's present circumstances, we would hope that our increasingly strong trading relationship would mean that the UK's written questions conveyed in August 2022 would have received an answer.

33.6. Finally, we would like to welcome that Peru, in their October statement, encouraged having bilateral conversations on this matter. We would happily do so. However, as part of such discussions, we would expect Peru to engage with the detail, the data, and the questions the UK has posed between Capitals and here in Geneva.

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

33.8. The United States continues to support 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.

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

33.10. The European Union would like again 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.

33.11. The European Union has already asked Peru at previous Committee meetings to clarify how the excise tax (Impuesto Selectivo al Consumo), which is higher for spirits other than Pisco, is in compliance with Peru's international obligations. We are ready to engage and hope to make prompt progress on this issue.

33.12. The representative of Peru indicated the following:

33.13. As Peru has indicated previously, in our delegation's view, the Selective Excise Tax applied in Peru to alcoholic beverages does not establish any distinction that would affect the United Kingdom or any other WTO Member. This measure is applied to all alcoholic beverages in the context of a tax system that does not establish a differential treatment based on the product's origin. Therefore, there is no treatment intended to afford protection to domestic production.

33.14. My delegation takes note of the comments made by the United Kingdom, the United States, and the European Union, whose statements will be duly conveyed to Capital. We also invite these delegations to pursue our coordination efforts in the relevant bilateral forums.

33.15. The Committee took note of the statements made.

34 SRI LANKA – IMPORT BAN ON VARIOUS PRODUCTS (ID 56) – STATEMENT BY THE EUROPEAN UNION

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

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

34.3. We would like to congratulate Sri Lanka on reaching an agreement with the International Monetary Fund (IMF), and to express the hope that Sri Lanka will pursue policies that facilitate trade, remove protectionist measures, reduce para-tariffs, and simplify import procedures.

34.4. While we acknowledge the current circumstances of the country, we would also like to reiterate our serious concerns regarding the import restrictions imposed by Sri Lanka, in various forms, since April 2020. We have witnessed a flurry of measures that have created additional uncertainties in a difficult economic environment. We have not received, during these years, any concrete or detailed answers to our questions on timing or status of the missing WTO notifications, or justification of the measures, and information on their duration, or when they will be repealed.

34.5. Selective import restrictions have not solved Sri Lanka's persistent fiscal deficit and foreign currency constraints, while the macro-economic situation has further deteriorated, harming at the same time the European Union's interests and exports, especially those of MSMEs. The import restrictions and the difficulty of opening letters of credit have curtailed supplies of imported raw materials, intermediate goods, and equipment, have undermined economic activity, and have also caused shortages in essential goods.

34.6. We are ready to continue working with Sri Lanka and call for a clear timetable of progressive and irreversible steps to remove the import restrictions.

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

34.8. The United Kingdom thanks the European Union for placing this item on the agenda. Furthermore, we want to thank the Delegation of Sri Lanka for their constructive engagement with our delegation on this matter. In a recent bilateral meeting, the Delegation of Sri Lanka provided a helpful explanation of the conditions underpinning the imposition of this measure, and has provided further details.

34.9. The United Kingdom stands ready to support and work with Sri Lanka through its current economic situation, and towards recovery. We are very much committed to a long-term trade relationship with Sri Lanka, and given that the current economic difficulties are presenting significant challenges to UK businesses exporting to Sri Lanka, we want to work together.

34.10. The United Kingdom would be interested in any further information on Sri Lanka's pathway towards the lifting of import restrictions, any potential timelines, and to what extent IMF conditions will have an impact on the swift relaxation of the import restrictions. The United Kingdom looks forward to continuing its engagement with Sri Lanka on this matter, and stands ready to work with partners to find a solution to these issues.

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

34.12. 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."

34.13. Although we understand that Sri Lanka started relaxing the import ban on many products in November 2022, we note that a temporary import ban still exists on 243 item categories as of January 2023. Items subject to the import ban include agricultural products such as milk, cream, yogurt, flours, and wheat. The regulations from March 2022 also established a licensing process by which the government may allow some traders to continue importing the items subject to the ban, which delays imports of those products. We note that 276 items are currently suspended subject to this licensing process.

34.14. The United States understands that Sri Lanka will lift its ongoing import restrictions for certain goods in stages, starting in June 2023, after the country received an IMF loan in March 2023. Specifically, the Sri Lankan government is planning to remove import restrictions on 100 to 150 products within the next three months, under the condition that it will not negatively affect Sri Lanka's exchange rates, foreign reserves, or inflation.

34.15. Which products does Sri Lanka plan on removing from the import ban in June 2023?

34.16. Does Sri Lanka plan on reversing its licensing process on 276 items that are currently suspended? If so, what is the timeline for that reversal?

34.17. The representative of Japan indicated the following:

34.18. Japan echoes previous speakers' concerns regarding the possibility of inconsistencies with Article XXII:1 of the GATT 1994. Sri Lanka has stated that it is necessary to reserve foreign currency in order to meet domestic demand for essential items, and that import restrictions on automobiles will be maintained until the economy returns to normal, the reason for which, as before, is the balance-of-payment (BOP) difficulties. However, 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.

34.19. Japan understands the domestic situation in Sri Lanka, such as the economic crisis and political instability. Having said that, noting that the economic crisis is gradually improving, and the IMF has approved the financial support programme in March 2023, we request that Sri Lanka withdraw this measure at the earliest possible date.

34.20. The representative of Sri Lanka indicated the following:

34.21. Sri Lanka would like to thank the European Union, the United States, the United Kingdom, and Japan for their continued interest in Sri Lanka's trade policy measures.

34.22. As my delegation stated at previous meetings of the CMA and CTG, the restrictive import policy measures were imposed by Sri Lanka to curb the adverse impact of the COVID-19 pandemic on its economy, on a temporary basis. Sri Lanka was planning to remove them at the earliest opportunity. However, due to Sri Lanka's depleting foreign exchange reserves, rising external debt, acute foreign exchange shortages, exchange rate fluctuations, and so on, the country was unable to remove the measures completely, as previously envisaged. Critical scarcity of foreign currency compelled the Government to take additional care in releasing foreign currency only for the most essential import items, including food, medicines, and fuel.

34.23. As stated previously, Sri Lanka approached the International Monetary Fund to request its assistance in addressing its economic crisis, including the BOP crisis and the Government's budget

financing. We wish to inform the Committee that Sri Lanka's negotiations with the IMF have been highly successful. Accordingly, on 20 March 2023, the IMF approved approximately USD 3 billion under the new Extended Fund Facility for Sri Lanka, the first tranche of which has already been released.

34.24. As per the arrangements being made with the IMF, Sri Lanka is optimistic that its economic condition will gradually improve, together with its external financial situation once its debt restructuring process is completed. Accordingly, all positive steps will be taken by Sri Lanka progressively to remove its restrictive import policy measures. Finally, my delegation wishes to inform the Committee that my Capital is now taking the necessary steps to notify Sri Lanka's import policy measures to the WTO.

34.25. The Committee took note of the statements made.

35 TÜRKIYE – DISCRIMINATORY ADDITIONAL TARIFFS ON ELECTRIC VEHICLES (ID 100) – STATEMENT BY CHINA

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

35.2. The representative of China indicated the following:

35.3. On 3 March, without explanation, Türkiye sharply increased import tariffs on China-made electric vehicles. China believes this to be inconsistent with the WTO rules.

35.4. First, the relevant measure violates Article II of the GATT 1994. According to Türkiye's tariff commitment, the bound rate for electric vehicles is 20%. The import tariff of China-made electric vehicles has reached 50%, significantly exceeding Türkiye's tariff commitment.

35.5. Second, the relevant measure seriously violates the WTO MFN principle. Türkiye's action targeted only China-made electric vehicles, making the treatment of Chinese products significantly lower than that of similar products produced by other Members, which constitutes discrimination against China-made electric vehicles.

35.6. China urges Türkiye immediately to correct its wrongdoing on China-made electric vehicles.

35.7. The representative of Türkiye indicated the following:

35.8. We would like to thank China for its interest in this issue, which is currently being discussed by our colleagues in respective Capitals. We have also taken note of the comments made here today, which will be duly conveyed.

35.9. At this point, we would like to state that, as the Permanent Mission of Türkiye to the WTO, we have been, and will remain, open to any request from China for an exchange of opinion on this topic.

35.10. The Committee took note of the statements made.

36 UNITED STATES – DISRUPTIVE AND RESTRICTIVE MEASURES IN THE NAME OF NATIONAL SECURITY (ID 101) – STATEMENT BY CHINA

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

36.2. The representative of China indicated the following:[26]

36.3. In the name of national security, unilateral economic sanctions have become major trade policy tools of certain WTO Members in recent years. Their vast areas of application, the broad scope of their ramifications, and the severe harm they cause to the multilateral trading system have given rise to concerns among many Members. Some trade disruptive and discriminatory measures have

[26] The delegation of China indicated at the meeting that a longer written version of their statement would be provided for inclusion in the minutes.

been subject to the WTO dispute settlement mechanism, and the dispute settlement panels have made consistent rulings in this regard. In short, most trade-restrictive measures introduced in the name of national security have deviated from the circumstance stipulated in the WTO's security exception provisions. Rather, they have constituted an abuse of national security.

36.4. The United States triggered this growing trend of abusing national security exceptions. Since the implementation of the 232 steel and aluminium tariffs in 2018, the US has taken several trade-restrictive measures in the name of national security, including the following eight categories:

i. Tariff measures: 232 tariff measures and tariff quotas initiated against imported steel and aluminium products;

ii. Rules of origin measures: discriminatory application of origin marking;

iii. Direct export restrictions: extensive export controls on commercial products exported to China and on Chinese commercial entities;

iv. Extra-territorial application of export restrictions: restricting the exports of specific products of third countries that do not contain any US content to China through the so-called foreign direct product rules;

v. Procurement Prohibition: prohibit federal government agencies from procuring or using telecommunications products and services from specific Chinese companies; federal government agencies will also be banned from purchasing or using electronic products containing semiconductors produced by specific Chinese companies;

vi. Discriminatory subsidies policies: prohibit subsidized telecommunications carriers from using products from specific Chinese companies; require semiconductor companies receiving US government subsidies to abandon their expansion plans in China, and disqualify subsidies for electric vehicles with batteries containing components or minerals originating from China;

vii. Market authorization prohibitions: prohibit the provision of authorization necessary for the marketing of telecommunications equipment to specific Chinese companies;

viii. ICTS transaction reviews: review of commercial transactions for a broad range of ICT products and services, including procurement, import, transfer, installation, deal-in, or use, with the possibility of imposing prohibitive measures.

36.5. The abuse of national security is reflected in the following aspects:

36.6. First, the US believes that applying the security exception provision is solely self-judging and is not subject to review by WTO dispute settlement panels. However, as several dispute settlement panel decisions have shown, neither the GATT's negotiating history, the GATT's text, nor the interpretation of the relevant provisions by many other Members agree with the US claim. As many scholars have pointed out, a legal defence on a purely self-judging basis is tantamount to a black hole that will make exceptions become the rule and seriously undermine the multilateral trading system.

36.7. Second, the scope of US export control measures is so broad that it goes beyond international practices. Moreover, the unilateral nature of US export control measures is pushed to the extreme through its extraterritorial application. Under the Foreign-Direct Product Rules (FDPR), exports of items produced with US software or technology are subject to US controls, even if they do not contain any US content. The extreme unfairness of the measure can be compared to such a case where a European author wrote fiction with a US-made pen but needed US permission to publish a Chinese edition in China.

36.8. Third, the ban on market access for Chinese telecommunications equipment and the extensive scrutiny of ICTS transactions go well beyond the usual areas of applications, such as government procurement and critical infrastructure, including all sales and imports, including commercial sales.

36.9. Fourth, the discriminatory nature of subsidy policies is elevated to an unprecedented level. Granting US government subsidies contingent upon the prohibition from expanding capacity in China artificially fragments the market. It interferes with the autonomy of commercial businesses to make their own business decisions. Even battery components made in China are considered a potential threat to US national security and therefore get discriminatory treatment in its subsidies policy.

36.10. We took note of the US view that the integrity of the WTO was undermined by WTO dispute panels' decisions on national security cases, and the comments by USTR Ambassador Katherine Tai that "the WTO is getting itself on very, very thin ice". We beg to differ. What puts the WTO on thin ice is the abuse of security waivers by the United States itself. Such abuses have broken one window after another of the mansion of the multilateral trading regime. They would give rise to the broken window theory, where exceptions become the rule, and place the rules-based multilateral trading regime in grave danger.

36.11. China believes that to strengthen the rules-based multilateral trading system, with the WTO at its core, it is necessary to enhance the deliberative functions on such abusive security exceptions within the framework of the rules and procedures of the WTO.

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

36.13. As we have stated previously, the United States does not believe that the WTO Committee on Market Access is the appropriate forum to discuss issues related to national security.

36.14. The Committee took note of the statements made.

37 UNITED STATES, JAPAN, NETHERLANDS – US-JAPAN-NETHERLANDS AGREEMENT ON CHIP EXPORT RESTRICTIONS (ID 102) – STATEMENT BY CHINA

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

37.2. The representative of China indicated the following:

37.3. In February of this year, several media disclosed that the United States, Japan, and the Netherlands had agreed on export controls of semiconductor manufacturing equipment against China. The agreement was also mentioned in the statement issued by the relevant enterprises.

37.4. However, we have yet to see any information regarding the agreement mentioned by the media, or published by the relevant governments. We are deeply concerned with this non-transparent practice. We want to ask the United States, Japan, and the Netherlands whether the agreement exists. If the answer is yes, should such a significant agreement relating to export restrictions not be notified to the WTO, and reviewed by the relevant Members? Is it because the relevant Members know that the agreement may violate the WTO rules that they withhold disclosure of its contents?

37.5. Recently, Japan announced that it would amend the relevant content in its "Foreign Exchange and Foreign Trade Law" to include products that have long been deleted from the Wassenaar Arrangement into the control list. The Netherlands is also simultaneously promoting legislative revisions. Its proposed export control policy on dual-use items goes beyond the scope permitted explicitly by the Wassenaar Arrangement. It is an apparent expansion of the EU's export control regulations on dual-use items.

37.6. It is reasonable to believe that the agreement was made under the pressure of economic coercion from the United States, as it hurts not only the interests of Chinese enterprises, but also the interests of other parties, including the relevant enterprises of Japan and the Netherlands. This agreement contradicts the WTO principles of openness and transparency, and undermines the authority and effectiveness of the WTO rules.

37.7. We request the relevant Members to notify the agreement and follow-up measures to the WTO, and call upon all Members to strengthen the monitoring of these measures.

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

37.9. As an initial matter, the United States has previously explained why WTO forums, such as the Committee on Market Access, are not appropriate to discuss issues related to national security, such as export controls. Furthermore, as also noted in the CTG, the United States takes issue with the agenda item description as put forward by China.

37.10. The representative of Japan indicated the following:

37.11. On chip export restrictions, Japan has long been conducting strict export controls based on the Foreign Exchange and Foreign Trade Act in a manner consistent with the WTO Agreements from the perspective of maintaining international peace and security. We will continue to take action in accordance with the above policy.

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

37.13. As we stated in the CTG, the European Union takes issue with the description of the agenda point by China, as a factual matter. Moreover, the type of measures regulated by the GATT are those adopted by individual Members. The European Union's statement therefore relates to the latter only.

37.14. The matter raised by China needs rephrasing: it seems to concern planned national export control measures relating to advanced semiconductor manufacturing equipment announced by the Dutch government on 8 March. The national regulatory process is still ongoing, and the measure is expected to be published in a Ministerial order before the summer.

37.15. The announced measure falls under the dual-use and export control framework of the European Union. This framework allows European Union member States to impose additional national export controls based on essential security interests.

37.16. Any such export restriction will be adopted, in the same way as are all existing restrictions of this type, in full conformity with the WTO rules. Most notably, the GATT permits Members to take action which they consider necessary for the protection of their essential security interests relating to traffic in goods carried on directly or indirectly for supplying military forces.

37.17. The Committee took note of the statements made.

38 UNITED STATES – A SERIES OF DISRUPTIVE POLICY MEASURES ON THE GLOBAL SEMICONDUCTOR INDUSTRY CHAIN AND SUPPLY CHAIN (ID 103) – STATEMENT BY CHINA

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

38.2. The representative of China indicated the following:[27]

38.3. China continues to express serious concerns about the disruptive and discriminatory measures taken by the United States regarding the semiconductor industry.

38.4. First, the US Department of Commerce recently issued a Notice of Funding Opportunity CHIPS Incentive Program – Commercial Fabrication Facilities. China believes that some measures in this notice may violate the WTO rules and severely distort the market.

38.5. For example, regarding the applicable threshold for funding. The notice indicates that an applicant must demonstrate how the CHIPS Incentives requested will incentivize the applicant to make investments in the United States that would only occur with the CHIPS Incentives. This gives us the impression that the applicant's investment decisions may not be based on market orientation, commercial interests, and logic, because those investments would not occur without the CHIPS Incentives.

38.6. Regarding the intensity of financial support. In terms of the total amount, direct grant funds total up to USD 38.22 billion, and loans and loan guarantees can support approximately

[27] The delegation of China indicated at the meeting that a longer written version of their statement would be provided for inclusion in the minutes.

USD 75 billion in principal loan. CHIPS Incentive funds are typically, at most, 35% of project capital expenditures on specific projects, and eligible projects must also receive subsidies at the local government level. In addition, under the CHIPS Act, eligible projects can apply for investment tax credits of up to 25% of the relevant investment amount. The large scale and intensity of financial support for CHIPS Incentives can easily distort the market.

38.7. Regarding priority areas of support, the notice sets the prioritization and selection factors for selecting funding applications. One of the factors is to strengthen the intent to use domestically produced iron, steel, and construction materials. This may result in local content subsidies inconsistent with the SCM Agreement.

38.8. Second, the United States also recently released a draft Notice of Proposed Rulemaking Regarding CHIPS "Guardrails", which imposes stringent restrictions on investment, production, and R&D outside the US by the subsidized companies. The draft provides that a transaction amounting to USD 100,000 is a significant transaction, and a 5% increase in capacity is a substantial expansion of capacity. The double standard is evident when comparing these figures with the US subsidy amount and capacity target. The US intends to safeguard its interests by excluding some Members, including China, from the global supply and industrial chain, thereby restricting the development of China's semiconductor industry. This is a typical Cold War mentality, a zero-sum game, and trade bullying.

38.9. Third, in addition to discriminatory industrial subsidies, the United States has continued to tighten export controls on the semiconductor industry to China. Since this year, the US has added more Chinese enterprises to its entity list, and applied Foreign Direct Product Rule (FDPR).

38.10. China believes that the United States' practice of weaponizing trade policies and coercing other Members has broken the established layout of the global semiconductor industry chain based on the advantages of resource endowments, and is the biggest obstacle to global trade and investment liberalization and facilitation, as it not only deviates from the objective laws of the market economy, and seriously disrupts the regular order of international trade and investment, but also impacts upon the rules-based multilateral trading system.

38.11. The United States has implemented non-market measures in an undisguised manner, maliciously disrupting the global semiconductor industry chain and supply chain, abusing long-arm jurisdiction to coerce other Members to abide by US domestic laws, and going further and further down the road of unilateralism, being a destroyer of the multilateral trade system and a manipulator of double standards in industrial policy.

38.12. The practice of abusing market dominance and forcing the decoupling of the semiconductor industry among Members has hindered technological progress and the global economic recovery after the pandemic. China calls on the WTO to strengthen its oversight of US practices related to violating WTO rules, and to work together to maintain the stability of the semiconductors' global supply and value chain stability.

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

38.14. The Russian Federation's intervention under this agenda item also applies to Agenda Items 38 and 39 of the revised airgram.

38.15. We thank the delegation of China for putting this item on the agenda. The Russian Federation is deeply concerned by the protectionist course taken by the United States as concerns the semiconductor industry.

38.16. The United States is seeking to secure its own economic interests and global leadership position by introducing a wide range of trade restrictions on semiconductor and electrical component markets. As we have heard from the representative of China today, and during the CTG meeting earlier this month, disruptive and restrictive measures introduced by the US include, in particular, restrictions on exports from the US of semiconductors. The measures also involve anti-competitive arrangements with Japan and the Netherlands to jointly restrict advanced chip-manufacturing equipment exports to China.

38.17. These trade restrictions are not aimed only at China. The record number of unilateral measures imposed against Russia, including bans on the supply of semiconductor products, leaves no doubt about the geopolitical nature of the US' unlawful actions, which aim to put up a barrier to prevent access to innovative products, as well as to undermine the technological progress and development prospects for the economies of certain countries.

38.18. The unilateral imposition of politically motivated trade restricting measures clearly demonstrates the new reality that no Member is safe from the same unlawful treatment. Washington continues to abuse the national security exceptions stipulated under the WTO provisions to justify discriminatory measures that aim to restrict fair competition. Such actions undermine the functioning of an open and fair multilateral trading system.

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

38.20. The publicly available, and published, CHIPS Act explains in detail the initiative, including which entities and projects are eligible to receive support, and the types of support that they are eligible to receive.

38.21. The CHIPS program has a website dedicated to publicly sharing information at www.chips.gov. On this public website, the US Department of Commerce has published its initial implementation strategy and the first notice of funding opportunity.

38.22. The CHIPS Act consists of three distinct initiatives: (i) large-scale investments in leading-edge logic and memory manufacturing clusters; (ii) expansion of manufacturing capacity for mature and current-generation chips, new and specialty technologies; and (iii) initiatives to strengthen and advance US leadership in R&D.

38.23. As we have explained to China previously, the contemplated support is consistent with US law and WTO commitments. As detailed in the CHIPS Act and implementing regulations, a successful CHIPS program will respond to market signals, fill market gaps, and reduce investment risk to attract significant private capital. To that end, the publicly available CHIPS Act and notice of funding opportunity set forth in detail the criteria, such as economic and national security objectives and commercial viability, that the Department of Commerce will use to evaluate applications.

38.24. Contrary to China's speculation, the evaluation criteria do not contain a requirement to use domestically produced inputs. In addition, the US Department of Commerce will implement certain restrictions to ensure that those who receive CHIPS funds cannot compromise national security. Those national security-based restrictions are described in more detail in the Act and in a notice of proposed rule-making published in the Federal Register on 23 March 2023, which also solicited comments on the proposed rule.

38.25. Again, this Committee is not an appropriate forum for issues related to national security. We would also note that China also has a semiconductor program. In particular, the national IC fund, started in 2014, has never been notified. In addition, China has numerous programs at the central and sub-central levels of government in the form of government guidance funds, none of which has been notified.

38.26. The Committee took note of the statements made.

39 UNITED STATES – SECTION 301 TARIFFS ON CERTAIN GOODS FROM CHINA (ID 90) – 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. We are deeply concerned that the United States has imposed Section 301 tariffs on China's USD 360 billion worth of goods imported to the US for more than four consecutive years, and extended them again, even if the dispute settlement panel ruled that the measures were inconsistent with the WTO rules.

39.4. The Section 301 tariffs imposed by the United States on certain goods from China not only seriously violate the WTO rules; they are also not serving the interests of Chinese and American enterprises and people. According to the report of the United States International Trade Commission (USITC), the cost of Section 301 tariffs is almost entirely borne by US importers, making it more expensive for US enterprises to purchase goods. The Section 301 tariffs also undermine the stability and security of the global supply chain, and contribute to the high levels of US inflation.

39.5. We urge the United States to correct its unfair practices, to remove all Section 301 tariffs imposed on Chinese products as soon as possible, and to maintain the rules-based multilateral trade order.

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

39.7. 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.

39.8. 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% of 2017 imports into China from the United States.

39.9. China, of course, did so without obtaining the authorization from the Dispute Settlement Body (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 future.

39.10. With respect to *United States – Tariff Measures on Certain Goods from China (DS543)*, it is a matter before the Dispute Settlement Body and the United States has already provided its views there. For awareness, the United States has appealed issues of law covered by the report of the panel, 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 Article 17.1 of the DSU.

39.11. The United States notes 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 United States had a stark choice: either take action to protect its citizens, innovators, and businesses against the serious, ongoing harm from China's policies and practices, or simply accept that this harm will continue because the WTO does not provide the necessary disciplines or remedies.

39.12. The view of the US 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 an effective remedy for those practices.

39.13. The Committee took note of the statements made.

40 UNITED STATES – QUANTITATIVE RESTRICTIONS ON IMPORTS OF STURGEON (ID 91) – STATEMENT BY THE EUROPEAN UNION

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

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

40.3. 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 biennial QR notifications.

40.4. As a reminder regarding the facts: in 2014, the United States 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. 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.

40.5. We are concerned that the trade bans cover both wild and farmed sturgeon. As previously explained, the European Union's main concern is that the United States does not consider wild and farmed sturgeon 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. In addition to raising the issue in the CMA, we have repeatedly conveyed our position in many bilateral contacts. Despite all our efforts, the US position remains unchanged.

40.6. The United States 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's market under pressure in case of a sudden and significant increase in imports from other countries that can no longer export to the US.

40.7. We would welcome an update from the United States, including the latest US proposal to list four additional species of sturgeon. The European Union would like to explore whether less trade restrictive options would be available. The EU looks forward to further engagement with the US with a view to finding a mutually acceptable way forward on this issue.

40.8. The representative of Uruguay indicated the following:[28]

40.9. Uruguay thanks the European Union for including this item on the agenda of this meeting, and wishes to take the floor to reiterate its concern regarding the regulatory proposal to list four species of Eurasian sturgeon as endangered species under the United States Endangered Species Act of 1973. The adoption of the measure would result in a ban on the importation of the listed species, including the Russian sturgeon (*Acipenser gueldenstaedii*), which is produced in a sustainable manner by Uruguayan companies that ship a significant share of their exports to the United States.

40.10. Uruguay understands and supports the intention to protect endangered species of sturgeon in natural habitats. However, we believe that the proposed rule, as currently drafted, would not only be counterproductive for the conservation of species in the habitats in which they are found, but would also have a negative impact on the sustainable sturgeon-farming industry, which currently supports the continuity of the species with viable alternatives for captive breeding that are not directly connected to the degradation of the sturgeon's habitat and to poaching, which threatens the Ponto-Caspian species in the native states of their area of distribution.

40.11. We believe that this change of rule underestimates fish-farming's positive impact on the global industry, given that a huge volume of world trade in *Acipenser gueldenstaedii* derives from legally farmed production. The sturgeon-farming industry outside the area of distribution has little or no influence on the results of the restoration of the Caspian Sea habitat. However, the change of rule proposed by the USFWS will be more punitive for the fish-farming industry than for the infringing states in the area of distribution.

40.12. We believe that the preservation of the Ponto-Caspian species could be ensured by establishing a comprehensive approach involving active cooperation with sustainable sturgeon fish farms to protect the species through continuous reproduction and regulated trade. We would very much appreciate an update on the status of the proposed rule and, once again, call for a solution

[28] The delegation of Uruguay indicated at the meeting that a longer written version of their statement would be provided for inclusion in the minutes.

that makes it possible to protect wild species without creating a barrier to trade for those bred in captivity.

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

40.14. We appreciate the continued interest of the European Union and Uruguay 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.

40.15. We refer the European Union and Uruguay to our previous interventions on this issue, and reiterate our offer to facilitate continued discussion among the relevant authorities on this issue.

40.16. The Committee took note of the statements made.

41 OTHER BUSINESS

41.1 India – Continued Concerns with Indian Restrictions on the Imports of Certain Pulses (ID 36) – Statement by Canada

41.1. The representative of Canada indicated the following:

41.2. Since 2018, Canada, Australia, the European Union, and the United States have raised concerns with India's use of trade restrictive and domestic support measures for pulses, and the significant negative impact these measures have had for our exporters. We have called for India to review its trade restrictive measures on dried peas and other pulses and to implement alternative, WTO-consistent policy options that promote a predictable and transparent import regime for pulses.

41.3. In the spirit of contributing to ongoing endeavours to improve the discussions of STCs in WTO bodies, we recognize that the constant repetition of statements on this issue is unlikely to yield significant progress. As such, we opted not to raise again this concern in the CMA so soon after the recent meeting of the Council for Trade in Goods.

41.4. That said, this should not be construed that India has addressed our concerns in a satisfactory manner. Our significant concerns with India's policy measures remain unchanged. We will continue to monitor India's unjustifiable policy measures closely, and to urge India to undertake and implement WTO-consistent measures as soon as possible. As appropriate, we will continue to state the specific problems and impacts that India's trade restrictive measures represent for our exporters.

41.5. The representative of India indicated the following:

41.6. We will convey these concerns to our Capital and would request that delegations refer to our statement made in the previous meeting of the Council for Trade in Goods.[29]

41.7. The Committee took note of the statements made.

41.2 Dates of next meetings

41.8. The Chairperson asked the Committee to take note of the following arrangements. The next formal meeting of the Committee was scheduled to take place on 16-17 October 2023. The next informal meetings for the HS multilateral review and other issues, as appropriate, were expected to take place on 13 June and 23 November 2023. 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.

41.9. 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

[29] Document G/C/M/145, paragraphs 28.16-28.18.

the time-period to upload statements in the system, or make them available to Members, until 5 May 2023, should Members so wish.

41.10. The Committee took note of the statement.

42 ELECTION OF CHAIRPERSON

42.1. The Chairperson recalled that the rules of procedure for the Committee stated that a Chairperson shall be elected at the end of the first meeting of the Committee every year. However, as Members were aware, the Chairperson of the Goods Council had been holding consultations with Members on a slate of names to chair the CTG's subsidiary bodies, and a list would be considered at a subsequent CTG meeting. Consequently, the appointment of a chairperson for the Committee had been delayed. He therefore suggested to proceed as in 2022, namely that, as soon as there was consensus on a slate of names, the Secretariat would circulate an email with the name of the proposed Chairperson for the CMA for 2023. If no objection was received within the time-frame indicated in that email, the candidate would be deemed to have been elected by the Committee by acclamation. The Secretariat would send a second email by way of confirmation.

42.2. The Committee took note of the statement.

42.3. The meeting was adjourned.