



Committee on Trade Facilitation

**MINUTES OF THE MEETING OF THE COMMITTEE ON TRADE FACILITATION
22-23 APRIL 2021**

CHAIRPERSON: MR CHRISTOPHER O'TOOLE (CANADA)

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1 MATTERS RELATING TO THE IMPLEMENTATION AND ADMINISTRATION OF THE TRADE FACILITATION AGREEMENT

1.1. The Chairperson welcomed delegations and recalled that the agenda for the meeting had been circulated in document WTO/AIR/TFA/16 and its revision in WTO/AIR/TFA/16/Rev.1.

1.2. The Trade Facilitation Committee (TFC, the Committee) agreed to continue the practice of holding Item 2 of the agenda "Experience sharing/thematic discussions" in informal mode, to allow for frank and interactive exchanges.

1.3. The Committee also agreed that observers to the meeting could remain throughout the informal session.

1.4. The delegate of the United States requested to make two statements under "Other Business". The first statement concerned extending an invitation to the International Trade Centre (ITC) to make a presentation at the June Committee meeting. The second statement previewed a webinar that the US would be hosting on the TFA from the perspective of a group of US companies.

1.5. The Chairperson added two items: (1) the dates for the Committee's meetings in 2021; and (2) inviting Annex D partners and the Global Alliance for Trade Facilitation to the next meeting of the Committee.

1.6. The agenda was adopted with the proposed changes.

1.1 Notifications by Members

1.7. The Chair explained that subsequent to the circulation of the agenda, notifications had been received from the Democratic Republic of Congo and Rwanda. These notifications would be included in the agenda for the next meeting.

A. Notifications under Articles 15 and 16 of the Trade Facilitation Agreement

1.8. The first two notifications came from Burundi. The first concerned the definitive dates for category C provisions, contained in document G/TFA/N/BDI/1/Add.1. The second notification, circulated in document G/TFA/N/BDI/2, provided information on arrangements and progress on technical assistance and capacity building.

1.9. The delegate of the United States indicated the following:

1.10. We thank Burundi for your notification. We are encouraged to see the variety of technical assistance providers already working with Burundi to support implementation on a range of provisions. We hope that this document helps Burundi identify partners for those remaining provisions where it seeks additional assistance. Providers have a clear signal where there is a need, and we hope are open to further discussions with you.

1.11. We note that Burundi has yet to submit transparency notifications per the Trade Facilitation Agreement (TFA, the Agreement) Articles 1:4, 10:6:2, and 12:2:2, which Burundi notified as category A. We urge you to make this information available to the Secretariat promptly. We look forward to reviewing Burundi's notifications in the future.

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

1.13. We welcome Burundi's notifications of its detailed arrangements on assistance provided for certain category C commitments. On the gaps that still exist, we support the US statement and hope

that following donor coordination, Burundi could report by the dedicated session in October as to where any needs remain. We have had a programme in place with ITC that has been assisting Burundi since 2018 within the EUR 15 million SADC (Southern African Development Community) regional programme to streamline cross border processes among SADC Members.

1.14. The delegate of Burundi indicated the following:

1.15. Burundi recognises the importance of this Agreement and we addressed UNCTAD and COMESA for assistance. We hope to implement it as soon as possible.

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

1.17. The next notification came from Cambodia in document G/TFA/N/KHM/4. It contained information on measures taken by Cambodia, and the progress made on technical assistance.

1.18. The delegate of Japan indicated the following:

1.19. Japan appreciates Cambodia's notification of information on the arrangements and progress made in the provision of technical assistance and capacity building support of category C designations.

1.20. Japan Customs has been providing technical assistance to Cambodian Customs for some years now, especially regarding Article 7.7 of the TFA. Based on the needs of Cambodian Customs, we invited trainees from Cambodian Customs to Japan in 2017 and assigned our short-term experts to help with introducing the Authorized Economic Operators (AEO) program in Cambodia in 2020. JICA (Japan International Cooperation Agency) experts have also been assigned from Japan Customs as long-term policy advisors in Cambodia.

1.21. Japan is committed to continuing its support for the introduction of the AEO program in Cambodia.

1.22. The delegate of the United States indicated the following:

1.23. We thank Cambodia for your notification. We are encouraged to see the variety of technical assistance providers already working with Cambodia to support implementation on a range of provisions. We hope that this document helps Cambodia identify partners for those remaining provisions where it seeks additional assistance. Providers have a clear signal where there is a need, and we hope they are open to further discussions with you.

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

1.25. The EU welcomes Cambodia's notification on its arrangement with donors. The EU would like to note the following: Cambodia continues the implementation of the commitments in category C of Article 16:2 with the support of the EU funded ARISE+ Cambodia programme. This project, which is running between 2019 and 2023, with a budget of EUR 9.35 million, supports the improvement of customs and trade facilitation with a view to a better integration of Cambodia in the ASEAN Economic Community and an accelerated implementation of the TFA by the Cambodian Government.

1.26. Cambodia's latest TFA notification on capacity building and technical assistance arrangements fails to fully capture the support provided by the ARISE+ Cambodia programme under its trade facilitation component regarding the National Single Window, Authorised Economic Operators, pre-arrival processing and product risk management (perishable goods).

1.27. ARISE+ Cambodia is also supporting the recently established National Committee on Trade Facilitation (NCTF) in drafting a roadmap for the implementation of the TFA commitments. The business sector is signalling that some of the new tools in place, such as the National Single Window, have not triggered a full digitalisation of customs procedure. Companies are still required to submit signed hard copies of the documents submitted to the single window.

1.28. The delegate of the United Kingdom indicated the following:

1.29. The UK would like to thank Cambodia for its detailed notification under Article 16 of the TFA and like others, we hope this notification serves as a useful basis for discussion with donors on the ground. We support Cambodia through UNCTAD's capacity building programme which supports Cambodia's NTFC. We take an active interest in the full sweep of Cambodia's implementation of the TFA.

1.30. The delegate of Cambodia indicated the following:

1.31. Our thanks go to Japan, the US, the EU and the UK for their comments and information on technical assistance in responding to Cambodia's notification.

1.32. I would like to take this opportunity to thank development partners and all stakeholders for providing technical assistance and support to the implementation of the category C commitments. Today, we are honoured to have two Deputy Directors General from the General Department of Customs and Excise of Cambodia who will make two presentations under agenda item 4 to share Cambodia's experiences focused on the shifting from category C to B of Article 7:9 perishable goods and mitigating COVID-19, and Article 10:4 Single Window, as per requests of Members at the last TFC meeting.

1.33. The Committee took note of the notification and the statements made.

1.34. The next notification came from Chad in document G/TFA/N/TCD/1/Add.1. This notification indicated the definitive implementation date for category B measures, and the indicative date for category C measures.

1.35. The delegate of Japan indicated the following:

1.36. Japan appreciates Chad's notification to the committee of definitive dates for implementing the provisions it has designated in Category B within the extended notification deadline.

1.37. The delegate of the United States indicated the following:

1.38. We thank Chad for your notifications.

1.39. We note that Chad has yet to submit transparency notifications per TFA Articles 1:4, 10:6:2, and 12:2:2, which Chad notified as category A. We urge you to make this information available to the Secretariat promptly. We look forward to reviewing Chad's notifications in the future.

1.40. The Committee took note of the notification and the statements made.

1.41. The next notification was from Lao People's Democratic Republic circulated in G/TFA/N/LAO/3, which provided information on arrangements and progress in the provision of technical assistance.

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

1.43. We note and appreciate Lao People's Democratic Republic's notification. We see that there are many category C provisions notified. Currently the EU does not assist Lao PDR, although we have proposed several times to provide technical assistance. This has been said at several very high-level meetings. We repeat our availability to provide assistance if requested.

1.44. The delegate of the United States indicated the following:

1.45. We thank Lao PDR for your notification. We are encouraged to see the variety of technical assistance providers already working with Lao PDR to support implementation on a range of provisions. We hope that this document helps Laos identify partners for those remaining provisions where it seeks additional assistance. Providers have a clear signal where there is a need, and we hope are open to further discussions with you.

1.46. The delegate of Lao PDR indicated the following:

1.47. I wanted to thank donors for providing assistance to Lao PDR to implement the TFA. With regard to the EU and US statements, we will coordinate with capital and get in touch soon.

1.48. The Committee took note of the notification and the statements made.

1.49. The next notification was from Lesotho, and it had been circulated in document G/TFA/N/LSO/2. It provided information on arrangements and progress in the provision of technical assistance.

1.50. The delegate of the United States indicated the following:

1.51. We thank Lesotho for your notification. We are encouraged to see the variety of technical assistance providers already working with Lesotho to support implementation on a range of provisions. We hope that this document helps Lesotho identify partners for those remaining provisions where it seeks additional assistance. Providers have a clear signal where there is a need, and we hope are open to further discussions with you.

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

1.53. We are grateful that Lesotho has notified its needs for assistance and progress, particularly with regard to assistance. The EU has in place a programme of EUR 6 million, managed to some extent by GIZ¹, which aims to contribute to Lesotho's sustainable integration into regional trade. We invite Lesotho to examine to what extent this programme could be used for TFA implementation, and to contact our delegation.

1.54. The delegate of the United Kingdom indicated the following:

1.55. The UK would like to thank Lesotho for its detailed notification under Article 16 and, in particular, its updates in relation to Article 7:8. The UK supports Lesotho through the WCO and UNCTAD capacity-building programmes.

1.56. This includes assistance through the WCO (World Customs Organization) for the streamlining of its air cargo requirements, an important aspect of meeting obligations under Article 7:8 of the TFA. The UK looks forward to continuing its work with Lesotho on its TFA implementation.

1.57. The Committee took note of the notification and the statements made.

1.58. The Chair turned to the next notification which was from Madagascar circulated in G/TFA/N/MDG/3 plus Corrigenda 1 and 2. Madagascar's notification provided information on arrangements and progress in the provision of technical assistance.

1.59. The delegate of the United States indicated the following:

1.60. We thank Madagascar for your notification. We are encouraged to see the variety of technical assistance providers already working with Madagascar to support implementation on a range of provisions. We hope that this document helps Madagascar identify partners for those remaining provisions where it seeks additional assistance. Providers have a clear signal where there is a need, and we hope are open to further discussions with you.

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

1.62. I would like to thank Madagascar for their notification which is very complete and will be very useful to us in our bilateral discussions. We hope that the areas that remain to be determined in terms of its assistance will be solved very quickly.

1.63. The delegate of Madagascar indicated the following:

1.64. As was said earlier by the EU and the US, there is already support and assistance provided by donors, and we would like to take this opportunity to express our sincere thanks to these donor

¹ Deutsche Gesellschaft für Internationale Zusammenarbeit.

agencies who have strongly helped us in the areas that we listed. There are still many areas in which we need support. We can say that at this stage Madagascar unfortunately is one of the Members that does not benefit from appropriate technical assistance. and We continue therefore to make contact with our partners and for this we count on their support as well as the WTO Secretariat.

1.65. The Committee took note of the notification and the statements made.

1.66. The Chair turned to the notification of Nepal circulated in G/TFA/N/NPL/1/Add.2. This notification provided information on several provisions that had been shifted from category C to category B, along with the definitive dates for those additional category B designations. The notification also included the indicative dates for their category C designations.

1.67. The delegate of Japan indicated the following:

1.68. Japan welcomes the notification from Nepal and the fact that Nepal is working on the acceleration of the implementation of the TFA provisions. We are interested to hear how Nepal was able to shift the provisions from category C to category B.

1.69. The delegate of the United States the following:

1.70. We thank Nepal for your notification and note the commendable effort to shift your TFA commitments from category C to category B. We are interested in hearing Nepal's story regarding how you were able to accelerate implementation of the TFA amid the challenges of the pandemic. We encourage Nepal to share that experience with the Committee at a future meeting.

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

1.72. The EU associates itself with the comments made by Japan and the US. We would be interested in having more information as to how Nepal was able to shift several provisions from category C to B. The EU notes that it has a programme of assistance of EUR 5 million in place, managed by ITC, to help Nepal to implement some of its Category C commitments.

1.73. The delegate of Nepal indicated the following:

1.74. Thank you to EU, Japan and US for their kind words and interest in hearing how Nepal succeeded to shift various provisions from category C to B. Nepal will share its information in detail at the next meeting. We would also like to extend our thanks to all development partners, including the EU, for extending their continuous support in the area of the TFA. Nepal will share its experience in future meetings.

1.75. The Committee took note of the notification and the statements made.

1.76. The next notification was from Niger in document G/TFA/N/NER/4. The notification provides information on arrangements and progress in the provision of technical assistance.

1.77. The delegate of the United States indicated the following:

1.78. We thank Niger for your notification. We are encouraged to see the variety of technical assistance providers already working with Niger to support implementation on a range of provisions. We hope that this document helps Niger identify partners for those remaining provisions where it seeks additional assistance. Providers have a clear signal where there is a need, and we hope are open to further discussions with you.

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

1.80. The EU would like to congratulate Niger for having informed the Committee of the state of progress in the supply of technical assistance from several donors for its commitments under category C. The EU would like to recall that, together with other donors, it finances a EUR 20 million programme for TFA implementation in West Africa. The programme covers a number of activities in Niger.

1.81. The delegate of Niger indicated the following:

1.82. Mr. Chairman, as this is the first time that I take the floor in this meeting, let me first congratulate you on your appointment as Chairman of this Committee and on the way that you are conducting our work.

1.83. We would also like to thank Members for the interest in our notification. However, we would like to point out at this stage and in the light of the notification thus made, that very little progress has been made in the provision of technical assistance to our country.

1.84. Indeed, Niger has not benefited from the level of international support that it had hoped for in order to provide meaningful assistance in the implementation of this Agreement, despite the fact that it was the first LDC and 12th WTO Member to have ratified the TFA.

1.85. I would therefore like to conclude my remarks by saluting the partners, such as the World Bank Group and the International Trade Centre, who are accompanying us at this stage, and by reiterating the need for greater and more diversified support from the donor community for the full and effective implementation of the Agreement by my country in accordance with our commitments.

1.86. We take note of the comments made by the delegation of the US as to the need to seek a diversity of donors.

1.87. The Committee took note of the notification and the statements made.

1.88. The next notification was from Senegal and had been circulated in G/TFA/N/SEN/4. The notification provided information on Senegal's arrangements and progress in the provision of technical assistance.

1.89. The delegate of the United States indicated the following:

1.90. We thank Senegal for your notification. We are encouraged to see the variety of technical assistance providers already working with Senegal to support implementation on a range of provisions. We hope that this document helps Senegal identify partners for those remaining provisions where it seeks additional assistance. Providers have a clear signal where there is a need, and we hope are open to further discussions with you.

1.91. The delegate of Senegal indicated the following:

1.92. I want to thank the delegation of the US, particularly for USAID and their support, particularly in regard to category C. We hope that we will continue to be able to enjoy additional support for the implementation of the other measures from our trading partners.

1.93. The last notification in this category was from Tanzania and had been circulated in G/TFA/N/TZA/2/Add.1. The notification provided the indicative implementation dates for category C designations.

1.94. The delegate of the United States thanked Tanzania for the notification.

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

1.96. We have in place several regional programmes of technical assistance for TFA implementation in the region, in which Tanzania can participate.

1.97. The delegate of Nepal made a statement on behalf of the LDC Group:

1.98. The LDC Group wishes to take note of all the notifications mentioned in the agenda of today's meeting under the Articles 15 and 16 by LDC Members. LDC Members had put huge effort to make the submissions in time, despite many constraints our capitals faced during the COVID-19 pandemic. We commend our development partners stationed in LDCs which extended support to LDCs for

preparing our notifications. We also commend officials of the WTO Secretariat who supported the process.

1.99. Some of our countries are still facing severe constraints in capital and we urge the Members to assist LDCs with the flexibilities available to adapt to the circumstances they face. Regarding the notifications from our Members listed in this agenda item, it is obvious that LDCs have been very precise and targeted in the dates they have chosen for implementation and with regard to provisions where challenges are most evident. Every LDC has been facing different problems in relation to the provisions and the corresponding implementation periods.

1.100. My country, in addition to our definitive dates, was able to avail itself of the shift of provisions, where our indicative provisions for category C could be shifted to category B. This is due to the high level of commitment and hard work of our authorities, and the support of our development partners.

1.101. The delegate of Japan indicated the following:

1.102. As stated in the previous meeting, Japan especially recognizes the fundamental importance of notifications under Article 16 of the TFA and welcomes all the notifications made by Members to date. Japan continues to encourage Members whose notifications have been delayed, to submit their notifications as soon as possible, and to explain the current situation in the Committee meeting.

1.103. We agree that support from developed country Members is important for some developing country and LDC Members to notify and implement category C provisions. In this regard, Japan is a donor of the Customs Co-operation Fund (CCF) and also allocates its national budget to continue providing technical assistance to LDC and developing country Members.

1.104. Having said that, we would like to further consider how we could deal with the concerns raised in this Committee by the Members that have difficulties with category C notifications.

B. Notifications under Article 17 of the Trade Facilitation Agreement

Informal Small-Group Consultations to Explore Further the Submission of Notifications from Peru (G/TFA/N/PER/1/Add.1), Tonga (G/TFA/N/TON/1/Add.3) and Ukraine (G/TFA/N/UKR/1/Add.3) under Article 17 of the Trade Facilitation Agreement – Report by the Chairperson

1.105. The Chair recalled that the notifications under Article 17 from Peru (G/TFA/N/PER/1/Add.1), Tonga (G/TFA/N/TON/1/Add.3) and Ukraine (G/TFA/N/UKR/1/Add.3) had been first considered by the Committee at its meeting of 26 January. There had been an exchange of views within the Committee. Some Members had expressed the view that the requests could not be considered as they had been notified outside of the deadline stipulated in Article 17:1. Members had expressed appreciation for the transparency provided by the three requesting Members. There had also been expressions of interest and willingness amongst the Committee to help Members that were experiencing implementation difficulties to move forward with their implementation. Other Members, while recognizing the importance of the deadline in Article 17:1, referred to the explanations provided by the requesting Members for why they had missed the notifying deadline and taking those circumstances into account, expressed positive consideration for the requests.

1.106. The Committee had not been able to reach consensus on the requests and they had been reverted to the Committee's meeting in March. A second exchange of views during the March meeting did not bring the Committee any closer to consensus on the matter. In an effort to reach a resolution of the situation, the Chair offered to hold consultations with interested Members.

1.107. The Chair had held two small-group informal consultation meetings with the participation of 17 delegations which had expressed interest in taking part in the exchange. The meetings had focused on two aspects of the issue: looking to identify a way to move forward on the issue of the notifications submitted by Peru, Ukraine and Tonga; and secondly, exploring ways to avoid such situations from occurring in the future.

1.108. The Committee seemed to not only have a healthy interest in the matter, but also a great degree of willingness to help Members that were experiencing implementation difficulties to move forward with their implementation processes. The question was how the Committee could support Members' efforts to track their implementation deadlines in order to avoid a repetition of the current situation.

1.109. Encouraged by the discussions in the Committee and in the consultations, the Chair put forward a number of steps, including some that had been raised by delegations during the consultations, on how to provide Members with additional support.

1.110. One suggestion for Members' consideration, and which the Chair had already circulated on Monday 19 April, was that the Committee annually circulate a reference document that identified Members that had implementation dates coming up over the coming two-year period. For example, a document could be circulated at the start of 2022, setting out the 2022 and 2023 implementation dates by relevant provision as submitted by those Members. The following year, a document could be circulated covering the 2023 and 2024 implementation process, and so on, on an annual basis. The Chair had asked the Secretariat to put together an example document that was proposed for Members' consideration. The information in the illustrative draft template had been drawn directly from the TFA Database and covered the period from 1 May 2021 to 31 December 2022.

1.111. Another suggestion was that the Secretariat, in its regular updates to the Committee, would remind Members of any upcoming implementation dates within the immediate two-year period.

1.112. Two new functionalities would be added to the TFA Database in an effort to further support Members to keep track of their implementation dates. The first new functionality allowed Members to directly access their relevant information that would be contained in the reference document that was just mentioned. The second new functionality was the inclusion on each Member's page of a window that showed the measures that were scheduled for implementation within the coming two years. The window would only appear if the Member had provisions to be implemented during the upcoming 2-year period. For example, right now, only Members that had implementation dates occurring during 2021 and 2022 would see the window on their profile page.

1.113. The delegate of Japan indicated the following:

1.114. Japan thanks the Chair for considering this issue and providing us with a concrete idea regarding measures for preventing a recurrence of overdue notifications under Article 17, which Japan expressed its interest in at the last formal meeting.

1.115. The ideas of compiling the implementation dates, sending reminder letters to Members, and increasing functionality of the online database can all help Members recognize their respective implementation dates well in advance, and provide timely notifications of any requests to extend the dates when needed.

1.116. Japan is ready to further discuss this matter with the Members to pursue practical solutions.

1.117. The delegate of the United States indicated the following:

1.118. The United States would like to request that the template would include a statement indicating this document is a courtesy generated by the Secretariat and has no legal standing.

1.119. The delegate of Nepal indicated the following statement on behalf of the LDC Group:

1.120. The LDC group extends sincere appreciation to you Chair for updating on the outcomes of the informal consultations and sharing the draft template for annual reminders of implementation dates in upcoming period based on member-wide measures.

1.121. An early warning mechanism would be helpful in reminding Members about the upcoming deadlines.

1.122. The LDC group found the possible template useful. It will support a timely implementation of the Agreement and also timely notification for extension of implementation dates as and when required.

1.123. While discussing the implementation of TFA, we may need to consider the provisions laid down in the Agreement in a more pragmatic manner.

1.124. Implementation may not only be limited to the letter but also to the spirit of the Agreement. Therefore, encouragement and motivation to LDCs require result-focused outcomes through effective implementation of the Agreement in a pragmatic manner.

1.125. Furthermore, such a situation may arise in the days ahead as many LDCs have notified their definitive dates for category B last year and indicative dates for category C this year.

1.126. LDCs facing various challenges even in notifying their dates of implementation will definitely face many more obstacles in implementation. Therefore, a mechanism to collaborate, facilitate and encourage Members for implementation would be meaningful.

1.127. Furthermore, additional support from development partners to implement the provisions by engaging with the areas as notified by the LDCs in their technical assistance requirements would minimize the possibility of such extensions.

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

1.129. Thanks to the Chair for his efforts and outreach to reach a consensus on the notifications that have been on the agenda of this Committee. We need to get out of this impasse and deploy all efforts to avoid repetition of such situations.

1.130. Indeed, we strongly believe that the US proposal on the agenda update (G/TFA/W/35) would help, as would a scoreboard presenting the deadlines related to all category B and C commitments. Members will then be better equipped to monitor their situation.

1.131. In addition, we think that an issue that could be reviewed is the role of the NTFCs in ensuring that Members are alert when they have difficulties in implementation. We are looking forward to a constructive approach to implementation and we hope that the suggestions, including with the US remark, could be implemented.

1.132. TFA implementation is a key asset to better fight the COVID-19 pandemic. Even without useful databases, Members should take the monitoring of their commitments extremely seriously. We note that too many category A commitments remain to be implemented with deadlines exceeded by more than three years. We need to apply the rules strictly.

1.133. The representative of Sri Lanka indicated the following:

1.134. Firstly, thank you for that informal meeting where we were able to present ideas, taking us forward on this proposal where Members will know of their definitive implementing deadlines, if they wish to seek extension within the time limits enshrined in the TFA. I think the document, subsequent to the EU circulated document, is very good and the efforts are commendable. My only concern is that some of the commitments are due to expire at the end of this year, so there are some Members who may really have to seek extension to the definitive dates. How do you plan to address that situation? We really need to draw attention to those deadlines. Once that is clear, we can agree to your proposal regarding the annual notifications by the Secretariat, in an informal note, which will draw the attention of the Members to act promptly.

1.135. The Secretariat posting reminders on the web portal of the TFA was another way to inform the other Members of closing deadlines. We are favourable to have an array of ways to inform the Members about the deadlines.

1.136. Coming to the EU proposal that NCTFs be entrusted with monitoring their implementation dates, I think that most of the NTFCs do monitor the dates as part and parcel of their functions. Last year had been challenging for most of the NTFCs. When I talk of Sri Lanka's NTFC, I think we have

a lot of members, including the Customs Central Agency, because the secretariat is located in Sri Lanka Customs. The officials made an effort to convene the meetings, but it was very difficult for us to even have a virtual meeting because of other constraints due to the pandemic. I think we had also taken into account the future situation which will cause difficulties in monitoring the progress and other deadlines as a result of unforeseen challenges. We cannot solely rely on the process of circulating a reminder of upcoming implementation dates in view of any unexpected challenges.

1.137. The Chair indicated that the departure point was Members' own responsibility to monitor their situation. However, it had been recognised that Members faced challenges and the discussion had focused on ways in which the Committee could support awareness of the information provided by Members regarding implementation dates for the category B and C items, and how to make use of electronic tools to maintain a line of sight of implementation dates that had been notified to the Committee. Therefore, the first item would be a template, which would be an evergreen document with a TF document symbol, issued once a year, that would be on the agenda of the Committee meetings as part of the regular monitoring of notifications. On this basis, the Chair could call the attention to such deadlines and ensure that the Membership was aware of them, in particular those Member that had been listed in the document. The Chair could also recall the availability of Article 17.

1.138. On the question relating to situations where Members considered that they were or would be experiencing difficulties to comply with a previously notified deadline, the TFA already set out a procedure of notifications to that effect. The Secretariat had been circulating such notifications, almost on a regular basis, since last year and that was how the Committee had been operating.

1.139. In terms of a second supporting element, everything was intended to work together for the Committee to support Members' knowledge and awareness through the regular reporting that the Secretariat provided in Committee meetings. In this regard, the Secretariat could remind Members of the upcoming implementation dates in its regular updates to the Committee.

1.140. The option of letters sent out by the Chair had been considered but upon further reflection perhaps this would not be the best path to move forward. As was stated previously, the focus was on Members' responsibility to monitor their own situation and how the Committee could highlight upcoming deadlines.

1.141. Lastly, in terms of the functionalities and electronic processes, they would be available on Members' pages on the TFA Database Website (<http://www.tfadatabase.org>).

1.142. It had not yet been determined how often this discussion would be raised at the Committee. Even though the document raised in the first point would only be issued once a year, there could be a recognition of it at each Committee during the review of notifications.

1.143. The Committee agreed to request the Secretariat to produce a reference document that identified Members that had implementation dates coming up over the coming two-year period, circulate it, and place it on the agenda for the next meeting of the Committee, which would take place in June 2021.

1.144. The Chair turned to the requests from Peru, Uruguay and Tonga. The Committee had held an extensive exchange during its meetings in January and March. Additional exchanges of view had taken place during more than two hours of small group consultations. Based on these exchanges, and while acknowledging a significant willingness to help Members that were experiencing implementation difficulties to move forward with their implementation, unfortunately, the Committee had not reached consensus to agree to the requests, in spite of best efforts.

1.145. Positions had been stated clearly during the Committee's discussion on these requests, and there were no signs of arriving at a different conclusion. Should any Member wish to return to the issue of these requests at a later time, they could request for it to be included in the agenda of a future Committee meeting. However, there was no consensus in the Committee to accept the requests for extension.

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

1.147. Regarding the Ukraine notification, can we receive an explanation why Article 11 is reported as not implemented, since the EU has actively assisted Ukraine in its efforts to become a Member of the Common Transit Convention. Now that the pilot phase was over, could Ukraine further explain why it notified an extension of its definitive date for Article 11.

1.148. Regarding Tonga's notification, we take due note of Tonga's statement during its trade policy review which took place very recently and where Tonga reported on its ongoing internal efforts to ratify the TFA. We think that the fact that Tonga has not yet ratified is an element that we take into account.

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

C. Notification under Articles 1:4, 10:4:3, 10:6:2 and 12:2:2 of the Trade Facilitation Agreement

1.150. Transparency notifications were mandated by Articles 1:4, 10:4:3, 10:6:2 and 12:2:2 of the TFA. They all had the objective of providing transparency, either in a broader context – providing information on publication sources – or providing information on the specific items, such as a single window operation, the use of customs brokers, and customs cooperation.

1.151. Since the Committee's last meeting, 10 transparency notifications had been received.

1.152. The Chair drew the Committee's attention to the notification of Cambodia

1.153. The delegate of the United States thanked Cambodia for its notification.

1.154. The delegate of Cambodia indicated the following:

1.155. Cambodia wishes to thank the EU, Japan, UK and the US for their comments and information on the technical assistance and support for Cambodia in implementing category C commitments. Cambodia looks forward to working closely with those Members and all development partners on this issue.

1.156. Cambodia also thanks the US for the comments with regard to the notifications in response to Articles 1:4 and 10:4:3. As referred to in Article 10:4:3, the National Single Window has been implemented to allow traders to submit electronic license, permit, certificate and other (e-LPCO) documents for import/export since July 2019. The National Single Window is looking forward to improving the existing system and expanding to other regulatory government agencies.

1.157. The Chair drew the Committee's attention to the notification of Canada.

1.158. The delegate of Canada said that Canada was happy to fulfil its transparency obligations under the TFA. He invited Members to follow Canada's example.

1.159. The delegate of the United States thanked Canada for its notification.

1.160. The Chair drew the Committee's attention to the notification of Eswatini.

1.161. The delegate of the United Kingdom indicated the following:

1.162. The United Kingdom would like to thank Eswatini for its notification. The UK supports Eswatini through the WCO and UNCTAD capacity building programmes and takes an active interest in Lesotho's implementation of the TFA.

1.163. The delegate of the United States thanked Eswatini for its notification.

1.164. The Chair drew the Committee's attention to the notification of Liberia.

1.165. The delegate of the United States indicated the following:

1.166. We thank Liberia for your notification. We note that Liberia has yet to ratify the TFA. Can you provide the Committee with an update on the state of that process?

1.167. The delegate of the United Kingdom indicated the following:

1.168. The UK would like to thank Liberia for its detailed transparency notification. The UK supports Liberia through the WCO's capacity building programme and takes an active interest in Liberia's implementation of the TFA.

1.169. The delegate of the European Union thanked Liberia for its notification, particularly as Liberia had not ratified the Agreement. The EU was following Liberia's efforts.

1.170. The Chair drew the Committee's attention to the notification of Macao, China.

1.171. The delegate of the United States thanked Macao, China for its notification.

1.172. The Chair drew the Committee's attention to the notification of Namibia.

1.173. The delegate of the European Union thanked Namibia for its notification. There existed EU aid programmes that could be utilised by Namibia, if needed.

1.174. The delegate of the United States indicated the following:

1.175. We thank Namibia for your notification. We noted that the weblinks listed under items Article 1:1 (a)-(h) lead to the same website, which is the Customs and Excise Act 20 of 1998 and other various regulations. It may be difficult for a trader or interested party to search for the exact location of items described in the notification. For example, at what web address could a trader find the information pertaining to Namibia's appeal procedures? Does Namibia have plans to update the information on this notification to provide direct weblinks to the specific information required by items 1:1 (a)-(h)?

1.176. The delegate of Namibia indicated the following:

1.177. Thank you for the comments from the EU and US. With regard to the comment from the US, you might be right. That is caused by the fact that Namibia customs department is migrating from the Ministry of Finance to the new entity to be known as Namibia Revenue Agency. Once this revenue agency is in place, then this information will be updated once again. Many thanks for picking that up.

1.178. The Chair drew the Committee's attention to the notifications of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and Togo.

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

D. Notifications under Article 22 of the Trade Facilitation Agreement

Articles 22:1 and 22:2

1.180. Notifications under Article 22 were of two types—Article 22:1 covered notifications by donor Members on their recent capacity building activities; Articles 22:2 and 22:3 provided information on contact points.

Article 22.1

1.181. Since the Committee's last meeting on 3 – 4 March 2021, a notification was received from Australia and circulated in document G/TFA/N/AUS/5.

1.182. The delegate of the United States thanked Australia for its notification.

Article 22:3

1.183. Seven notifications under Article 22:3 since the Committee's meeting in March 2021.

1.184. The Chair drew the Committee's attention to the notification of Chad.

1.185. The Chair drew the Committee's attention to the notification of the Democratic Republic of Congo.

1.186. The delegate of the United States indicated the following:

1.187. We thank the Democratic Republic of Congo for your notification. We note that the Democratic Republic of Congo has yet to submit its notifications per TFA Articles 10:6:2 and 12:2:2, which were designated as category A. We urge you to make this information available to the Secretariat promptly. We look forward to reviewing that information in the future. We also understand the Democratic Republic of Congo has yet to ratify the TFA. Can you provide us with an update as to the status of the ratification process?

1.188. The Chair drew the Committee's attention to the notification of Lao People's Democratic Republic.

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

1.190. We welcome this information notified by Lao PDR. The EU has been informed of possible insufficient communication between the TFC regional boards and the Headquarters, and therefore less aid for TFA implementation at regional level. We would appreciate information on this, and it could be on a bilateral basis if preferred.

1.191. The Chair drew the Committee's attention to the final notifications – which were from Liberia, Morocco, Namibia and Niger.

1.192. The delegate of Paraguay indicated the following:

1.193. Paraguay would like to inform Members on the progress on the implementation of the TFA in Paraguay. We are pleased to report that despite the challenges arising from the pandemic, we have achieved 80% implementation at this stage and hope to increase this presently. Our efforts are due to the inter-institutional dynamic work ethic that we have in the country and we rely on cooperation, particularly with UNCTAD, the ITC and the development banks. We also rely on support from the US Department of Agriculture, and we have just signed a significant memorandum for the implementation of a project that would facilitate the implementation of measures on agricultural products. Paraguay is clearly showing the spirit of the Agreement in its efforts and particularly through the use of support on capacity building and technical assistance which is essential for the implementation of category C commitments and full implementation of the Agreement in the country.

1.194. Therefore, we are pleased to share with the committee that our most recent progress with regards to implementation of commitments under Article 7:6, on deadline publication, 7:7 on facilitation measures on authorised operators and 7:9 on perishable goods. In Paraguay, we have worked with our partners to strengthen our cooperation measures and to bring Members closer together to implement the TFA and to try to achieve recovery post-pandemic.

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

1.2 Status of Ratification and Notification Process**Update by the Secretariat**

1.196. The representative of the WTO Secretariat presented an update since the last Committee meeting held in March 2021. All the information presented had been sourced from the TFA Database website and it is available at (<https://tfadatabase.org>).

1.197. The delegate of the United States indicated the following:

1.198. We would like to thank the Secretariat for the presentation, in particular for the presentation on the new functionalities of the database. It was very informative and provides us with a summary of information in a way that is very user friendly. Its functionality seems to be that it is very intuitive.

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

1.200. Thank you to the Secretariat for the excellent presentation and the database developments that they have been working on. These will no doubt be very useful. They look very user-friendly to us and will allow us to hold enriching discussions, complemented by easy access to information.

1.201. The delegate of Nepal expressed the LDC group's appreciation to the Secretariat for the updates on the TFA database website.

1.202. The delegate of Sri Lanka thanked the Secretariat for the presentation.

1.203. The delegate of Vanuatu indicated the following:

1.204. Thank you to the Secretariat for the update and the demonstration. We commend the WTO for continuing to improve the accessibility on information on the TFA implementation. The information presented is really important for having access to the details, particularly for small delegations.

1.205. The Chair encouraged all delegates to access their specific Member Profile, as well as the database.

1.206. The representative of Sri Lanka indicated the following:

1.207. This is a useful instrument. Would it be possible for the Secretariat to provide an information session with presentations particularly targeting the NTFC of developing and LDC Members? Our capital-based officials and members of NTFC may not be as familiar with the TFA database website.

1.208. The Chair encouraged interested delegations to reach out directly to the Secretariat in order to organize an information session.

1.209. The Committee took note of the information and the statements made.

2 ROLE OF THE TRADE FACILITATION COMMITTEE IN THE TRADE FACILITATION AGREEMENT FACILITY – COMMUNICATION FROM THE UNITED STATES (G/TFA/W/36)

2.1. The Chair drew the Committee's attention to a communication from the United States circulated in document G/TFA/W/36 entitled "Role of the Trade Facilitation Committee in the Trade Facilitation Agreement Facility".

2.2. The delegative of the United States indicated the following:

2.3. Since the very first substantive Trade Facilitation (TF) Committee meeting in July 2017, the United States has been seeking a better understanding of the institutional and administration division between the WTO Secretariat and the Trade Facilitation Agreement Facility (TFAF). We would refer Members to the minutes of that meeting, in G/TFA/M/2 paragraph 4.16. We have continuously sought to better our understanding on a couple of key issues: (1) Under what circumstances can or should TFAF be able to exercise the prerogatives and privileges of the Secretariat? and (2) who directs the activities and functions of TFAF, to whom does TFAF report and answer to?

2.4. We have repeatedly stated over the last four years, most recently during the October 2020 Trade Facilitation Committee (TFC) formal meeting, January 2021 TFC informal meeting, and March 2021 formal TFC meeting, that the United States is flexible as to whether TFAF represents the interests of its donors or represents the interests of the TF Committee. In either case, the choice clarifies the role and function of TFAF staff.

2.5. In our efforts to seek out this clarity, the United States has met repeatedly with the Market Access Division Secretariat and has met with TFAF donors. We have raised this issue continually at the Committee on Budget, Finance and Administration, where the role and growth of single-issue trust funds is being debated and rising institutionally across the WTO, and we are concerned that the lack of clarity we have seen in TFAF will become a systemic issue.

2.6. What we have heard from other Members, the Secretariat, and TFAF is that the answer lies within the TF Committee. It is up to the TF Committee to decide to whom TFAF is accountable and to define TFAF's scope, role, and responsibilities: is it a fund at the direction of the TF Committee or a fund at the direction of its donors?

2.7. It has become clear to us that we are not going to reach any definitive conclusions about the role of TFAF by continuing to pursue a flexible approach in seeking direction from the Secretariat, TFAF, and donors. Instead, we believe that in order to reach an answer that provides clarity to TFAF and Members, as well as addresses our concerns, we need to choose an outcome and bring that position to the TF Committee to debate and decide TFAF's role, as we have been directed.

2.8. We therefore propose that TFAF falls under the purview and direction of the WTO TF Committee. Any donor to TFAF will have the same rights to direct or object to TFAF activities as any other WTO TF Committee Member. We believe that TF Committee oversight, direction, and responsibility will ensure transparency as to the TFAF activities being undertaken, the funding of TFAF, and transparency as to a Member's assistance by TFAF.

2.9. We believe that the TF Committee can be the place where TFAF provides transparency concerning proposed activities and grants, where Members can ask questions and debate the merits of any activity before coming to a recommendation for TFAF. This will ensure TFAF has TF Committee support for its participation in activities. We could envisage treating TFAF's grant function differently from "other activities".

2.10. In the grant space, we could see TFAF working with its grant committee to fund certain activities consistent with the terms provided to Members at its establishment. Those approved grants would then be brought to the TF Committee for transparency. We would like to ensure that every grant details how it enables implementation of the TFA, including identifying metrics that will be used to measure the effectiveness of the grant. Having this kind of detailed discussion in the TF Committee will allow for a robust exchange and provide visibility into the grant program.

2.11. In the "other activities" category, such as workshops, national seminars, TFAF staff participation in panels at the WTO and at other international organizations, all such proposed activities and invitations should be shared in writing ahead of a regular TF Committee so Members can discuss, take a decision on TFAF staff's participation, and provide any necessary policy guidance.

2.12. In addition to the robust discussions and increased transparency inherent in the TF Committee's decision-making process, this formulation of responsibility will also allow Members' visibility into the discussion of Annex D organizations. TFAF would now seek TF Committee direction prior to participating in Annex D discussions, resulting in Members having a clearer understanding of what is being planned for future Annex D activities.

2.13. We also see this formulation as allowing for discussion of metrics and outcomes in real time. The TF Committee will have a view into the budget of TFAF, the proposed costs of programs, metrics, and outcomes, which will in turn allow more informed decision-making and activity planning.

2.14. Finally, we see this formulation as addressing any conflicts of interest or misallocation of Secretariat or Committee resources. TFAF activities will be debated and decided based on objective criteria, for the sake of implementing the Agreement as a whole as well as for the benefit of Members. It is up to Members to ensure that TFAF activities are useful and provide meaningful outcomes.

2.15. We believe that for all of the reasons and benefits stated above, TFAF should operate, provide technical assistance, and conduct activities at the direction of the TF Committee. The TF Committee is where debate among Members and consensus decision-making takes place. Ultimately, TFAF will implement the will of the TF Committee.

2.16. We look forward to hearing other Members positions on this topic and revising the TFAF operational guidelines to reflect the outcome of this Committee's decision.

2.17. The delegate of Norway indicated the following:

2.18. We agree that TFAF should operate and provide technical assistance and capacity building at the overall guidance of the TFC. We believe a stronger, clearer link between TFAF and the TFC will strengthen TFAF and assist the TFAF staff in their work. In that respect, we do agree with the US.

2.19. Where we tend to diverge is that we believe that micro-management should be avoided. This is something that we have as a more general position when it comes to trust funds and assistance. There is a lot of micro-management in the US proposal. We question the necessity for the TFC to discuss details of TFAF activities. We do not believe that that would be the best use of the Committee's meetings. Definitely, the challenge is to strike the right balance, but we trust that the TFAF staff will be eager to comply with the overall direction and priorities of the Committee.

2.20. The US also referred to the Budget Committee. The Budget Committee at the WTO will be looking at the functioning of all of the WTO trust funds. They are starting that work now. We will need to see TFAF as part of a larger picture in that respect. As well, I would like to note that we have an evaluation of the TFAF coming up. That evaluation of how the TFAF has worked will be important in looking further at this issue. It could usefully be initiated sooner rather than later even though, looking at how the TFC is working on our own review on the Committee, that might become burdensome, but it is something that we should think about.

2.21. The delegate of Saint Lucia made the following statement on behalf of the WTO Members of the Caribbean Community – CARICOM:

2.22. We would like to align ourselves with this statement to be delivered by Jamaica on behalf of the Africa Caribbean Pacific (ACP) Group. WTO Members of the Caribbean Community take note of the proposal tabled by the US which seems to give the TFC oversight direction and responsibility for the operations of the TFAF.

2.23. CARICOM WTO Members support the establishment of the TFAF. The Facility is a tangible expression of the commitment of the WTO to support the efforts of developing and LDC Members to undertake full and effective implementation of the TFA through the provision of technical assistance and capacity building support. The TFAF has provided valuable support for regional and national capacity building initiatives in our member States. The TFAF advice and capacity building activities have helped our Members better understand TFA requirements and meet notification deadlines.

2.24. The TFAF supported the inauguration of the CARICOM regional committee on TF and has facilitated contact and dialogue with international donors and Annex D organizations. Last year, the TFAF approved the first grant to support the preparation of a regional project on risk management for CARICOM countries. Project preparation grants were also awarded to three CARICOM Members.

2.25. CARICOM Members support the need to ensure accountability and full transparency of TFAF operations. We are keen to ensure that the Facility continues to operate in the interest of all Members. However, CARICOM Members are concerned that the proposal by the United States would impede the TFAF and would impact negatively on the Facilities' ability to respond in a timely manner to requests for advice and capacity building support, which the US describes as other activities. Such actions can only intentionally affect a Member's ability to meet its definitive dates for implementation notified to this Committee.

2.26. We are also concerned that the proposal could give a country the right to veto legitimate requests for support. This is against the spirit of the TFA and the objectives for which the TFAF was established to achieve.

2.27. It will be recalled that the US and other WTO Members sponsored a communication (G/TFA/W/25/Rev.2) which calls on WTO Members to accelerate implementation of the TFA and to prioritize certain measures of the TFA as part of national toolkits to support the global economic recovery process. The communication asserts that there is strong technical assistance and capacity building available to developing countries to help them implement and to make these critical

changes. In light of this, the proposal by the US would be significantly undermining an essential plank of the TA and CB architecture to support TFA implementation. This is not the time to be placing roadblocks in the way of TFA implementation. IF anything, the TFAF must be made more agile and its activities must be demand driven.

2.28. In closing, we request that the Chair solicits the views of all Members on this proposal and report to the next meeting of the TFC.

2.29. The delegate of Sri Lanka indicated the following:

2.30. Firstly, I would like to echo the statement made by Saint Lucia on behalf of the Caribbean Members. The delegation flagged many aspects that my delegation wanted to present here.

2.31. At the outset, I would like to thank the United States for the views expressed on the utilization of TFAF and for their new proposal with regard to its future management.

2.32. The TFAF is a part and parcel of the TFA. When we signed onto this Agreement, we undertook the commitment bearing in mind this particular Facility is also a part and parcel of the Agreement. If you are going to dismantle it, it would weaken the functioning of the Facility, upsetting the legal balance of the TFA. That is the way that Sri Lanka sees this issue.

2.33. Also, today we listened to Norway's intervention which flagged a few things which my delegation would like to take on. The first is about the trust fund. The way I understand Norway's intervention was that all of the trust funds are evaluated as a whole so how do we isolate only this particular fund and give it due importance which we think could be detrimental to the functioning of the Facility.

2.34. We are not here to gauge the trust funds issues. As Saint Lucia stated, we are amenable to the offer of submitting reports to the TFC by the Secretariat on the functioning of this Facility. If there is a mandated requirement to review the functioning of this Facility, either through an internal or external evaluator, I think let us look for those opportunities and see. After such an evaluation there would certainly be an independent report which would give a lot of ideas to us as to how we should be shaping the Facility and its functioning. Therefore, as per our understanding, our current arrangements under the TFAF are quite independent and flexible. This is indeed essential for the developing and least developed countries (LDCs) to approach this facility and get the benefit out of it.

2.35. We all know that TFAF has been reporting to the TF Committee on the activities carried out. As per the proposal by the United States, the TFAF approval process could become quite burdensome for the developing countries and LDCs since they need to follow additional steps to get the actual benefit for which they have made requests. When we read the paragraphs 9 through 13 of the United States' proposal, we understand that the TFAF would have to present a written request to the TF Committee for permission before organizing or participating in any activity, including national and regional events requested by Members.

2.36. Is this the same scenario in respect to other workshop, seminars and different forums that the Secretariat is organising in other areas now that we have the technical cooperation division in the WTO Secretariat. They do have a lot of leverage and flexibility on a request from a Member to facilitate such technical assistance, so are we to have the same measures regarding the Secretariat activities on the delivery of technical assistance? I do not see that is the case so therefore this is something that goes beyond the practise that we normally see with the WTO technical programmes. In simple words, the proposal requests the TF Committee to manage the TFAF.

2.37. Sri Lanka is of the view that arrangements under this new proposal would cause delays, require additional and/or longer TFC meetings. I think Norway also alluded to that. We may have to convene a meeting when a request is available. it would be an additional burden on small delegations like ours. Furthermore, we have the apprehension that this process may pave the way for any Member to veto any activity, which was also flagged by the delegate of Saint Lucia.

2.38. Therefore, maintaining that current arrangements and resultant independence of the TFAF is important, as it provides adequately for the TFAF to respond to developing countries' requests as

expeditiously as possible. Since we have huge challenges of meeting our definitive dates, the technical assistance is the key to overcome many of the hurdles that are in our way. Subjecting TFAF to the TFC could reduce Members' access to TFAF assistance due to additional administrative procedures and also due to possible vetoing by any Member.

2.39. Therefore, Sri Lanka is of the view that the present status quo with regard to TFAF should be maintained.

2.40. The delegate of Mexico indicated the following:

2.41. It is our view that transparency and good governance of technical assistance are central to enabling the implementation and reaping the benefits of the TFA. Therefore, we welcome this proposal from the United States. We think this is a worthwhile debate to be had. Good governance should not mean micromanaging and as Norway mentioned we should avoid this. Mexico is ready to engage with the US and other Members in discussing the details in depth.

2.42. The delegate of Trinidad and Tobago indicated the following:

2.43. My delegation aligns with the CARICOM Group statement and with the ACP Group statement on this agenda item. While Members are well aware of this fact, it bears underscoring that the TFAF plays a key role in assisting Members with meeting commitments under the Trade Facilitation Agreement. This crucial assistance includes support in meeting notification deadlines and, most importantly, assistance with finding donors for implementation of category C commitments.

2.44. Trinidad and Tobago recognise the need for transparency and acknowledges that a clear statement of the terms of operation of the TFAF would prove beneficial. However, we are concerned that the proposed measures related to this Committee's decision-making power on grant funding by the TFAF may stymie the efficient running of the Facility. We are also concerned that the approach outlined in the communication in question could impede access for developing country Members and LDCs to much needed technical assistance and support for capacity-building for TFA implementation.

2.45. Finally, Trinidad and Tobago urges WTO Members to remain mindful of the tenets underlying this multilateral agreement, as well as the ground-breaking special and differential treatment elements it provides for developing and LDC Members. As such, we encourage Members to avoid actions that may inadvertently cause us to regress or may have the unwanted effect of stalling TFA implementation.

2.46. The delegate of Vanuatu made the following statement on behalf of the Pacific Group, which group also aligns with the ACP statement that will be delivered by Jamaica.

2.47. Our group also thanks the US for its proposal in document G/TFA/W/36. The proposal in our view is to gain strengthening of governance of the TFA. We are not opposed to improving accountability. However, this proposal would affectively mean that the TFAF would have to present a written request to the TFC for approval before organising or participating in any activity and this includes national and regional events that are requested by Members.

2.48. In our view this would cause delays in decision making on requests for assistance by Members and could also allow Members of the Committee to possibly block any activity of the TFAF.

2.49. Up to now, the TFAF has been operating somewhat flexibly in responding to Members in a timely way. We understand that independence is important as it allows the TFAF to respond quickly to developing countries' requests for assistance on TFA implementation.

2.50. The Pacific Group has been utilising TFAF assistance, especially on what the US proposal states as other activities. There is the TFAF staff participating in our national and regional TFAF activities and workshops to help us better understand and facilitate the implementation of the TFA. TFAF is therefore an important Facility to assist a developing country in implementing the Agreement.

2.51. The Pacific Group is concerned that subjecting TFAF to the TFC would not only delay the receiving of assistance but could reduce our access to TFAF assistance if decisions are delayed by the TFAF or if some Members of the TFC object to some of the activities of the TFAF. We tend to

align with Norway's view that the TFC could have oversight on the TFAF but not to be involved in the decisions on individual activities. We therefore urge further reflection and discussions on the proposal.

2.52. The delegate of Jamaica made the following statement on behalf of the Members of the ACP Group. The ACP Group also wished to align itself with the statement made earlier by Saint Lucia on behalf of the CARICOM Group.

2.53. The Group takes note of the proposal tabled by the delegation of the United States in document G/TFA/W/36 dated 16 April, which puts forward several recommendations which are geared towards giving the Trade Facilitation Committee immediate direction and oversight for the operation and management of the Trade Facilitation Agreement Facility (TFAF).

2.54. There is no question that the landmark Trade Facilitation Agreement represented a major victory for the multilateral trading system overall, and for developing and LDCs, in particular. The ACP Group is honoured to have been among those actively engaged in the process which gave birth to this important Agreement. In 2013, and after Bali, the ACP Group played an instrumental role in devising texts and building coalitions among developing countries, then with other Members to achieve the success that brought the Draft Trade Facilitation Agreement to Bali. We were responsible for introducing key elements in the Agreement, in particular under Section II, special and differential treatment provisions for developing countries and LDCs.

2.55. Members may further recall that, subsequently in 2014, the year the Trade Facilitation Agreement was opened for acceptance by the Members, it was the ACP Group Coordination which prepared the original request and draft to the Director General (DG) for the creation of a Trust Fund in the WTO to supplement the expected bilateral and Annex D assistance available and provide a last resort facility. This Trust Fund is what has become known as the Trade Facilitation Agreement Facility (TFAF). On this basis, the Coordinators of the African Group and LDC Group were asked to join the ACP Group and the Director General in the launch of the TFAF on 22 July 2014.

2.56. Against this backdrop, the ACP Group has always maintained an active interest in the TFAF which continues to do tremendous work to bolster the efforts of developing and LDC Members in their efforts to effectively implement the Trade Facilitation Agreement and related commitments, primarily through the provision of vital technical assistance and capacity building support.

2.57. Not only has the TFAF provided significant support to the members of our Group for the implementation of multiple regional and national projects over the years, but the technical advice and support provided through the Facility have greatly helped our Members in fulfilling their TFA-related obligations, including notification deadlines.

2.58. The ACP Group wishes to underscore, that while its members support the need to ensure accountability and full transparency in the operations of the TFAF, this should not in any way undermine the efficacy of the Facility nor its ability to respond in a prompt and effective manner to requests from Members for the provision of technical and capacity building support, critical to the successful implementation of the Trade Facilitation Agreement. This is even more so in the context of the current challenges faced by all Members, particularly developing and LDCs, as a result of the ongoing COVID-19 pandemic.

2.59. The Group is strongly of the view that some elements of the draft US proposal would prove inimical to the achievement of the objectives of the Trade Facilitation Agreement, which Members worked collectively to secure. It would further serve to compromise and significantly diminish the effective operation of the Fund and its current outreach, which promote the interests of the membership at large, including developing and LDCs which were the demanders of the Agreement.

2.60. In conclusion, the Group is strongly of the view that the draft US proposal merits in-depth discussion and consideration by the membership prior to a decision being taken by the Committee. We foresee that the proposed changes will likely give rise to various inefficiencies, including lengthy and undue processing delays, the use of vetoes by developed country members which would create blockages and ultimately reduced access to needed technical and capacity building resources. Given the high degree of satisfaction of Members with the existing arrangements governing the

management and operation of the TFAF, every effort should be made to preserve and strengthen the mechanism.

2.61. The delegate of Guyana indicated the following:

2.62. Guyana fully supports the statements made by Saint Lucia on behalf of the Members of CARICOM on the US proposal. We support full transparency and accountability in the operations of the TFAF and we believe that transparency is already met under the Agreement. From our experience, TFAF has been very instrumental in supporting our national implementation of the TFA. This is both in terms of meeting our notification requirements, as well as supporting ongoing TF reforms which are linked to our category C measures through the TFAF grant process.

2.63. In our view, developing countries like Guyana, and the rest of CARICOM, already subscribe to the stringent conditions to fulfil obligations under the Agreement and access to the TFAF support. We would therefore caution the TFC against imposing additional burdensome requirements on our Members by default or otherwise.

2.64. The delegate of Brazil indicated the following:

2.65. Brazil supports the proposal made by the US that the TFAF should operate, provide technical assistance, and conduct TF activities at the direction of the TFC, since the relationship between TFAF and the TFC it is not yet clearly defined, a situation which could give rise to possible debates in the future. Furthermore, the Committee's participation in the TFAF decision-making process will result in greater democratization and transparency, especially in the budget.

2.66. The delegate of Nepal made the following statement on behalf of the LDC Group:

2.67. The LDC group acknowledges the efforts and contribution made by Trade Facilitation Agreement Facility as highlighted by TFAF. Over the years the TFAF activities have helped LDC Members to have a better understanding of the Agreement and in the process of ratification, notification and others. We believe its role would be further enriched to support us in effective implementation of the Agreement.

2.68. The concerns raised by the US regarding transparency of the activities being carried out under the TFAF are genuine and therefore, sharing past activities and activities in pipeline at the TF Committee meeting would be appreciated. The LDC group perceives that overall guidance and discussion on the activities at the Committee meeting may contribute to enhancing ownership of the Committee.

2.69. However, seeking approval from the Committee on each and every activity at micro level of the TFAF before conducting such activities may be difficult. In our view, a certain level of autonomy is required to the Secretariat at operational level. Otherwise, this may be inconsistent with the practices of other Committees, as normally Committees do not intervene in operational levels. This may add further steps in decision-making and may cause delays in conducting activities. Additionally, it will also take more time of the TF Committee, which may be burdensome for the Members having small delegations.

2.70. The Members of the LDC group are examining the proposal and we will share further updated views of the Group in the future meetings of the Committee. It might take time to conclude this matter, therefore the LDC would like to request for consideration to be given to resuming the activities of the TFAF as usual.

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

2.72. The EU thanks the US for their proposal. We appreciate that the governance of TFAF is to some extent unclear. We are still considering the proposal and we will revert to it the next meeting after consulting with the EU Member States. The EU is ready to constructively consider proposals to improve governance of TFAF.

2.73. The delegate of China indicated the following:

2.74. As a partner of TFAF, China donated USD 1 million to the TFAF, and we support the TFAF to carry out the capacity-building programs which are valuable for the developing and LDC Members. It is our opinion that TFAF shall conduct its work in accordance with the guideline, and also responded to the concerns of members, including continually improving transparency of its operation.

2.75. Regarding evaluation of the work of TFAF, the recipient, developing and LDC Members, should have more information about the operation of capacity building and technical assistance. According to the feedback from developing members and LDCs in our meeting, TFAF is conducive to strengthening the capacity building of developing and LDC Members, and so far, has been helpful in promoting the implementation of the Agreement. We appreciate the efforts of partners of TFAF, the secretariat and recipients for their efforts.

2.76. Given this, with regard to the US proposal, we suggest that Members discuss it in the principle of improving transparency, optimizing its procedures and giving enough consideration to efficiency. The Secretariat may analyse the feasibility of the procedures in the US proposal, including comparing it with the experience of other funds like STDF, for all members' reference in decision-making in the committee; or, in conjunction with the review of the TFA, or valuation of the TFAF, a special working group may be established to assess the current procedures and find feasible solutions.

2.77. In the meantime, as the developing and LDC Members need the support of TFAF, especially during the current difficult time of pandemic, the TFAF shall continue its work in accordance with the current guideline before the committee reaches a conclusion.

2.78. The delegate of Switzerland indicated the following:

2.79. We thank the US for their proposal. We broadly align with the statement from Norway, in that we can support oversight by the TFC of the TFAF but at the same time would like to avoid the TFC micro-managing the operations of the fund.

2.80. The delegate of the United States indicated the following:

2.81. I could not be more thankful for the interventions from all the Members on our paper. We started this conversation; we even started the paper by saying that we have been trying to engage specifically on this topic for quite a few years. We have raised it at a number of meetings, we have talked to delegates and Members, the Secretariat but we seem to just be spinning our wheels, so we went ahead and put out the paper. We had no expectation that there would be a decision taken right away and that's fine with us. We really wanted to engage with the Membership. We wanted to hear other Member's opinions. It is so important to the functioning of a Member driven organization to have this conversation. I am very thankful and appreciative of all the Members that showed support, that found pieces of interest to support within our paper and have shared some of the concerns and alternate ideas. I think this is a great way for us to begin this conversation.

2.82. There were a few things that I wanted to clear up and address a little bit. We all created the fund, and the US was one of the original donors to the fund. TFAF is here and has been very helpful. The staff have been well received. They have helped with notifications and that is all great work. The creation of TFAF was very unique and original because it is a single-issue trust fund that was created in the Market Access Division and unlike STDF which China just raised, how it was to operate, and its governance was unclear. If you recall we had STDF share their experience and operational guidelines with the Committee. STDF are not accountable to the SPS Committee. They are accountable to their donors. That is managed separately than the Committee. When the STDF staff speaks and puts programmes together, they do so on behalf of STDF and its donors, not the Secretariat. So, there was a clear line of understanding of how decisions are made, and grants and decisions are made in that fund only by the donors. That would have been fine with us. As we have said over the years, we were very flexible. TFAF could report to its donors, or TFAF could take direction from the Committee, and we would have been happy with either one, but we weren't getting traction for the conversation by just leaving it open. So, we put the paper in for others to react to.

2.83. We wanted to say that we would have been happy with the STDF model, but we are not sure if that will be where we end up because some of the speakers did not happen to put out their opinion about whether they supported a donor driven governance for TFAF or the Committee driven

responsibility for TFAF. I did hear Switzerland and I think Norway's view that TFAF would work at the direction of the Committee, not its donors, so that was a bit answering our question directly.

2.84. We would be interested if there are Members that think this should be a donor driven process. Quite frankly we all know that anyone that is given millions of dollars to do programmes is going to have to do so at the direction of somebody because there is no such world where a provider isn't responsible to someone, where it is not for their own organization to make decisions solely - it is just not the way it has ever worked for any donor organization, including all of us that are donors and have our own organizations. There is always someone you are talking to who's direction you are taking.

2.85. What was interesting, yesterday, was Sri Lanka, who actually brought up a third way forward which we had not really considered, but we considered overnight. Both Sri Lanka and then Nepal actually mentioned how does TFAF work, its governance, its structure, compared to other funds in the WTO. That has always been our point. Its unique because it is not in the TA directorate. It does not have clear governance rules like STDF, where it is at the discretion only of donors - it existed in the ether a little bit.

2.86. With Sri Lanka's intervention yesterday, we thought about it and actually there is a third way forward. TFAF could simply be moved out of the Market Access Division and moved over to the Training and Technical Assistance (ITTC) where they could be subject to the same rules as all of the other TA providers in the WTO. They have rules and clarity, and it is clear how they operate in the institution.

2.87. I do thank all of the Members for intervening yesterday because, like I said, maybe there are three ways forward. You represent the Committee, Donors or just moved to TA directorate. All three provide clarity and we don't see any reason why that would interfere with the function of TFAF. We want them to keep giving grants and be responsive. We just really want to understand how it operates and be a part of it. If I said yesterday, we said it ten times in response to notifications by Burundi, Cambodia, Chad, Lao PDR, Lesotho, Madagascar and then Niger – these are all LDCs and Members asking for additional assistance. We would like to know if TFAF can be part of the solution here. How do those conversations go on with other donor organizations? We would love to have this conversation in the Committee because we are committed to help bridge these gaps and bring them forward and have robust discussion in the Committee about how we bring all of these resources together to answer the needs of LDCs and developing countries. We just really would like to see a little bit more discussion in the Committee about this so that we know what is going on and what the conversations are.

2.88. We have been trying this four-year retrospective review. It is a great opportunity to have this conversation. It is a great way to think about how we want to operate in the future. We have put in proposals about the agenda, we have more coming. Then we think this whole conversation about TFAF and having robust discussion and transparency in the Committee so that we can answer the needs as they arrive and have a dialogue, would be great.

2.89. To reply to those Members that have talked about how do we move forward here? We would like to continue going forward with our last status quo and that would be our position that we are very happy for TFAF to continue the grant functions. We know Mongolia mentioned that they were very happy with their grant. We encourage TFAF to continue with the grant programme. We will just keep the moratorium on the other activities until we are able to resolve this issue. Like I said, I think 2021 is the year that we can make some progress on this.

2.90. The delegate of Sri Lanka indicated the following:

2.91. Thank you to the US for providing further clarity on the proposal and also trying to provide responses to some of the interventions. I think when I listen to the US today, of course we do not have any conflict with your transparency suggestion because transparency and accountability, of course, are very important principals to be preserved and there should not be any exception for the TFAF.

2.92. In my previous intervention, I said that we would like to see some harmonization with respect to the procedures that we need to adapt on the management and functioning of TFAF and different

trust funds and other technical assistance programmes. Sri Lanka looked at the procedures being adopted by the ITTC in approving and facilitating different technical assistance programmes, either demanded by the countries because it is a demand-driven process, and sometimes the Secretariat may have their regular programmes that are earmarked to be undertaken as per the budget approved for the Secretariat. We would like to see some commonality in processes but after listening to the US, I now understand that there are some specific functioning mechanisms that are unique to the TFAF.

2.93. For the benefit of everyone I would like to request the Chair to lay out the different procedures that exist for the STDF and TFAF, and also the general procedures that the ITTC uses in delivering technical assistance to Members. Then we have clarity regarding the differences between these different scenarios so that we can take a very informed and considered decision on what type of modifications are necessary for TFAF. We can look at the relevant mandates and functioning of these trust funds and see if the STDF model can be used for TFAF. We can certainly take a decision in that regard.

2.94. My delegation previously mentioned that the status quo should remain. I think the US today indicated that they are not going to object to the status quo but was not very clear about it. We would like to hear from the US what is its standing on the project grants that are awarded to the developing countries for project formulation, and whether they can continue as usual.

2.95. The US also mentioned that all Members are ready to engage in discussion on that. I think we can continue discussion. However, there should be a possibility for the Secretariat to continue giving grants as a lot of countries are willing to benefit from them, especially during the pandemic which is causing financial difficulties and constraints. We urge the US not to really have any restriction on the provision of grants by the Secretariat.

2.96. The delegate of Norway indicated the following:

2.97. I really think that it has been useful to have this conversation in the Committee. However, I would say that perhaps you could do some consultations on how we move forward and continue this conversation. Like I said in my first intervention, there are some parallel issues going on with the Budget Committee discussion on the one hand and the fact that we have an evaluation of the TFAF coming up. We have been with the TFAF from the start as a donor and have always been one of the largest supporters. We have always thought that it is important that it is demand driven. It is important that it is based on the rules of procedure, which are long and detailed.

2.98. It has been important that the Secretariat has a certain amount of autonomy in the procedures, as our extended arm so to speak. It is important that the donors have a voice, not so much in the micromanagement but to make sure that assistance is given in an effective, efficient manner and so forth. I would definitely advise you that some consultations are needed on how to move this forward, but we do welcome the discussion and we need to find a way around this. As the US said, there are various ways of doing this including putting the TFAF into the same pot as the ITTC, but there are also some issues regarding how the assistance and capacity building on the TFA is understood. These are also important elements to this issue that are extremely important to consider. It is not only assistance, but it has very much to do with the substance of the TFA.

2.99. The delegate of the United States indicated the following:

2.100. I want to be clear. We 100% support TFAF continuing with its grant programme. We think that that is the function of TFAF, and we are more than welcome to see the grants projects continue until we come to a good resolution on some of the issues that we have raised in our paper and that we hope will come to light. When we talked a bit about where our concern was, and the moratorium, that was on the other activities. We 100% support the continuing work on the grants and the projects that come out of the grants.

2.101. The Chair indicated the following:

2.102. From the exchange of views, it is clear to me that there is strong support from Members on the work of the TFAF and what it has been doing to help in implementation efforts of the developing and least-developed country Members. In particular, I have heard Members emphasize the important

role that the Facility plays for them, as they work to provide not only notifications as required under the TFA, but also to follow up in terms of the needs identified.

2.103. I have also heard positive comments on the need for accountability and oversight for the work that TFAF performs, including transparency and good governance issues, but also a strong sentiment not to micro-manage that work. In addition, I heard expression of concern that extensive oversight of the TFAF by the Committee might delay or impede the responsiveness of it to Members requests, regarding their efforts to meet implementation deadlines and any extra effort they are making to speed up the implementation of the TFA provisions.

2.104. Essentially, there appears to be a tension between the desire for some oversight of the work of the TFAF and the desire for it to maintain some flexibility in the way it operates. As more than a few Members have suggested that further reflection and discussion by the Membership on the question is required, I would propose that I hold open-ended informal consultations on the issue in the coming weeks. I would also intend to invite other funds to present on their procedures as was suggested by the Ambassador of Sri Lanka.

2.105. I believe that as part of these open-ended consultations we will be able to collectively come up with a way to respond to the comments from all Members here. I also note our earlier conversations about upcoming implementation deadlines as well as the calls to accelerate implementation of the TFA. I would encourage Members to continue to exchange and participate substantively and wholeheartedly in the open-ended informal consultations to find a solution as quickly as possible. I believe that the work of the TFAF is very important in achieving the objectives of all Members to meet the expectations within the Agreement. So I encourage you to reflect and consider how best to meet your objectives and how the TFAF could help support those objectives that have been set out.

2.106. The Committee agreed that the Chair would hold open-ended informal consultations.

2.107. That concluded agenda item 2.

3 REVISITING THE NEED FOR GLOBAL ACTION TO ELIMINATE CONSULARIZATION REQUIREMENTS – COMMUNICATION FROM THE UNITED STATES (G/TFA/W/38)

3.1. The Chair drew the Committee's attention to a communication from Norway and the United States circulated in document G/TFA/W/38.

3.2. The delegate of the United States indicated the following:

3.3. We are very pleased to work with Norway as a co-sponsor and notify to the Committee a new communication regarding revisiting the need for global action to eliminate consularization requirements. We felt that this was the right time to revisit this question and to present it to the Committee for consideration of all Members.

3.4. As we take steps to support global and individual economic recovery, we encourage Members to take this opportunity to review their current practices with a view to addressing unnecessary restrictions and bottlenecks. Members should specifically re-examine their formalities and documentation requirements to consider changes that can reduce the time and costs for traders, especially MSMEs.

3.5. One practice long questioned as to its effectiveness and necessity are consular transactions. These consular transactions often require payment of a fee or charge that is sometimes a specific fee, sometimes a fee per document, and other times an ad valorem fee based on the value of the shipment. Consularization requirements are additional costs and delays for traders without contributing to legitimate customs-related processes and are precisely the type of bureaucratic red-tape that the TFA seeks to eliminate.

3.6. WTO Members should utilize the tools afforded to them in TFA Article 10.1 to review their trade requirements and minimize unnecessary and costly formalities, including consularization requirements. National Trade Facilitation Committees (NTFCs) can look to the private sector as a critical and important first step in identifying needless bottlenecks. The private sector and Members

have identified consularization requirements as one such bottleneck because it fails to contribute to legitimate customs-related processes. Therefore, during this time of economic global crisis, we call on Members to eliminate consularization requirements to fulfil their TFA Article 10.1 commitment to reduce and eliminated unnecessary and costly formalities.

3.7. The delegate of Norway indicated the following:

3.8. Norway is very pleased to be co-sponsor of this communication. We welcome the focus and further work on consularization. As we said in our January meeting, prohibition of consularization was an important trade facilitative measure which was focused on long before the WTO trade negotiations started, as well as during those negotiations.

3.9. The description and examples in our communication are typical and the US pointed to some of them just now. Consular transactions or legalization basically increased costs and delays, not least for MSMEs, for little or no real purpose other than as income for those doing the consularization. With the pandemic, a new argument has risen to eliminate those kinds of measures. With the WTO focus on MSMEs an older argument has been reenforced. Continued work on this issue, identifying its effects on businesses and trade with a view to eliminate the practice will be an important and progressive step.

3.10. The delegate of Brazil indicated the following:

3.11. Brazil supports the proposal by Norway and the US to eliminate consularization requirements. Brazil understands that consularization is an obstacle to trade due to the bureaucratic complexity, the time spent, and costs involved without any corresponding gain in terms of inspection and compliance with customs rules.

3.12. Furthermore, MSMEs are especially affected due to the need for additional financial and human resources. Brazil has been working with regional and extra-regional partners to reduce and preferably eliminate consularization.

3.13. The delegate of Mexico indicated the following:

3.14. We thank the United States for this initiative. In the last trade agreements signed by Mexico, we have promoted the elimination of consular transactions, including the rates and charges related to the importation of merchandise. We think it would be an important step to remove obstacles that are so burdensome, especially for MSMEs. Therefore, we welcome this initiative and look forward to engaging with Members in the discussions of the topic.

3.15. The delegate of Costa Rica indicated the following:

3.16. Costa Rica thanks the US and Norway for the submission of document G/TFA/W/38, which we are pleased to join as co-sponsors. We consider this document to be in line with the progress being made at the national level. The Government of Costa Rica, through the General Directorate of Customs and the Ministry of Foreign Trade, supports the process of simplification of procedures for the user. Consularization should be an exceptional event for very particular cases, it should not be present in the daily routine of procedures. We therefore support efforts along these lines.

3.17. We consider that the following examples of some internal developments are consistent with this initiative: As of 1 May, the fourth revision of the Central American Uniform Customs Code, known as CAUCA IV, will come into force in Costa Rica and this instrument provides for the non-requirement of consularization in its Article 79. We also have the Decree Law No. 42799-H called "Guidelines for the application of the provisions of international trade treaties and agreements in force in Costa Rica, relating to the importation of goods under tariff preferences". This also provides for the non-requirement of consularization for the procedures required in the framework of the application of tariff preferences in its Article 7.

3.18. Likewise, in line with the structural reform process in which we find ourselves due to the pandemic, we have draft Law No. 22369 in the legislative stream as part of the regulatory package for the reform of the General Customs Law. This includes a particular provision on the non-requirement of consularization.

3.19. Finally, we would like to reiterate our words of thanks to the US and Norway for their support and for preparing a revised version of the document in the coming days.

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

3.21. We welcome the US and Norway proposal regarding the practise of consularization. We support also the statements made by previous speakers. However, we would be more radical than Costa Rica and rather fully support Norway and US. We should move towards the digitization of custom procedures, not least because of the COVID-19 pandemic, and because many Members are striving to establish electronic procedure single windows.

3.22. Consularization is a disproportionately burdensome procedure that unduly delays the clearance of goods and does not bring any efficiency to controls. The EU considers that during a health emergency this practice becomes even more problematic and should be suppressed without delay. The EU invites Members applying consularization to review their practice with the view to suppress it. The EU welcomes the Members who already moved in that direction and notified the Committee in the past.

3.23. The delegate of Switzerland indicated the following:

3.24. Switzerland would like to support the communication by Norway and the US. We signalled that we support the communication and would be ready to co-sponsor the statement if it is open to co-sponsoring.

3.25. The delegate of Japan indicated the following:

3.26. Japan thinks that eliminating consularization requirements is in line with the purpose of Article 10:1 of the TFA, which is one of the important provisions in the context of how to deal with the pandemic.

3.27. As a co-sponsor of the communication on supporting the timely and efficient release of global goods through accelerated implementation of the WTO trade facilitation agreement (G/TFA/W/25/Rev.4), we support the general idea of the proposal.

3.28. We have also heard from the private sector raising the issue of the consularization requirements that increase the time and cost associated with international trade, and therefore hope that this requirement will be globally eliminated in the near term.

3.29. The delegate of Singapore indicated the following:

3.30. Singapore welcomes the communication from Norway and the US. We agree that looking at the need for consularization requirements and seeing if they can be eliminated is one concrete way for Members to reduce formalities, improve trade facilitation and implement the Trade Facilitation Agreement. We support this initiative and look forward to further discussions on the topic.

3.31. The representative of Australia indicated the following:

3.32. Australia supports the communication by the United States to eliminate consularization requirements. Consularization places additional delays and costs on traders with little to no obvious benefit in terms of customs and border processes.

3.33. Australia agrees this is a potential area of reform under TFA Article 10:1 that will remove unnecessary bottlenecks and could deliver meaningful outcomes to business to facilitate global trade and economic growth.

3.34. The delegate of Colombia indicates the following:

3.35. Colombia considers it appropriate to support initiatives to eliminate formalities such as the consularization of documents. In our view, such formalities only add costs and delays to foreign trade operations. It is not easy to see the need or the importance of such formalities in foreign trade, or at least compelling reasons to justify them adequately.

3.36. Particularly at a time when trade in medical products and technologies is under stress, the elimination of formalities with little level of efficiency or convenience is of the utmost importance. Moreover, supporting the elimination is in line with our trade facilitation policy and with the overall Colombian red tape reduction programme led by the Minister of Trade called "Estado Simple Colombia Ágil" (Simple Colombia Agile State).

3.37. The delegate of Sri Lanka indicated the following:

3.38. Firstly, I would like to thank the US and Norway for their proposal. Since this proposal was received by us only a few days ago we have referred it to our capital for consultation to give us a precise response to the proposal. What I am going to present today are very initial comments.

3.39. When it comes to consularization, we need to look at the reasons as to why the importing country generally requests the exporters to present the documents along with other custom documentation, for the purpose of expeditious customs clearance.

3.40. First is that the importing country cannot rely on the signatures that such documents are bearing. The second reason is sometimes it is the official seal. If the documents are not in the official languages of the importing country, then the importing country could request the exporter to provide an official translation of the documentation.

3.41. In certain situations, the exporter may be requested to certify the signature and the official seals that are contained in those documents. So the exporter would have to go to the importing country, the consular office, or Consulate General located in their exporting country and get the signatures certified because the procedure is normally that the exporter would have to go to the Ministry of Foreign Affairs of the exporting country, get the signature attested by the Ministry and then those documents should be forwarded to the consulate or the ambassador, or whatever the diplomatic representation of the importing country, to get those signature attested. That is called attestation. I think it is a similar situation in many instances. Although I am a trade diplomat, I also have knowledge on consular activities in many parts of the world. Therefore, I have a lot of experience in attesting these documents and the procedures that Sri Lanka generally adopts in relation to this.

3.42. When it comes to the invoices and the certificate of origin, we see that this certificate can be issued under a preferential scheme as well as under the non-preferential scheme. We see quite a lot of these certificates being forged. The signatures are being forced. Even when I was working in Rome, my signature was forged by many fraudulent actors, so it was even difficult for the authorities. They were sending these documents back to us to verify if my signature was authentic or not. As we come across these practices very often, we had to really send the certificates back to the appropriate authority in the exporting country to see whether those signatures and seals were authentic.

3.43. With the introduction of electronic certificates of origin, we are at the stage where we will be able to reduce such practices, but we have also had to acknowledge that not all countries are geared to adopt the electronic issue on certificate of origin. We do have this electronic certificate, but I think some countries are yet to adopt these measures. Until such time we may have to welcome the manual process where if we have doubts, we will be referring such document to the exporting country for attestation. One method that we currently adopt is we share the signatures and seals of officials who are authorised to sign either certificate of origin or consular documents. I think many of you even would have shared your signatures with your consulate because sometimes you will be asked to sign certain consular documents, even if you are dealing with trade issues. I think that though we try to avoid such delays and backward referrals, until such time of the electronic certificates I see this practise of requesting document attestation consularization to continue further.

3.44. In Rome, where there is a huge Sri Lankan community, the income generated per month is actually financing the maintenance of most of our other missions in Europe. We get a sizeable consular income that entails not only the consularization of trade commercial documents but also other activities like passports and so on, for a daily income of nearly EUR 50,000. So, we have to look at all of those aspects as well. Those are some of the practical difficulties that I now present to the Members.

3.45. Looking at the legal aspects, I think the proposal says that under Article 10:1 of the TFA Members are required to look at the means as to how they can reduce documentation and the fees and other aspects. Equally, I draw their attention to Article 24:6, where it says "Notwithstanding the general interpretative note to Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization, nothing in this Agreement shall be construed as diminishing the obligations of Members under the GATT 1994. In addition, nothing in this Agreement shall be construed as diminishing the rights and obligations of Members under the Agreement on Technical Barriers to Trade and the Agreement on the Application of Sanitary and Phytosanitary Measures."

3.46. The first part of this paragraph refers to Articles from the GATT 1994 where the most relevant is Article VIII of the GATT, where we talk of the Fees and Formalities Connected with Importation and Exportation, and I believe that the Trade Facilitation Agreement has a lot of things to do with this Article.

3.47. When you look at paragraph 4 of Article VIII of the GATT, it says "The provisions of this Article shall extend to fees, charges, formalities and requirements imposed by governmental authorities in connexion with importation and exportation, including those relating to: (a) consular transactions, such as consular invoices and certificates", so I presume that this is the right of the government. article would also have to be looked at from the point of view of Article I, II and III of the GATT because this is an exception for the purpose of deviating from the non-discriminating principals, where the countries can levy the charges. Of course, I agree with the US and Norway when they say that it has to be commensurate with the services being rendered so those fees cannot be levied on an arbitrary basis.

3.48. We know that the legal jurisprudence has also given their opinion, particularly the Appellate Body in the Argentinian case. There, I think, they explicitly mentioned that such Article VIII GATT fees and charges have to be commensurate with the services rendered. We agree with that. But on the premise that we should be doing away with consularization and not charging the fees - there are two things: (i) not to adopt consularization procedures and (ii) not to levy charges. These are very difficult measures to accept for my delegation in the current context, precisely for the reasons that I mentioned, practical reasons of loss of income, and another one of legal conflict. Unless we are very clear that this proposal is not going to conflict with Article 24:6 of the TFA, we would not be in a position to endorse this proposal.

3.49. The delegate of Indonesia indicated the following:

3.50. Thanks to the US and other co-sponsors for presenting the proposal on elimination of consularization requirements. Indonesia just received the proposal few days ago, hence we need some time to consult with our capital to provide more detailed feedback to the proposal. At this stage, I would like to seek more information and clarification from the proponents including whether the elimination of consularization will only be extended during Covid-19 pandemic or it will it be for permanent purposes. We wish also for further clarification as to which relevant TFA provision is based the requirement that consularization is to be eliminated. Finally, what kind of outcome is expected by the proponents from proposal?

3.51. Indonesia reserve its right to discuss the proposal further at the next meeting or discussion.

3.52. The delegate of the Russian Federation indicated the following:

3.53. We would like to thank the US and Norway for bringing this issue of consularization and its impact on trade to the attention of the Committee. From what was discussed today, we see this initiative can contribute to trade and customs facilitation procedures. Given the time constraint to consider this initiative, we would like to express our interest in further discussion. However, we need more time to study this proposal.

3.54. The delegate of the United States indicated the following:

3.55. I thank all the Members for their support and truly appreciate it. It means a lot that it is coming at this time, during a pandemic. This is a really good time to tackle this issue, so I am appreciative that others believe this is also the time. We look forward and are thrilled that Costa Rica is also going to be a co-sponsor in our next revision of the paper. We are happy to continue

this dialogue. Maybe we can reach out specifically to Indonesia after this meeting so we can follow up on some of the questions.

3.56. The delegate of Norway indicated the following:

3.57. Thank you everyone for taking the floor and supporting the proposal, as well as posing some relevant questions and examples. Of course, we are not for any sort of counterfeiting examples that the Ambassador of Sri Lanka gave. Our experience has basically been that where consularization has taken place, it has basically been just to see someone's face in the door, and just stamp the papers and taking a fee on that. This is the sort of practice we really want to get rid of and make very clear that cannot go on. We welcome further consultations on this and welcome that Members address this when looking at how to make more commitments on trade facilitation. I would expect that we follow up on that.

3.58. The Committee took note of the information and the statements made.

3.59. That concluded agenda item 3.

4 EXPERIENCE SHARING/THEMATIC DISCUSSIONS

4.1. This segment of the meeting was conducted in informal mode, with the understanding that information Members were willing to share would be made available on a dedicated website (<https://tfadatabase.org>) with related links also being included in the minutes of the meeting. If a delegation requested it, their intervention would also be recorded in the minutes of the meeting.

4.2. Members addressed the following issues:

A. Implementing the WTO TFA: Cambodia's Experience – Presentation by Cambodia

4.3. Information on the presentation can be found under the following link: <https://tfadatabase.org>.

B. Outcomes of Turkey's Electronic Customs Procedures in line with TFA on International Supply Chains during the COVID-19 Pandemic – Presentation by Turkey

4.4. Information on the presentation can be found under the following link: <https://tfadatabase.org>.

C. The Trade Facilitation Agreement: A World of Opportunities for MSMEs – Statement by the United States

4.5. Information on the presentation can be found under the following link: <https://tfadatabase.org>.

5 REVIEW OF THE OPERATION AND IMPLEMENTATION OF THE AGREEMENT IN ACCORDANCE WITH ARTICLE 23.1.6 OF THE TRADE FACILITATION AGREEMENT

5.1. The Chair recalled that Article 23:1:6 states that "The Committee shall review the operation and implementation of this Agreement four years from its entry into force, and periodically thereafter". The Trade Facilitation Agreement entered into force on 22 February 2017, therefore, the first review of the Agreement was required to be carried out in 2021.

5.2. At its meeting on 3 March 2021, the Committee approved a roadmap for the conduct of the review, which was circulated in document G/TFA/1. In accordance with the roadmap, the Committee held its first informal meeting dedicated to a discussion of proposals submitted by Members under the review on 22 April 2021.

Informal Discussion on the Review – Report by the Chairperson

5.3. The agenda for the informal meeting was 1) to hold a first discussion of issues identified for consideration during the review; and 2) to identify any background information needed by delegations to support their contributions to the review.

5.4. Each agenda item was structured in relation to the how the Committee agreed to structure the resulting report on the review, i.e., Section I covering the TFA provisions, Section II dealing with the special flexibilities of the TFA, and Section III covering any proposals related to the institutional arrangements and final provisions.

5.5. Members first made some general proposals with regard to possible elements for inclusion in background factual report being prepared by the Secretariat.

5.6. There was a proposal that the factual report could provide a skeleton text upon which Members could add their own comments and additional information that they may wish to share regarding the domestic effect of implementation of the TFA.

5.7. The proposals included a number of elements for inclusion in the paper, for example: quantitative and qualitative information on the effect of the implementation of the TFA in order to review the results of the implementation; the experience of developing country Members enhancing their exports as a result of the implementation of the TFA; looking at the projected gains in export value compared to the current reality especially for developing countries and LDCs; and a summary of best practices shared by Members.

5.8. Moving on to the discussion on proposals for consideration under Section 1 of the Agreement, proposals for consideration included: an update the WTO World Trade Report of 2015 which contained an analysis of the projected benefits and challenges of the implementation of the TFA including the impact on global trade of the implementation of the TFA; learning from Members that are implementing provisions especially the implementation of category C provisions, including members' experience in implementing provision for which they experience challenges with regard to financial and human resources and institutional challenges; and learning from innovations applied by Members in the implementation of the TFA.

5.9. Proposals raised for issues to be considered under Section 2 included: an analysis of the situation regarding provisions of technical assistance and capacity building since the implementation of the TFA; learning from the experience of Members securing technical assistance and capacity building and looking specifically at identifying the gaps Members have experienced in securing technical assistance and capacity building support. Such an exercise would assist in looking at how funds are being distributed and possible means by which they could be distributed in to address existing gaps; and how the COVID-19 pandemic has impacted LDCs.

5.10. Finally, under Section 3, the following proposal were raised: remove Article 15 as a standing item as a regular part of future Committee agendas; create a standing agenda item that allow for Members to provide an update for any overdue or missing Section 1 and Section 2 notifications; It was also suggested to continue the remote participation from capitals in Committee meeting after the pandemic which would allow the Committee benefit from experts' input; that the Secretariat organize a pilot project on the development of an e-agenda to see to what extent it could be useful for Committee meetings; and having input from business on TFA implementation.

5.11. On a positive note, a number of Members indicated that they are working on proposals, including a proposal from LLDCs, which they will submit in writing to the Committee. I encourage all Members to give consideration to possible submissions they would like to add to the discussion and to submit them in writing.

5.12. Turning to the second item on the agenda, identifying any background information needed by delegations to support their contributions to the review, there was support in the meeting to invite Annex D organizations to inform the Committee of the work that they have carried out to support the implementation of the TFA.

5.13. The Secretariat factual report, expected to be circulated in early May, will be based on the notifications that have been submitted over the four-year period of the review, as well as the activities of the Committee. The factual information will be based on the Committee annual reports, as well as the regular updates provided by the Secretariat at each Committee meeting.

5.14. The factual paper would provide a skeleton which could be enriched by the contributions of Members of any additional elements they wish to include.

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

5.16. Thank you for your presentation on our discussions yesterday which we support. Regarding gaps in aid that have to be provided for developing countries and LDCs to meet their category C commitments, we are strongly of the view that such information has to be brought by the Members. We do not see how it could be done otherwise and this would go hand in hand with the commitments of the Members to provide such information regarding donor arrangements and assistance already provided country by country, and where the gaps exist. We would welcome if such information, which has started to arrive and be notified to the Committee, be accelerated so that by October when we have the dedicated session on aid, we can really have a thorough view of where the gaps are and to prepare for the reporting in the review on this very crucial aspect. I hope this clarifies what we meant on this aspect.

5.17. The delegate of Brazil informed Members that Brazil was thinking about submitting a written proposal regarding Article 12 Customs Cooperation, in order to increase transparency and cooperation.

5.18. The delegate of Turkey indicated the following:

5.19. Turkey would like to congratulate the Chair on his initiative taken for the effective review of the TFA. In light of the importance of the private sector to the implementation of TFA measures and the role of the NTFC, Turkey would like to propose that the report must include specific measures and specific case studies for the involvement of the private sector, as well as how the NTFC has taken a role in the implementation reforms.

5.20. The Chair referred to the Committee's support for asking Annex D Members to provide their views in terms of their work supporting Members on the implementation of the TFA. Should the Annex Ds so wish, they would be included on the agenda for the next informal dedicated session.

5.21. The Committee took note of the information and the statements made.

5.22. That concluded agenda item 5.

6 RECENT AND UPCOMING ACTIVITIES

Report by the WTO Trade Facilitation Agreement Facility (G/TFA/W/37)

6.1. The Chair drew the Committee's attention to two written reports which had been submitted for consideration: "Report of the Trade Facilitation Agreement Mechanism to the Trade Facilitation Committee" which had been circulated in document G/TFA/W/37; and, "Report of the ITC and Annex D Partner Organisations to the Trade Facilitation Committee", which had been circulated in document G/TFA/W/39.

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

6.3. The contributions provided were extremely useful. I simply wish to underscore that the EU and its Member States, at a bilateral level, participate in many of the ITC and World Bank Group activities, just to mention a couple.

6.4. The delegate of Nepal on behalf of the LDC Group indicated the following:

6.5. We would like again to express our appreciation and support for the TFAF team. We have worked with the division and their delivery to us included a number of activities and tools that supported our Members over the last few years. We appreciate the work of the Annex D organizations which provide in-country support to us and collaborate with the WTO on several activities for LDCs.

6.6. We would also like to see more programmes and support in the areas of supply-side capacity building and trade infrastructure including ICT infrastructure in the days ahead.

6.7. The delegate of Sri Lanka indicated the following:

6.8. I will be failing my duty if I do not appreciate the assistance that we have received from the donors who are recognised under Annex D. In particular, we wish to appreciate the funding assistance we received from the World Bank Group and the Australian Government, which enabled us to implement the trade information portal. In addition, the European Union had a very robust project which contributed a large amount of funds to a project that enabled us to introduce many additional features to our trade information portal. We are very happy to acknowledge that it is functioning well. Before I came here, I was part and parcel of the project, so I realise how useful and valuable the EU support is.

6.9. In addition, I thank the US government and some other governments that have also given us funds and assistance to realize some of our TA requirements. If I do not name any country please do not get offended, I am sharing this info from my recent memory. I think this kind of assistance demonstrates how valuable it is to developing countries in realising and fulfilling their commitments under the TFA.

6.10. We would encourage donors, recognising Annex D organizations as well as other bilateral donors, to continue to support developing countries and LDCs in their efforts in implementing their commitments. This is particularly necessary after the pandemic. Developing countries and LDCs are running into financial difficulties and this assistance may be most certainly needed at this time because of the uncertain challenges they are facing and will continue to face in the years to come.

Building Trust Through Public-Private Partnerships for Trade Facilitation – Presentation by the Global Alliance for Trade Facilitation

6.11. Information on the presentation can be found under the following link: <https://tfadatabase.org/trade-facilitation-committee/experience-sharing/meeting/2021-04-22>.

6.12. The delegate of Sri Lanka indicated the following:

6.13. I thank the Global Alliance for Trade Facilitation for the valuable presentation. GIZ, referred to in your presentation, is one of the institutions which have provided funding to develop and introduce additional features to our trade information portal. If your partners are individually making contributions and helping developing countries and LDCs, how does such assistance reflect on the overall performance of the Global Alliance for Trade Facilitation because I saw that your presentation did not capture any of the projects that GIZ has initiated in Sri Lanka. There are also a lot of projects in the pipeline in Sri Lanka which will be funded by GIZ.

6.14. The representative of Global Alliance for Trade Facilitation indicated the following:

6.15. GIZ is one of the partners of the Global Alliance for Trade Facilitation and so they participate in the organisation of the Alliance and they implement some of the projects within the framework of the Alliance. Also, separately, GIZ would also be doing some of our own projects so perhaps that's why some of the activities you mentioned in Sri Lanka are not reflected in my presentation because they were perhaps GIZ projects that were undertaken outside of the framework of the Alliance.

6.16. The delegate of the United States said that the United States through USAID provides direct support to the Global Alliance on Trade Facilitation. The US thanked the Global Alliance for their presentation.

6.17. The Committee took note of the information.

7 OTHER BUSINESS

7.1. The delegate of the United States indicated the following:

7.2. The United States would like to invite the ITC to the 22-23 June Trade Facilitation Committee to make a presentation.

7.3. The US is happy to inform the Committee that the United States will soon be hosting a webinar on the Trade Facilitation Agreement. In this webinar, we will hear from some US companies about

their experiences with the Agreement. We invite all delegations and capitals to attend this webinar. We will be sending out detailed information in the near future.

7.4. The Chair confirmed that the next meetings of the Committee would take place on 22 and 23 June; 27 and 28 July; and 19 to 21 October. Each of the meetings would begin with an informal dedicated session on the review process. The dedicated session on technical assistance and capacity building support would take place on 21 October.

7.5. The Committee agreed to invite the Annex D organizations, as well as ITC and the Global Alliance on Trade Facilitation, to its next meeting.

7.6. That concluded Agenda Item 7.

8 ELECTION OF OFFICERS

8.1. The Chair recalled that the Rules of Procedure for meetings of the Trade Facilitation Committee established that the Committee on Trade Facilitation shall elect a Chairperson and a Vice-Chairperson from among the representatives of Members. The election shall take place at the first meeting of the year and shall take effect at the end of the meeting.

8.2. However, as the Chairperson of the Council for Trade in Goods (CTG) was still holding consultations with Members on the slate of names to chair the CTG's subsidiary bodies, the appointment of officers for the TFC had not taken place.

8.3. As soon as there was consensus on a slate of names, the Secretariat would send an email with the name of the proposed Chairperson for the TFC. If no objection was received within the timeframe indicated in the email, the candidate would be deemed to have been elected by the Committee by acclamation.

8.4. That concluded agenda item 8.

8.5. The meeting was adjourned.
