



**Council for Trade-Related Aspects of
Intellectual Property Rights**

MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD ON 8, 9 AND 29 JUNE 2021

Chair: H.E. Ambassador Dagfinn Sørli (Norway)

Addendum

The present document contains the statements made during the Council for TRIPS meeting held on 8, 9 and 29 June 2021.

Table of Contents

1 NOTIFICATIONS UNDER PROVISIONS OF THE AGREEMENT	5
2 REVIEW OF NATIONAL IMPLEMENTING LEGISLATION	8
3 IP MEASURES IN THE CONTEXT OF COVID-19	8
4 REVIEW OF THE PROVISIONS OF ARTICLE 27.3(B).....	12
5 RELATIONSHIP BETWEEN THE TRIPS AGREEMENT AND THE CONVENTION ON BIOLOGICAL DIVERSITY	12
6 PROTECTION OF TRADITIONAL KNOWLEDGE AND FOLKLORE.....	12
7 NON-VIOLATION AND SITUATION COMPLAINTS.....	15
8 REVIEW OF THE IMPLEMENTATION OF THE TRIPS AGREEMENT UNDER ARTICLE 71.1	18
9 REVIEW OF THE APPLICATION OF THE PROVISIONS OF THE SECTION ON GEOGRAPHICAL INDICATIONS UNDER ARTICLE 24.2	18
10 TECHNICAL COOPERATION AND CAPACITY-BUILDING.....	18
11 INTELLECTUAL PROPERTY AND INNOVATION: SUMMARY ON THE 2020 THEME – MAKING MICRO SMALL AND MEDIUM-SIZED ENTREPRISES (MSMES) COMPETITIVE THROUGH IP AND INNOVATION.....	19
12 INTELLECTUAL PROPERTY AND INNOVATION: INTELLECTUAL PROPERTY FOR INVESTMENT/FINANCING/ FUNDING.....	23
13 PROPOSAL FOR A WAIVER FROM CERTAIN PROVISIONS OF THE TRIPS AGREEMENT FOR THE PREVENTION, CONTAINMENT AND TREATMENT OF COVID-19.....	34
14 EXTENSION OF THE TRANSITION PERIOD UNDER ARTICLE 66.1 OF THE TRIPS AGREEMENT FOR LEAST DEVELOPED COUNTRY MEMBERS	64
15 INFORMATION ON RELEVANT DEVELOPMENTS ELSEWHERE IN THE WTO	87
16 OBSERVER STATUS FOR INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS	87
17 OTHER BUSINESS.....	87

**INDEX OF THE STATEMENTS MADE
AT THE MEETING OF COUNCIL FOR TRIPS 8, 9 AND 29 JUNE 2021***

Afghanistan	
Article 66.1 - Resumption on 29 June	82
Angola	
Article 66.1	71
Waiver - COVID-19	59
Argentina	
Article 66.1	74
Non-violation and situation complaints ...	17
Waiver - COVID-19	61
Australia	
Article 66.1	75
Article 66.1 - Resumption on 29 June	87
IP for funding	28
MSMES	
IP and Innovation	21
Non-violation and situation complaints ...	17
Waiver - COVID-19	43
Bangladesh	
Article 66.1	66, 78
Article 66.1 - Resumption on 29 June	79
Biotech, Biodiversity, TK	14
Non-violation and situation complaints ...	16
Technical Cooperation	20
Waiver - COVID-19	43
Bolivia, Plurinational State of	
Non-violation and situation complaints ...	18
Notifications	7
Waiver - COVID-19	44
Brazil	
Article 66.1	74
Biotech, Biodiversity, TK	15
IP for funding	33
MSMES	
IP and Innovation	23
Non-violation and situation complaints ...	15
Waiver - COVID-19	54
Canada	
Article 66.1	76
Article 66.1 - Resumption on 29 June	83
IP for funding	30
Non-violation and situation complaints ...	18
Notifications	8
Waiver - COVID-19	50
Central African Republic	
Article 66.1 - Resumption on 29 June	87
Notifications	7
Chad on behalf of the LDC Group	
Article 66.1	65, 77
Article 66.1 - Resumption on 29 June	78, 87
Waiver - COVID-19	62
Chile	
Article 66.1	71
Biotech, Biodiversity, TK	15
COVID-19	9
Non-violation and situation complaints ...	16
Waiver - COVID-19	50
China	
Article 66.1	75
Article 66.1 - Resumption on 29 June	84
Biotech, Biodiversity, TK	14
COVID-19	9
IP for funding	33
Non-violation and situation complaints ...	18
Waiver - COVID-19	53
Côte d'Ivoire	
IP for funding	34
Egypt	
Article 66.1 - Resumption on 29 June	87
Biotech, Biodiversity, TK	15
Non-violation and situation complaints ...	16
Waiver - COVID-19	39
El Salvador	
Waiver - COVID-19	58
European Union	
Article 66.1	76
Article 66.1 - Resumption on 29 June	84
IP for funding	31, 34
Non-violation and situation complaints ...	18
Notifications	8
Waiver - COVID-19	45, 63
Fiji	
Waiver - COVID-19	38
Hong Kong, China	
Waiver - COVID-19	54
India	
Article 66.1	73
Article 66.1 - Resumption on 29 June	85
Biotech, Biodiversity, TK	15
Non-violation and situation complaints ...	19
Waiver - COVID-19	63
Indonesia	
Biotech, Biodiversity, TK	15
Non-violation and situation complaints ...	18
Waiver - COVID-19	42
Iran	
Waiver - COVID-19	65
Jamaica	
IP for funding	34
Waiver - COVID-19	60
Japan	
Article 66.1	76
Article 66.1 - Resumption on 29 June	82
IP for funding	29
MSMES	
IP and Innovation	23
Notifications	7
Waiver - COVID-19	57
Jordan	
Waiver - COVID-19	51
Korea, Republic of	
Article 66.1 - Resumption on 29 June	85
Notifications	6
Waiver - COVID-19	49

WTO Secretariat

COVID-1910, 12
Information on Developments in WTO 88
Notifications 6

Technical Cooperation 19

Zambia

Article 66.1 70

* A record of statements as delivered in the formal session of the Council. Some statements have been lightly edited as appropriate to ensure the consistency of presentation.

1 NOTIFICATIONS UNDER PROVISIONS OF THE AGREEMENT

1.1 WTO Secretariat

1. The Council has received the following notifications from Members since its meeting in March 2021:

Under Article 63.2

2. The Republic of Korea has notified consolidated versions of its Trademark Act, its Patent Act, and its Design Protection Act. It has also circulated a consolidated version of its Agricultural and Fishery Products Quality Control Act, as well as the corresponding enforcement decree.

3. Viet Nam has notified its Criminal Code, its Civil Code, and a number of circulars and laws related to the implementation and administration of its intellectual property system.

4. Slovenia has notified new versions of its Copyright and Related Rights Act and its Industrial Property Act, transposing EU Directives into domestic law.

5. New Zealand has notified Amendments to its Copyright Act 1994, Patents Act 2013 and Trademarks Act 2002 to implement New Zealand's commitments under the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). It has also notified a revised Geographical Indications (Wine and Spirits) Registration Act, including associated legal instruments, and an amendment to the Copyright Act to implement the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled.

6. Ukraine has notified minor corrections to already notified amendments regarding the law establishing its National Intellectual Property Authority.

7. The Kingdom of Saudi Arabia has notified licensing rules for providing intellectual property services, as well as a consolidated version of the revised Designs Act.

Under Article 69

8. Tonga has also notified its contact point for IP enforcement under Article 69.

Notifications relating to the Special Compulsory Licensing System

9. Antigua and Barbuda has made a notification under Article 31*bis* and para. 1(b) of the Annex to the TRIPS Agreement, indicating its intention to use the special compulsory licensing mechanism – also known as the 'paragraph 6' system – as an importing Member. Bolivia – following its notification in February of its general intent to use the system – has now notified its need to import an estimated 15 million doses of COVID-19 vaccines under Article 31*bis* and para. 2(a) of the Annex to the TRIPS Agreement. This concludes the overview of notifications received since our meeting in March.

1.2 Korea, Republic of

10. It is a great honour for me to be present at the present meeting as new Permanent Representative of the Republic of Korea. As this is my first statement at the TRIPS Council, I would like to take this opportunity to assure you, Chair, of my full support and cooperation.

11. As the Secretariat noted, since the previous Council meeting, Korea has made a total of six notifications. The notifications are regarding the amendments of certain IP-related laws and implementation regulations.

12. These amendments were made, among other things, in the general direction of further strengthening the implementation of the Intellectual Protection system in place in Korea. We believe that these efforts are in line with the Korean government's commitment to contribute to supporting the free, fair, and transparent multilateral trading system. The detailed contents of the amendments can be found in the explanation of aforementioned notifications. I would like to assure you that Korea will continue to faithfully implement the notification obligation under TRIPS Agreement.

1.3 Japan

13. This delegation is pleased to inform the Council that Japan recently amended its Design Act. The amendments have been notified to this Council in accordance with Article 63.2. The reference number is document IP/N/1/JPN/55. Taking this opportunity we would like to briefly explain the major point about the amendment.

14. The Design Act was amended to introduce collective application for multiple designs, to eliminate the article classification table, and to expand remediable procedures. This enables applications to be filed with a single request for multiple designs. The "Table for Classification of Articles", which defines the granularity of articles to be stated on request, has been abolished. Instead, criteria have been set forth the standard to be considered a "single design" in an Ordinance of the Ministry of Economy. In addition, documents can be submitted even after date which has elapsed the designated period or the submission period for the documents related to the priority documents and the like. The Government of Japan will continuously fulfil its obligation to ensure the accessibility and the transparency of the Japanese intellectual property system.

1.4 Bolivia, Plurinational State of

15. In accordance with the TRIPS Agreement my delegation notified the intention to use the paragraph 6 system of the Agreement and in May 2021 we made the specific notification for the import of 15 millions of COVID-19 vaccines as a result of an assessment of my country's public health needs that we need to import in the next two years. However, because it is not possible to predict with certainty the extent of the country's public health needs, we reserve the right to modify the above estimate as necessary or appropriate.

1.5 Central African Republic

16. This is the first time we have taken the floor at the TRIPS Council meeting and would like to express our appreciation of your commitment to advancing TRIPS issues within the multilateral trading system. We would like to inform Members that three texts issued by the Government of the Central African Republic have been notified in accordance with Article 63.2.

17. The texts are as follows:

- a. Order of 24 May 2005 establishing a National Committee for the Promotion and Protection of Goods by Means of Geographical Indications. The Committee's functions include the following: (i) to identify agricultural, artisanal, fishery and livestock products that could benefit from geographical indication protection; (ii) to promote a policy whereby producers are organized into structures that are able to identify, produce and ensure the protection and defence of products recognized as having a geographical indication; (iii) to train and raise awareness among producers so as to enable them to take ownership of geographical indications; and (iv) to participate actively in WTO discussions on improving international protection for geographical indications.
- b. Order establishing the National Intellectual Property Council. The Council's membership includes public institutions, the private sector and civil society. Its objectives include the following: (i) to develop a national strategy for economic, social and cultural development based on intellectual property; (ii) to issue opinions on all matters concerning intellectual property at the national level; and (iii) to submit proposals to the Government for the promotion of intellectual property, the defence of related rights and the improved coordination of sectoral policies and strategies in this area.
- c. Decree of 3 February 2017 on the protection of trade names. This Decree provides for the mandatory protection of the trade names of all commercial, artisanal, agricultural, industrial and service-providing establishments throughout the national territory. All natural or legal persons engaged in an industrial, commercial, agricultural or service -providing activity must register their trade name at the National Liaison Body for the African Intellectual Property Organization (OAPI) at the Ministry of Trade and Industry.

18. The Central African Republic has the honour to present these three texts within the framework of the implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights. We stand ready to provide Members with any further explanations or clarification.

1.6 United Kingdom

19. As we have outlined at previous Council sessions, the UK has been undergoing a process of notifying all its applicable IP-related domestic legislation, in accordance with Article 63.2 of the TRIPS Agreement. This is an essential exercise given our continued support for the multilateral rules-based trading system, the WTO's role in it, as well as the importance the United Kingdom attaches to TRIPS transparency arrangements and the benefits a transparent IP regime brings for the growth of IP intensive industries.

20. Since the previous formal Council session in March, Members will have received reports of the last of these historic notifications, and we thank Members for their patience in receiving our notifications over a number of months. We are pleased to announce we have now finalised updating our historic notifications and we encourage other WTO Members to notify the TRIPS Council of their domestic IP changes. The UK stands ready to assist any Member who may require assistance in doing so. We would like to thank the Secretariat again for their patience and support throughout this process, and for the efficiency of the e-TRIPS system.

1.7 South Africa

21. South Africa would once again like to reiterate its support for this item to remain on the agenda of the TRIPS Council and thanks the Secretariat for its ongoing work to update the compilation. The compilation of measures is a useful tool that not only informs Members regarding measures by other Members but can also be the basis for useful mutual dialogue. We note that Antigua and Barbuda as well as the Plurinational State of Bolivia have duly notified their intention to use the System set out in Article 31*bis* of the TRIPS Agreement as importing countries. South Africa affirms the right of these Members to utilise this TRIPS flexibility and commends them on their decision to do so.

22. Specifically, Canada recently referred to the possibility of using Article 31*bis* to export patented medical products to other WTO Member States. We understand that Biolyse has made an Article 31*bis* request for a compulsory licence L in early March 2021 to manufacture and export a generic version of the Johnson & Johnson ("J&J") adenovirus vaccine to developing countries. Further, Bolivia has issued a notification of 10 May to import an estimated 15 million doses of COVID-19 vaccines. We would like to know the status of the compulsory license for purposes of export and when will Bolivia be able to import the vaccines from Canada? Having said this, we note that in 18 years of existence, the system set out in Article 31*bis* has only been used successfully on one occasion. This indicates that existing TRIPS flexibilities are inadequate to deal with extremely urgent situations such as the COVID-19 pandemic. The TRIPS waiver is the only viable avenue at the disposal of this forum to facilitate timely and equitable access to critical technologies. Finally, South Africa would like to reiterate its request for clarity from the EU on the application of the Implementing Regulation (2021/111).

1.8 European Union

23. We thank South Africa for the question concerning the EU's implementing regulation on export authorisation. We will come back with an answer as soon as possible.

1.9 Canada

24. Canada is aware of Bolivia's interest in importing COVID-19 vaccines and might be made pursuant to an authorization under Canada's Access to Medicines Regime. The most of these discussions on this matter are ongoing. Federal government officials have met with the Canadian company by all these to discuss their manufacturing capabilities to process resting under Schedule 1 of the Patent Act and subsequent authorization requirements. Canada would be pleased to provide updates on this matter in due course.

2 REVIEW OF NATIONAL IMPLEMENTING LEGISLATION

25. No statements were made under this agenda item.

3 IP MEASURES IN THE CONTEXT OF COVID-19

3.1 Chile

26. Once again, Chile wishes to thank the Secretariat for preparing a compilation of the measures notified to the WTO and maintains the view that this should be kept up to date. We also urge Members to continue notifying IP-related measures, thereby strengthening the transparency pillar of this Organization.

3.2 United States of America

27. The previous interventions of the United States on agenda item concerning IP Measures in the Context of COVID-19 stand. As stated previously, intellectual property plays an incentivizing role in the development of new technologies to combat this deadly pandemic and in supporting economic recovery.

28. In past meetings, the United States highlighted the US Patent and Trademark Office COVID-19 pilot programme which prioritizes examination of certain patent applications claiming a product or process subject to an applicable FDA approval for COVID-19 use. As a companion to the COVID-19 prioritized examination program, the USPTO initiated on April 15 a Fast-Track Pilot Program for Appeals Related to COVID-19. Under this initiative, an appellant may have certain COVID-19-related *ex parte* appeals before the Patent Trial and Appeal Board and will be accorded fast-track status without requiring a petition fee.

29. The aim is to issue a final decision of appeals in this programme within six months if the petition is granted and the COVID-19-related appeal is entered into the pilot program. Together, the COVID-19 prioritized examination and the Fast-Track appeals programme will help avoid delays in the implementation of innovative tools for use against COVID-19. Further information on the USPTO's initiatives on life science technologies can be found on the [COVID-19 Response Resource Center page of USPTO.gov](#).

30. Separately, the USPTO recently launched a category of its Patents for Humanity Program for inventions that address the COVID-19 pandemic. This [new category](#) will provide business incentives for patent applicants, holders, and licensees whose inventions track, prevent, diagnose, or treat COVID-19.

31. Patents for Humanity Award winners receive a certificate to accelerate USPTO processing for one eligible matter (such as an *ex parte* re-examination proceeding or a patent application), as well as public recognition of innovation that benefits humanity. Award winners may also transfer their acceleration certificates to third parties, including for compensation, and can leverage the acceleration certificate to obtain funds to help commercialize their inventions, transforming innovative ideas into deliverable goods and services.

32. For more information about the program, please visit the [Patents for Humanity page](#) on the USPTO website.

3.3 China

33. We thank the Secretariat for compiling this information and welcome Members to continue sharing their pandemic response measures. The pandemic has proven the importance of global cooperation. We firmly believe that information sharing in an open and transparent way is essential for Members to learn from each other so as to better control the pandemic worldwide. China has shared IP response measures in previous meetings. We are willing to continue to share the information with Members.

3.4 WTO Secretariat

34. I would like to express our appreciation to Members for their close engagement on this issue and for the interest expressed in gathering together these important data. Indeed, in the light of the interest expressed by Members in this Council and in the General Council subsequently, and as part of the WTO Secretariat's ongoing efforts to gather and compile data on the full array of trade and policy issues with a bearing on COVID-19 vaccines production and distribution, we had to put together what is, I have to say, a preliminary report on licensing activity relating to vaccine production over time and on the projected and observed volume of resulted production under those agreements. It is worth bearing in mind that there is no single authoritative source for all such information. And we have taken some trouble to survey the range of currently available resources.

35. As a first step, at least, the report that we are sharing with you in the present discussion is, mostly, but not exclusively, based on the work of Airfinity. This is a private firm which maintains a database of information on science, production, and distribution of COVID-19 vaccines and therapeutics, on the basis of publicly available information, announced development. A particular strength of this source, or one of its uses, in particular, is that it enables us to break down activity over time, as this is one of the specific areas of interest that was flagged in the discussion. It is also valuable in its approach to forecasting expected future production based on continuing the recursive attention to matching the predictions with subsequently observed data. We also, however, consulted other sources which do pay close attention to vaccine licensing, and these include UNICEF and the Medicines Patent Pool, and we will, as part of our own efforts, continue to broaden this approach, in the interest of completeness and inclusiveness, so that we can be sure that any future updates are ever more precise and timely.

36. I should stress that we cannot guarantee the accuracy or completeness of any particular source of data, or any particular report. These are not WTO data. It is material that we have sought to collect, and we are providing it in the interest of background information and transparency, rather than presenting it as an official finding of any sort. We are simply not in a position to do that at this stage. Considering the sources available, it is important to bear in mind that there is currently no single authoritative or definitive repository of licensing and production data – and what data we have available are based on information culled from a very wide range of public sources. Moreover, there is active work underway on several fronts to strengthen the gathering and compilation of data, to improve its accuracy, and to complete its coverage. So, this is very much a preliminary report (RD/IP/44), and it should be understood that there is a continuously dynamic picture which is progressively improving over time in terms of completeness, accuracy and timeliness.

37. Further, I would stress that there is no absolute distinction between some of the categories mentioned here, in particular between in-house production, which may be distributed geographically quite considerably, 'in-house' not being literally in a single location – and various forms of contracted production or 'production under contract', and licensed production, or 'production under license'. So, a range of different forms of technology transfer and diffusion can be identified across a spectrum. Accordingly, these data should be considered as a general overview rather than a water-tight or exhaustive analysis. I hope, at least, that this sets the following data in a realistic but, nonetheless, useful framework.

38. One valuable source is the UNICEF COVID Dashboard. This material, looking at manufacturing agreements, demonstrates the very diversity and the complexity of the data. It is important to bear in mind that these are necessarily, inevitably, complex, multifaceted arrangements, that do not necessarily slot into any well-defined categories. This chart illustrates, on the left, the originator or the original vaccine developer and, on the right, the licensees or contracted manufacturers – and gives you some idea, top-down, of the complexity of the situation. This chart, also from the UNICEF Dashboard gives quite a useful picture of the different approaches taken for some, or all, of the lead vaccines. The blue bar represents contracted manufacturing and the green bar shows technology transfer arrangements.

39. While once again stressing that these are not absolute categories, this gives you an overview of the different approaches taken. In terms of delivery, the UNICEF Dashboard also gives you an overview of the range of doses delivered. In this case, distinguishing between different categories of agreements, bilateral and multilateral in the blue spheres here; COVAX supplies, in the dark green colours; donations as the light green, and others. Once again, we cannot be absolutely precise as to

these categories, but just to issue a sense of the different patterns of distribution of the doses, according to the distribution agreements.

40. Another source, at least at the moment relevant for treatments is the Medicines Patent Pool (MPP). The MPP has for years maintained a very useful database on patenting and licensing in the medicine space, but only recently has it turned to COVID matters. Nonetheless, Remdesivir, which is one of the candidate treatments, is on their database, and it is possible to pull out this picture of Remdesivir's licensing arrangements, those that are reported. Once again, nobody is viewing any of these as complete, but it is useful as the general picture of the situation.

41. I now would like to turn to the report that has been distributed to Members in RD/IP/43. This is the material that is contained in the Room Document, and which is prepared by a private firm, Airfinity. As I mentioned, there are two particular strengths of these data focussing on vaccines, which are of the immediate interest. It has been possible to break down activity over time, together with a sense of the evolving situation. In addition, and I will mention this shortly, there is close attention to the forecasting of production based on announcements of agreements, licensing arrangements, and this makes it a particularly useful tool. However, as I stress, it is one tool, one source, and we do not mean to endorse or guarantee this, but once again we hope that it provides a valuable general overview.

42. This slide contrasts the different forms of agreements that had been reached. What people are most interested in in this context concerns the blue part, which represents agreements that involve a transfer of technology, transferring the use of the technology, rather than fill and finish, the final stage of preparing vaccines for distribution. The production of adjuvants, which are a vital ingredient for vaccines, and the other categories, are self-explanatory: distribution, storage, and the source of materials. The blue columns here are of most interest in the current context. The left-hand column, the large column, concerns in-house arrangements, and the right-hand column concerns those that are contracted out. So clearly, from this top-down approach, there is a greater proportion of in-house arrangements.

43. This chart brings us more or less up to date from March 2020, and it shows the growth over time of production and supply chain agreements. Without getting too technical, it shows a regular, a linear increase in the number of those agreements. This is a head count of announced agreements, I should stress. It does not relate to volume of production, but represents a simple head count of the agreements which responds to the query about the developments over time. Turning to the question of the forecasting, this is not official in any sense, and it is not endorsed by the firms themselves or anybody else. It is Airfinity's own forecasting. The left-hand column, again, is in-house production; the right-hand column is contracted production, and it is broken down according to the different vaccines. Just by way of illustration or contrast, on the left-hand column the largest block concerns the BioNTech vaccine, in partnership with Pfizer – still very much in the in-house category. By contrast, the dark green colour on the right is the AstraZeneca vaccine, demonstrating that it has been produced more through contracts.

44. Regarding the regional contrasts, the tendency in Europe, North America and Asia is towards in-house production, whereas in Latin America, Oceania and Africa it is the reverse, a greater tendency towards contract production. Here is a description of the forecasting methodology I mentioned before. I will not go through the details, but some key points: there are obviously and inevitably going to be differences between announced licensing deals and production level, and what is actually delivered, both in terms of numbers and in terms of time. This is one of the approaches that makes Airfinity data quite interesting, because they do work with great precision on both of those points. They are adjusting their predictions according to likely actual production, not just basing it on the announced production, but basing it on feedback from actual production and on the time lag involved between the announcement and the actual commencement of production or supply.

45. The working model has typically fixed a three to four months period for production facility to reach capacity after an agreement is struck, but that is adjusted according to subsequently available data. Without going into further detail, this is why the forecast figures here, while not authoritative in any way, are nonetheless quite interesting and give us some potential insights. This slide takes their forecast figures from February this year through to the present date. As you can see the observed production tracks quite closely the forecast figures. So from that point of view, while not definitive in any way, it makes it interesting at least to look at their forecasts until the end of this

year, for each of the currently available vaccines. Again, we could go into individual detail, but the overarching finding is that, if the current trends continue in terms of approval and production, then these data lead to an estimate of total production by the end of this year of around ten point seven billion doses overall. Of the sites of manufacture, by their estimate, China, followed by the European Union, the United States, and India, are expected to be the lead producers over this time.

46. This slide contrasts in-house production with contracted production, providing again another forecast until the end of this year. You will see that, overall, the expected trend is for both in-house production and contract production to increase, but while the in-house production remains the greater proportion, the share of contracted production or arm's length production is increasing over time. That becomes even clearer in this chart, which takes us up to the end of this year, leading to the total figure of ten point seven billion produced. Looking at the numbers underneath, you can see that the share of contract production is forecast to rise from 20%, in January this year, to 36% at the end of this year. That reinforces the point that the share of such contracted production is expected to increase progressively over time. Again, this is according to this one set of predictions and numbers that, as I keep stressing, are not endorsed or guaranteed in any way, but are at least one valuable source of insight.

47. To conclude, I would say that, as the various sources of data improve and expand, and our capacity as the Secretariat to navigate and integrate the diverse sources of data improves, we will be increasingly able to provide more granular and precise information on the situation relating to vaccine production and distribution, and draw from a wider range of data sources. So, if there is a continuing interest, we can continue to provide successive updates in the coming months. Finally, I would stress that these are general, top-down data. It is possible to mine the data in a more precise and granular analysis, so if there is a very specific interest on the part of any Member or group of Members, we can certainly sit down and go through it in a more an informal and, I might say, more interactive arrangement. I hope that, at least, this provides some idea of the possibilities and the data available.

3.5 Sri Lanka

48. I would like to thank the director of the IP Division for this very valuable presentation, for most of the countries who have been wanting to have this information. I believe that the report and the study, which he referred to, will be circulated to Members. I have seen that the presentation is already available on the Members' website, but we'd like the study that has been used, and for it to be made available to us.

49. We have a query in relation to the patents. We would like to know whether the study also focuses on the status of patents for some of the vaccines and other therapeutic formulas that have been captured in the study. Because countries like us, have been trying to gather information on the type of vaccines and other correlated medicines and devices and whether these have been patented in various countries. This is the kind of information that is valuable to us. We would also like to know whether this study focuses on the aspect of patents, and whether these patents had become obstacles in arriving at the contractual obligations. Because sometimes these contractual obligations can take the different forms of voluntary contract or compulsory licences. So we would inquire whether this study makes a differentiation between contractual obligations due to voluntary or the compulsory licences. We would like to hear back from the Secretariat, if not in the present meeting, then certainly at a later stage.

3.6 WTO Secretariat

50. I thank the Ambassador of Sri Lanka for the interest, and very simply note that the report we just delivered is purely on licensing arrangements and announcements that have been made publicly. The analysis of the patent situation is a parallel task, and I might say, a very challenging one, but I certainly agree with the expression of priority given to this by the delegation of the Sri Lanka, since this is a vital area of information. However, we do not have it today at our fingertips. It is a challenging task to get complete, comprehensive, reliable landscaping of the patent situation for any of these vaccines. It includes the platform technologies, where in some cases there are long-standing patents in place, as well as more specific patents on COVID-related developments.

51. This is a constant and fast-evolving picture, however, and in the light of the interest expressed, we would certainly like to work with our colleagues in this regard. This is something that would naturally fall into the category of our cooperation with WIPO and with the World Health Organization. We can certainly take up that interest and we would aim to keep Members up-to-date on this with the usual caveats. Despite it being a challenging task to get complete up-to-date information on the broad situation, it may at least be possible in the coming months to develop at least an overview of the situation, if that is useful to Members. So, while we cannot offer anything immediately, we can certainly undertake to get back to interested delegations with an update, in the next few months.

3.7 Sri Lanka

52. I would like to thank the Secretariat for its responses. Since we have the benefit of the representative of WIPO in the present discussion, would it be possible for WIPO to at least guide us? According to my understanding, if a patent application is submitted under the Patent Cooperation Treaty, it remains within the PCT system, and the applications and the details of the applications remain confidential until 12 or 18 months after launching the application. So, there is limited level of information that would be made available to the public, to gather more information about the patents, the exact patents that have been presented through the PCT system. Sri Lanka is a Member, but I wanted to understand whether some information will be made available to the public. If so, what are the websites and the links that we can refer to in order to obtain information on these patent applications and who had submitted them. This information would also be very valuable if available in the interim.

3.8 South Africa

53. Let me join the delegation Sri Lanka in thanking the Secretariat for the useful presentation on various dynamics around the COVID-19 pandemic, including various projections, reference to the UNICEF COVID platform, Airfinity, and so forth. Perhaps, I think it is good to emphasize, that the information is tentative and not necessarily verified.

54. However, just one very small comment that my delegation would like to make, and that is just to observe that in 2020 only 4% of projected vaccine production was delivered, and as of now we have projections, that range from between 9.5 billion to about 15 billion. As indicated also in this context, it is important to recall some of the discussions that were had, specifically, in respect of documents that were prepared by manufacturers themselves in March, where it is stated that these manufacturers would be able to supply up to 14 billion doses during the current calendar year. Chair, you know we were able to see other projections, ranging up to ten billion. Nonetheless, if we really look at the baseline as of 17 May, it is reported that at one point, seven billion doses would have been produced. Now this is way below the projected figure for the end of the year. We are already six months into this year and the level of doses that have been produced and distributed lags far behind the projections that are seen in these documents.

55. Moreover, we have said on many occasions that the distribution and administration of vaccines remains inequitable, and we see that more than 75% of all vaccines have been administered in only about ten countries. This remains one of the biggest problems that we face in the in the current situation. And if we look at some of the COVID dashboards, we see that even COVAX has only managed to deliver 72 million doses to-date, which is 3.6% of the two billion doses it was supposed to deliver in 2021. So, given all these particular factors here, I think we need to apply a good dose of reality when we look at these production figures.

4 REVIEW OF THE PROVISIONS OF ARTICLE 27.3(B)

5 RELATIONSHIP BETWEEN THE TRIPS AGREEMENT AND THE CONVENTION ON BIOLOGICAL DIVERSITY

6 PROTECTION OF TRADITIONAL KNOWLEDGE AND FOLKLORE

6.1 Tanzania on behalf of the African Group

56. I deliver this statement on behalf of the African Group. Regarding agenda items 4, 5, and 6. I would like to reiterate the well-known position of the African Group as follows:

- a. The TRIPS Agreement should incorporate provisions which will take into account the protection of genetic resources and tradition knowledge and folklore through reviewing Article 27.3(b).
- b. The reviewed provision should stipulate clear obligations for Members to prohibit misappropriation of genetic resources and traditional knowledge.
- c. The original owners or custodian of genetic resources and traditional Knowledge should acquire equitably benefits from right holders.
- d. The TRIPS Council should avail itself to cooperate with other institutions which are competent on this area such as the CBD Secretariat, in order to be able to advance a meaningful work on this subject matter.

6.2 Bangladesh

57. On agenda items 4, 5 and 6, the position of Bangladesh has not changed. In this regard, to avoid repetition, I refer to my delegation's statement delivered during the previous TRIPS Council meetings, including on 6 February 2020. Bangladesh stands ready to engage constructively and discuss these issues with Members.

6.3 South Africa

58. We take the floor merely to recall our previous statements on these agenda items. As indicated previously, in this discussion we often lose the relative importance of the individual components making up the 'Triplets'. The Doha Ministerial Declaration instructed the TRIPS Council as part of its work programme to review Article 27.3(b) as well as examine the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) and the protection of traditional knowledge and folklore. These are legitimate outstanding implementation issues which remain an integral part of the Doha round single undertaking. In line with our previous statements, it would be useful for the CBD Secretariat to brief the TRIPS Council on the CBD and other implementation issues under the Nagoya Protocol as well as any new developments. We wish to raise once more the issue of the update of the three technical notes contained in documents IP/C/W/368/Rev.1, IP/C/W/369/Rev.1 and IP/C/W/370/Rev.1. It would be appropriate for the Secretariat to update the information contained in these notes in a neutral manner to further facilitate discussions among Members.

6.4 China

59. China's position on this issue has not been changed. China hopes that Members can involve in this discussion in a constructive and urgent manner. China will host 15th Meeting of the conference of the Parties to the Convention on Biological Diversity in Kunming this coming, October, the theme of the meeting is "Ecological Civilization: Building a Shared Future for All Life on Earth". The meeting will discuss on how to better achieve the three goals of the CBD, including promoting biodiversity conservation, enhancing sustainable using and benefit sharing. The meeting will formulate the Post--2020 Global Biodiversity Framework which will set out global biodiversity conservation and sustainable development plans for the next ten years. It is of China's hope that the discussion and possible outcomes of the conference will provide motivation and reference to the discussion of TRIPS-CBD issue in the WTO.

6.5 United States of America

60. The US position is well-known, and in the interest of time, the US will not reiterate it in the present discussion. We ask that our previously shared points on these three agenda items are reflected in the report of the Council. With respect to the various requests made in the present discussion, the United States is not in a position to support these requests, but remains open to discussions, including bilaterally with delegations in between and at the margins of TRIPS Council meetings.

6.6 Nigeria

61. I wish to recall previous information provided by Nigeria on these subject matters of which our positions remain unchanged and we wish to underscore that in order to develop a sound and viable technological base in developing countries and LDCs, any utilization of genetic resources from these regions must involve sustainable use in order to conserve biological diversity and must show evidence of a fair and equitable sharing of benefits, as are the principles of the CBD.

62. As a concrete way forward, we call on Members to move forward on the discussions in order to review the TRIPS Agreement on the requirement for patent registration, to include traceability and a prior informed consent from the source, in respect of any product manufactured from the utilization of general components or traditional knowledge and folklore. We therefore urge Members to consider collaborating with each other both regionally and internationally, in order to achieve this mutually beneficial goal.

6.7 Indonesia

63. We would like to reaffirm our position on the importance of the negotiation of relationship between TRIPS Agreement and the Convention on Biological Diversity, as well as the need to protect traditional knowledge and folklore. We believe that the TRIPS Agreement does not provide any legal obligation for Members to take all necessary measures for fair and equitable sharing of benefits as required by the CBD and the Nagoya Protocol. This provides room for misappropriation and misuse of genetic resources and traditional knowledge. Indonesia believes that it is paramount for the Council to give simultaneous and adequate attention to address this issue together with all Members.

6.8 Brazil

64. I shall be brief, as these are longstanding agenda items. I just wanted to reiterate that Brazil's position with regard to the relationship between the TRIPS Agreement and the Convention on Biological Diversity (CBD) remains unchanged.

65. Our concerns and views on this topic have been thoroughly and repeatedly expressed in past TRIPS Council meetings. I therefore refer to my delegation's past statements on this issue and renew the call for a more in-depth analysis of how the TRIPS Agreement could better support the functioning of the CBD.

6.9 Egypt

66. Egypt recalls the expositions on the previous statements on these agenda items as its position remains unchanged. We would like also to align ourselves with the statement delivered by Tanzania on this agenda item and we stand ready to engage in constructive discussions on issues on this agenda item.

6.10 Chile

67. Our country's position is well-known and we therefore simply ask the Secretariat to reflect in the report of this meeting what our delegation has already mentioned under these agenda items at past meetings of the Council.

6.11 India

68. India reiterates the need for an international enforceable regime to end the misappropriation of genetic resources and traditional knowledge. Discussions on three mandated issues, namely, TRIPS-CBD linkage, GI Register and GI Extension based on the modalities contained in the Document TN/C/W/52 should be taken forward. We also support the two long-standing procedural issues that is the update of three factual notes and the request to invite CBD Secretariat to brief the TRIPS Council on the Nagoya Protocol to CBD.

7 NON-VIOLATION AND SITUATION COMPLAINTS

7.1 Brazil

69. As we are just a few months away from the Ministerial Conference, it has become clear that this Council will not be able to deliver a decision on scope and modalities of non-violation and situation complaints. This is a longstanding discussion, and priorities have understandably shifted to the combat of the COVID-19 pandemic.

70. With little time ahead and no proposal on the table, it is reasonable that we once more agree to postpone this discussion, renewing the current moratorium on the application of NVSC to TRIPS. We support discussions to continue in the near future and invite a thoughtful debate on any possible landing zones for this topic.

7.2 Tanzania on behalf of the African Group

71. I would like to deliver this statement on behalf of the African Group. On Non-Violation and Situation Complaints, the African Group still holds its long-standing group position that:

- a. The Moratorium on Non-Violation and Situation Complaints should be made permanent in the TRIPS Agreement, in order to ensure Members are not threatened to utilize flexibilities enshrined in the Agreement.
- b. However, should Members wish to implement the mandate stipulated in Article 64.3 of the TRIPS Agreement of examining the scope and modalities for the application of non-violation and situation complaints in dispute settlement as allowed in Articles XXIII of GATT 1994, the group remains committed to work together with other Members for amicable solution.
- c. Nevertheless, it is in the understanding of the group that the expiry of paragraph 2 of Article 64 of TRIPS Agreement (here referred as the moratorium), will not trigger an automatic application of Articles XXIII of GATT 1994 in the Dispute Settlement, as it is contingent to the outcome mandated in Article 64.3 of the TRIPS Agreement.

7.3 Chile

72. Our delegation's position is well-known among Members. In the run-up to MC12, we consider that it is important to recognize that consensus has not been reached on this matter in the past and it is unlikely to be one of the central matters at the Ministerial Conference. Therefore, in order to focus our work, we are of the view that it is vital to continue extending the moratorium without affecting Members' position on the matter.

73. Our delegation wishes to reiterate the undeniable existence of linkages between this moratorium and others within the Organization, for which reason we suggest approaching this matter in a responsible and cautious manner. Our delegation will remain open to contributing and seeking solutions on this matter.

7.4 Bangladesh

74. On this agenda item, to avoid repetition, I refer to my delegation's statement delivered during the previous TRIPS Council meetings, including on 6 February 2020. Bangladesh is in favour of establishing a permanent moratorium. My delegation is ready to constructively engage on this issue further.

7.5 Egypt

75. We would like to align ourselves with the statement delivered by Tanzania on behalf of the African Group. We want to reiterate the following:

76. First, we believe that non-violation and situation complaints should not be applicable to the TRIPS Agreement due to the negative effects they can have on both the policy space of Members and on their ability to use TRIPS flexibilities to increase access to medicines and to enhance their capacities to better deal with current and future public health crises.

77. Second, we strongly support the continuation of the NVSC moratorium and making it permanent, and we would like to refer in this regard to the reasons explained in document IP/C/W/385/Rev.1, which Egypt co-sponsored together with a large number of other Members.

7.6 Australia

78. Australia is pleased that the TRIPS moratorium remains in place until MC12. We expect MC12 will be a good opportunity for Ministers to discuss the merits of applying non-violation complaints to the TRIPS Agreement, particularly as we collectively respond to COVID-19.

79. As we grapple with the public health challenges posed by COVID-19, Australia has made clear our view that Members must have flexibility to take measures to protect public health in accordance with the TRIPS Agreement's exceptions and flexibilities. But allowing for non-violation complaints may broaden the scope of potential disputes and legal challenges under the TRIPS Agreement. This may risk limiting the ability for Members to take measures to protect public health free from legal challenge.

80. We therefore support continued efforts to find a consensus solution on this issue, or to otherwise provide more time for a consensus solution to emerge on this basis, there may be a need to again extend the moratorium, particularly as we continue to grapple with the challenges posed by COVID19.

7.7 Argentina

81. The Argentine Republic's position on this issue is well-known and, to date, remains unchanged. We believe that complaints of this type are not applicable to the TRIPS Agreement for the reasons explained in document IP/C/W/385/Rev.1, which Argentina co-sponsored together with a large number of other Members.

82. Non-violation and situation complaints in the TRIPS context are unnecessary. They raise serious systemic concerns, run counter to the long-term interests of the multilateral trading system and upset the delicate balance of rights and obligations in the Agreement.

83. We believe it is necessary to continue to explore this matter. Argentina is ready to pursue constructive discussions on this issue with a view to finding an acceptable and permanent solution.

7.8 Russian Federation

84. The Russian Federation is a co-sponsor of the document IP/C/W/385/Rev.1. We want to reiterate our position in this matter. However, in the current situation our delegation supports the statement made by Brazil on possible prolongation of the existing moratorium on non-violation complaints under the TRIPS Agreement during MC12.

7.9 South Africa

85. South Africa is not a proponent of the application of NVSCs, and the proponents of the application of NVSCs under the TRIPS Agreement have not provided concrete examples of the kind of scenarios under which an otherwise TRIPS-consistent measure would impair or nullify benefits beyond those arising from the obligations set out in the Agreement. In the past, we identified a few useful elements that can inform a debate on NVSC. We stand ready to work with other Members to advance work in this important area. The first option could be for delegations to be invited to identify areas or elements of agreement which could be collated by the Secretariat. This can build on previous discussions on what NVSCs should not be applicable to. This would narrow the issues to those areas in which we still need to engage to ensure focussed discussions going forward. As we indicated in the past, we stand ready to discuss our ideas with delegations on NVSCs. Given the very busy multilateral schedule it has been difficult to get traction on any sort of discussion. However, as we move to MC12 we should be able to find a moment to decide how we take this very important matter forward. South Africa would like to reiterate its view that the traditional linkage between the moratorium on NVSCs and the E-commerce moratorium cannot hold. The linkage is artificial and no longer sustainable.

7.10 European Union

86. The European Union supported extending the moratorium on not using TRIPS non-violation and situation complaints in the past. However, the EU remains open to hear and discuss any possible solutions for the future.

7.11 Nigeria

87. We wish to recall our previous statements under this agenda item. We look forward to the proposal and suggestions by any Member on the examination of scope and modalities of application of NVSC under the TRIPS Council and as provided under the TRIPS Agreement. We are in support of identifying ways to escape this deadlock. However, in the meantime, we believe that non-violation and situation complaints should not be applicable under the TRIPS Agreement and we urge the TRIPS Council to make this recommendation to the upcoming Ministerial Council.

7.12 China

88. China's position on this issue remains unchanged. Like many other Members, China believes that non-violation and situation complaints should not be applicable to the TRIPS Agreement. We are also willing to continue the discussion.

7.13 Canada

89. Canada's longstanding position on this issue remains unchanged: the availability of NVNI claims under TRIPS would create legal uncertainty for Members. Canada recognizes that the current moratorium exists thanks to consensus, and we trust that Members can continue to discuss these issues in a collegial manner, especially in view of the high concentration of Members with concerns in this area, we wish to express our continued interest in participating in any consultations that take place on this issue amongst other interested Members. With respect to the proposed options on the way forward, Canada will need to consult internally, and will revert back after further reflection.

7.14 Indonesia

90. I would like to reiterate our position in supporting the permanent moratorium of non-violation and situation complaints. We would also like to reaffirm our view concerning NVSC as stated in the document IP/C/W/385/Rev.1. We share the view that we need to cautiously approach this issue in MC12. However, we do not see that this moratorium should be linked to any moratorium in this house as we believe that we need to consider each moratorium based on its own nature and merit.

7.15 Bolivia, Plurinational State of

91. Bolivia maintains its position in considering that non-violation and situation complaints do not apply in the context of the TRIPS Agreement. The benefits derived from the Agreement can be adequately protected by applying the text of the Agreement in accordance with the principles of international law and without introducing this legally uncertain notion. Its absence in no way threatens flexibility and TRIPS-related rights and obligations. Likewise, there is no precedent for the application of this type of claim and there are no concrete examples where an otherwise TRIPS-consistent measure would impair or nullify benefits beyond the obligations set out in the Agreement. In this respect we agree with some delegations present in supporting the extension of the moratorium. This delegation stands ready to continue discussions and to find a permanent solution.

7.16 United States of America

92. The United States' position on this issue remains unchanged. We reiterate our support for allowing the current moratorium to expire so that Members may bring NVNI complaints in the future, as appropriate. As we have detailed in past interventions, NVNI claims have a long lineage in the WTO and in international trade law generally. The applicability of such claims to the WTO Agreements is the rule, their non-application is the exception. The TRIPS Agreement moratorium is the exception. While we remain of the view that the text of the WTO Agreements and dispute settlement reports provide Members with sufficient guidance on the application of NVNI disputes to the

TRIPS Agreement. The United States remains open to considering specific proposal from Members wishing to further examine the scope and modalities for complaints of these types.

7.17 Sri Lanka

93. Sri Lanka also shares the same position as expressed by many other delegations who said that there is no relevance of these non-violation and situation complaints in relation to the TRIPS Agreement. We continue to believe that the moratorium should remain, and we are open to work with Members on such proposals as to the scope of this moratorium. We also share the view that this moratorium should not be linked to any other moratorium in any other area. It is something that we can discuss, and arrive at some decision by MC12, particularly in view of the COVID-19 pandemic where many countries, without their knowledge, may be infringing certain IP rights. It is time, we believe, for an extension of this moratorium, so that the countries who are taking such measures will have a legal protection from those relevant articles.

7.18 Switzerland

94. In this delegation's view, the DSU provides sufficient guidance for the DSB to deal with a case of non-violation complaints in the TRIPS context. We thus see no necessity for the Council to work out TRIPS-specific modalities. However, should other Members see this differently, my delegation is ready to look at and discuss any such proposal for additional modalities. This, with a view to arrive at a consensus in time for the Council's recommendation to the Ministerial Conference at the end of this year, when the moratorium is set to expire or would need a further extension.

7.19 India

95. India believes that such complaints in TRIPS can have a negative impact on the regulatory policy space of Members and on the implementation of TRIPS flexibilities. That will not only introduce legal uncertainty, but also immensely restrict the ability of Members to achieve legitimate public policy objectives. We look forward to engaging with like-minded Members in making such complaints inapplicable to TRIPS.

8 REVIEW OF THE IMPLEMENTATION OF THE TRIPS AGREEMENT UNDER ARTICLE 71.1

96. No statements were made under this agenda item.

9 REVIEW OF THE APPLICATION OF THE PROVISIONS OF THE SECTION ON GEOGRAPHICAL INDICATIONS UNDER ARTICLE 24.2

97. No statements were made under this agenda item.

10 TECHNICAL COOPERATION AND CAPACITY-BUILDING

10.1 WTO Secretariat

98. The Council usually conducts such review at the Council's previous meeting of the year. Developed country Members are invited to submit information on their activities pursuant to Article 67 of the TRIPS Agreement. Other Members who also engage in technical cooperation are, of course, encouraged to share information if they so wish. Intergovernmental organizations with observer status in the TRIPS Council, as well as the WTO Secretariat, are also invited to report on their relevant activities and in the past, we have had good returns in this regard. The requested written information should be made available four weeks prior to our next meeting in order to allow timely circulation before the meeting. In view of the dates of the next TRIPS Council meeting – 13-14 October 2021 – this would mean that written information on technical assistance activities would be requested by 15 September 2021.

99. Once again, we invite Members to use the e-TRIPS Submission System. As pointed out in the past, much of the value of this information relates to its searchability. The searchability of the information is vastly improved if the information is submitted through the e-TRIPS Submission System. You may still, of course, send us a paper version. However, the only search availability for such submissions will be full-text search, whereas submissions made in the e-TRIPS Submission

System are searchable, for instance, by beneficiary Members, date spans or topics that may have been indicated. It is vastly preferential to use the e-TRIPS Submission System, and we encourage Members to do that.

10.2 Bangladesh

100. The delegation of Bangladesh acknowledges the contribution of the developed country Members for extending capacity building support to the developing countries and particularly the LDCs under TRIPS Article 67 through a wide range of programmes. These programmes are critically important for the LDCs. My delegation also thanks the Secretariat for the briefing on the e-TRIPS Gateway related to TRIPS-related data and information. Bangladesh sincerely thanks the developed country Members for their help and would like to request them to continue their valuable supports for the developing countries and particularly the LDCs and the graduating LDCs.

10.3 World Intellectual Property Organization

101. We would like to announce the dates of the trilateral distance learning course. The WHO, WIPO and WTO have prepared an executive course on promoting access to medical technologies and innovation, which is administered by the WIPO Academy. The purpose of this course is to give an overview of the factors that shape access to, and influence, the innovation of medical technologies. The course describes how these two objectives are shaped by a diverse range of factors that can be found in the policy fields of public health, IP and international trade. The target audience primarily includes technical professionals, such as patent examiners, health policymakers, drug procurement specialists, IP specialists and senior students. The dates for the next non-tutored session in Arabic, English, French, Portuguese, Russian and Spanish from 15 September to 31 October 2021 and the next tutored session in English is scheduled from 12 November to 20 December 2021. Registration for these two sessions will be announced on the WIPO Academy webpage in the end of August and in early October, respectively.

11 INTELLECTUAL PROPERTY AND INNOVATION: SUMMARY ON THE 2020 THEME – MAKING MICRO SMALL AND MEDIUM-SIZED ENTREPRISES (MSMES) COMPETITIVE THROUGH IP AND INNOVATION

11.1 United States of America

102. Before discussing the new IP and Innovation topic under agenda item 12, the United States wanted to take a step back and summarize what we discussed over the past year under the theme "Making MSMEs Competitive through Intellectual Property (IP) and Innovation" as noted in the submission IP/C/W/678/Rev.1.

103. First, under the sub-theme "Making MSMEs Competitive Through Trademarks" several Members shared information about best practices that their governments and IP offices have employed to build the awareness of MSMEs and provide them with tools to protect their trademarks and maximize their commercial potential in the global marketplace. Although, trademarks are the most widespread form of registered IP rights, they offer benefits such as product distinction and protection against unfair competition, and are a critical element of branding and marketing, many MSMEs still have not taken steps to apply for trademark protection because they lacked awareness and understanding of trademark protection.

104. Second, under the sub-theme "Making MSMEs Competitive Through Inclusive Protection of Various IPRs" the Council discussed how MSMEs often lack the awareness and understanding of how to develop their businesses through building and achieving a high-quality multi-layered IP portfolio composed of various types of IP. Members noted efforts to more effectively support MSMEs in expanding their operations through the strategic growth and diversification of their IP assets, including programmes and initiatives offered by national IP offices designed to assist individual inventors and MSMEs with protecting and commercializing their inventions, such as through fee discount policies for small and micro entities for IP registration applications; a programme for cross-sectional "collective examination for IP portfolios" to grant multiple IP rights in a timely and coordinated basis; and development of "IP for business" audit and assessment tools and other IP pre-diagnostic services.

105. Lastly, under the sub-theme "Making MSMEs Competitive in Green Tech" Members discussed how governments are increasingly building green tech innovation into national strategic planning, including by establishing programmes and tools that aim to encourage and reward green inventions and their diffusion. Several Members shared their national IP offices' positive experiences with programmes such as providing personalized assistance with patent searches for green tech MSME inventors as well as prioritizing or accelerating application proceedings for patent applications directed toward green technologies. Members also discussed the WIPO GREEN platform and its role in facilitating the development and dissemination of green technologies by promoting matchmaking between environmentally sustainable technology providers and seekers. I will come back to share the United States' experience with how businesses are using IP as a tool for attracting investment and financing.

11.2 Switzerland

106. We thank the US delegate for briefly introducing document IP/C/W/678 which Switzerland is pleased to co-sponsor. Considering the importance of micro-, small and medium sized companies for all national economies, the topic of making MSMEs Competitive through Intellectual Property and Innovation is relevant for all WTO Members independently from their status of development. To have at disposal this summary of the experience shared by Members, the challenges and lessons learned, is particularly useful and we thank the US as its author for it.

11.3 Australia

107. Australia would first like to thank the US for drafting communication IP/C/W/678 and is pleased to co-sponsor the paper. We would also like to take this opportunity to thank all Friends of IP and Innovation Members who drafted communications to support the TRIPS Council discussions on Making MSMEs Competitive through IP and innovation throughout 2020 and 2021.

108. These communications have provided valuable opportunities to exchange views and explore the positive role of intellectual property rights in supporting small and medium sized enterprises grow and expand their businesses and we look forward to engaging in the final sub-theme for 2021 focused on investment, financing, and funding, under agenda item 12.

11.4 United Kingdom

109. The United Kingdom would like to thank the US and the co-sponsors for preparing this paper, summarising the previous year's activity from the Friends of IP and Innovation Group, focused on IP and MSMEs. We are pleased to co-sponsor and to have the opportunity in past sessions and in the present discussion to add our voice to those delegations that see this work and MSMEs as important in the overall innovation ecosystem. The UK considers that creative and innovative enterprises are vital to a strong economy, and MSMEs often represent the most innovative and agile businesses.

110. It is undeniably vital that these businesses' success is complimented by an enabling and effective intellectual property framework. Over the previous year we have listened with interest to other Members' experiences in this area, from how critical MSMEs are, to how IP can support and foster their success, and how governments can create an environment to aid this. A key aspect for the UK was the theme of building awareness among MSMEs of the benefits of IP to their business, notably the example that some MSMEs may not have sought protections due to a lack of awareness or assumptions that processes to achieve this would be expensive or difficult. Therefore, hearing examples of Members' experiences relating to outreach and education efforts from Members, and the encouragement of the development of IP strategies as a core business function were especially helpful.

111. We also noted with interest the increasing focus on green tech innovation, how both businesses and governments see this as a vital area of significance, and how MSMEs can benefit from a range of initiatives and tools that Members have been putting in place encourage innovation in the green space. We fully agree that MSMEs are critical to bringing innovative solutions to real-world challenges, as well as overall economic health, and would like to reiterate that while the significance of MSMEs to economies is increasingly recognized, it is now more important than ever that we look at ways to bolster the capacity and health of MSMEs. The UK would again like to thank the US and

other Members of the Group for presenting this paper, as well as for their contributions throughout this fascinating theme.

11.5 Singapore

112. Singapore is pleased to co-sponsor agenda items 11 and 12 and will address them together. I would first like to thank the US for drafting the paper to wrap up and summarise the fruitful discussions that the membership had in 2020 and early 2021 on "Making MSMEs Competitive Through IP and Innovation", in relation to Trademarks, Inclusive Protection of Various IPRs and Green Technology. Various Members' national policies, initiatives and platforms were showcased, which provided food for thought for us on how governments, business, academia and other key stakeholders can come together to synergise and identify the best ways to ensure IP can benefit our citizens, businesses and the whole world at large. Singapore was happy to have contributed to these discussions in a substantive manner, and we are heartened to note that engagement on this topic was high throughout the year.

113. We would also like to thank the UK for submitting the discussion paper on "IP for Investment/Financing/Funding", which touches on how Members could tap on the potential in financing from the innovation process to bring benefits to more people. The UK's paper is useful in stimulating discussions on understanding how businesses can overcome difficulties in using their existing or potential IP assets to unlock funding and improve cash flow, and how various Members can support such efforts. Allow me to now share two recent projects that Singapore launched on IP financing, and the lessons we learnt from our experience.

IP Financing Scheme (IPFS)

114. Singapore launched the IP Financing Scheme (IPFS) in April 2014 to help IP-rich (but physical asset-light) companies to increase access to IP financing. Under this scheme, the Singapore Government shared the risk of the IP loan with the Participating Financial Institution (PFI) to encourage financial institutions to accept IP assets (namely patents, trademarks, and copyright) as collateral in support of the loan. A valuation report by a panel of valuers (appointed based on their experience in IP valuation) was required for the application. PFIs will undertake the due diligence process in assessing the credit worthiness and the business case of the applicants. The scheme was retired in 2018, after a total loan amount of SGD 12 million was disbursed from the PFIs. Three companies from various sectors successfully collateralised their IP assets¹ to obtain funding necessary to support their working capital needs, and research and development and expansion plans.

Intangible Disclosure Evaluation and Audit Scheme (IDEAS)

115. In 2020, the Intellectual Property Office of Singapore (IPOS) and Singapore Exchange (SGX) jointly launched the Intangible Disclosure Evaluation and Audit Scheme (IDEAS) programme exclusively for SGX-listed companies and companies preparing for a listing.² The programme aimed to raise awareness and encourage companies to undergo intangible assets (IA) evaluations and promote a more robust IA disclosure environment. This will help investors better appreciate the value of intangible assets and support companies in capital raising. The IDEAS programme provided companies with government support to undergo an IA evaluation and audit process. The process enabled companies to identify important IA information that are key drivers to their businesses and make recommendations on disclosing such important information to communicate business value to the market. Greater transparency and clarity in IA disclosures will help companies build investor trust and enhance the effectiveness of the Singapore capital market in helping IA-rich business raise capital, as the knowledge economy shifts away from the traditional indicators of performance grounded in intangible asset values.

Learning Points and Future Plans

116. Singapore's effort in developing our IP financing sector has helped create market awareness that IP is a valuable asset. We remain committed to supporting our enterprises' growth and

¹ <https://www.straitstimes.com/business/companies-markets/ip-backed-loan-to-help-shoe-firm-make-strides>

² [SGX and IPOS launch pilot programme to help companies identify and communicate intangible assets information - Singapore Exchange \(SGX\)](#)

profitability through leveraging their intangible assets for commercialisation. Our experience has shown that a number of factors, such as cost of financing, market familiarity with the value of IP/IA assets, and a vibrant IP marketplace, are important in driving the development of IP financing. As outlined in the Singapore IP Strategy (SIPS) 2030 launched on World IP Day 2021, going forward, Singapore aims to build an enabling infrastructure for IA/IP financing and transactions by:

- a. developing a credible and trusted IA/IP valuation ecosystem;
- b. enhancing financial institutions' appreciation and assessment of IA/IP so the underlying risks and rewards of financing innovation-driven businesses are reflected accurately; and
- c. providing platforms and connections to facilitate transactions.

117. We look forward to hearing from other Members on their national experiences.

11.6 Japan

118. Japan would like to express our gratitude to the delegation of the US for comprehensively summarizing our discussion of the previous year and the first part of this year. Throughout 2020 and in the first part of 2021, we shared experiences and policies regarding making MSMEs competitive through IP and Innovation. In addition, a number of WTO Members provided statistics and case studies showing the positive effects that IP has on driving innovation. This delegation believes that Members also, by having valuable discussions, gained a better understanding of the role that IP plays in encouraging innovation.

11.7 Brazil

119. We would like to thank the proponents for their submission, which summarizes discussions held under the macro topic of "Making MSMEs competitive through IP and Innovation". Discussions have shed light not only on the difficulties many MSMEs have faced in using IP as tool for their businesses but also on the several programmes developed by Members to support their MSMEs.

120. These were very insightful discussions. It was very interesting to learn other Members experiences and share a bit of what Brazil has been doing to help MSMEs benefit from the IP system. We look forward to more discussions on this issue in the near future.

11.8 South Africa

121. South Africa is currently implementing two flagship programmes aimed at assisting small businesses to benefit more meaningfully from the IP system. They are the Inventor Assistance Program (IAP) and the IP for Small, Micro and Medium Enterprises (SMMEs) project (IP4SMMEs). The IAP is an innovative programme administered by the World Intellectual Property Organization (WIPO). In South Africa it is implemented by the Companies and Intellectual Property Commission (CIPC). It aims to make the IP system more accessible to under resourced inventors, whether they apply for patent protection as individuals or as a part of a Small Micro and Medium Entity (SMME). The principal goal of IAP is to bring as many under-resourced inventors as possible into their local IP systems by giving them the knowledge, tools and means that they need to file complete applications, undergo substantive examination and ultimately enjoy benefits of a duly issued patent. This is achieved through the provision of an online course on the importance of IP protection and finally, pairing of inventors with pro bono Patent Attorneys.

122. The IAP was launched in South African in November 2017 and commenced operations in November 2018. Turning to our second flagship programme, IP4SMMEs; the project has two overarching objectives:

- a. Enhancing SMME competitiveness through effective management of IP assets; and
- b. Strengthening the institutional capacity of SMME support institutions (SMME intermediaries) in delivering IP-related services to their stakeholders.

123. Furthermore, the SWISS-SA IP project (SSAIP), a collaborative programme between the CIPC and Swiss IP Institute supports the IP4SMME project. These programmes will be implemented over

the next three years. These initiatives, among others demonstrate South Africa's commitment to ensuring that the IP system benefits SMMEs, which in many developing countries have been marginalized.

124. In crafting such initiatives, due regard must be given to the growing body of economic literature which suggests that the relationship between IPRs and development is a contested one. South Africa's IP Policy was approved by Cabinet in 2018. It acknowledges the important role that IP can play in incentivizing innovation while engaging with the emerging consensus in the economic literature that the best outcomes are achieved when a given country's IP regime is calibrated to its level of development. Our delegation remains amenable to engaging constructively on this theme.

12 INTELLECTUAL PROPERTY AND INNOVATION: INTELLECTUAL PROPERTY FOR INVESTMENT/FINANCING/ FUNDING

12.1 United Kingdom

125. The UK delegation expresses gratitude to the co-sponsors of this agenda item and the accompanying document. We are grateful to see this Council discussing a topic of high importance to businesses, especially MSMEs, and to the innovation and creativity ecosystem as a whole. We would like to thank the co-sponsors for entrusting us with giving an introduction, which we will do together with sharing experiences of the United Kingdom. We hope it serves as a catalyst for interesting conversation around the area of finance and intellectual property. The paper seeks to explore, in the context of the importance of financing to businesses, the different ways IP can be leveraged for growth and sustainability. It covers different forms of financing available, as well as potential support governments can provide.

126. Given this somewhat uncharted territory, the exploration in this paper poses a number of questions, and we look to others' experiences to perhaps provide some of the answers. These questions include: what are the experiences of businesses using IP to raise finance internationally; measures taken by Members that have supported businesses in their commercialization of IP; and how awareness of the benefits of IP could be raised with finance providers. Intellectual property assets have long been recognized as just that - assets. But valuing IP is not an easy task. For example, how much is your brand name worth after years of marketing. Valuing IP assets can be especially difficult if they are innovative - and therefore novel and untested.

127. Further, intellectual property rights may change in value over time. For example, a patent may become less valuable as other solutions to the problem may be found, or a trademark gain value as it becomes more widely recognized. These shifting values mean businesses will benefit from regularly taking stock of their IP assets - an 'IP Audit' - that will allow them to:

- a. Identify the products and services that are crucial to business.
- b. Identify IP assets and the legal rights associated with them.
- c. Identify what market advantage these rights give.

128. ...and thereby value IP assets as they would physical assets.

129. The world's five most valuable companies are worth GBP 3.5 trillion together, but their balance sheets report just GBP 172 billion of tangible assets - so 95% of their value is in the form of intangible assets, including intellectual property, data and other knowledge assets. Too often, IP-rich firms find it difficult to collateralize their investments to unlock future growth funding, especially when compared with those firms holding more conventional assets. So, we have to ask if there is a mismatch between the potential value created by companies with strong intellectual property portfolios and the investment opportunities afforded by investors.

130. In the UK, evidence suggests that there are fewer than 5000 IP valuation reports commissioned per annum, and the market is somewhat underdeveloped versus what might be considered optimal. It should be possible to bring more clarity to the subject of IP asset valuation so that investors and innovators can benefit from asset value as collateral for innovation.

131. The focus of government support should be to make it easier to maximize the return on IP through better knowledge, information flows, access to finance, insurance, and trading mechanisms, such as the UK government's IP for Investment toolkit and IP Audit programmes, for businesses seeking equity finance to grow: supporting identifying IP assets and their relationship to growth and providing guidance on 'investor readiness'. This could incentivise the creation of new ideas, increase the share that is commercialised, and thus contribute to innovative activity, which will benefit the wider economy through further innovation where firms are able to collateralise their intellectual property.

132. Whilst there are no easy solutions within this complex set of interactions between businesses and financial institutions, it's valuable to identify where potential obstacles lie and improving our understanding and use of IP assets as a fundamental driver of economic growth. For the UK, the growth in investment in intangibles, such as those protected by intellectual property, has been substantial. Between 1997 and 2016, investments in intangibles increased by 87% from GBP 71.91 billion to GBP 134.29 billion.

133. In 2016, almost half of the assets UK firms invested in were intangible knowledge assets, rather than tangible assets. There is no single market-wide or agreed methodology for valuing IP. Without a consensus approach, it is difficult to independently verify the value attributed to a piece of IP. Unsurprisingly, one survey [a 2010 survey] showed that only 3% to 4% of SMEs had ever tried to assess the value of their IP.

134. However, some innovative, independent companies in the UK are bridging the gap between financial and intellectual assets by developing their own expertise in valuation and its realisation - such as the UK-based commercialisation company, IP Group, which has focused on linking university-originated research with investors through carefully considered IP asset valuation and development. IP represents a global growth area, and those who are prepared to invest can prosper from this. We hope that others can join the conversation on how to further enable this for the future. Again, we thank other Members for their support, and look forward to hearing the views of other co-sponsors on their national experiences in this area.

12.2 Switzerland

135. The Swiss delegation would like to thank the UK for introducing document IP/C/W/679 for the Council's present discussion. Switzerland is pleased to co-sponsor the agenda item, as well as the written submission. This document shows that financial capital can originate from various sources and take different forms, ranging from debt to equity. Some types of financing may be more appropriate than others depending on the stage of development of the IP protected innovations and creations. Nevertheless, financial capital is generally an important component at each stage of the innovation cycle, as it influences not only the transition from an idea to an innovative project, but also the creation of an IP asset and the commercialization of the finished project.

136. The interplay between IP and financial capital is already evident at the very beginning. To turn an idea into an innovative project, financial capital is not only desirable but often a prerequisite for this to happen, as the inventors/creators often lack own funds.³ This is especially true for micro, small & medium enterprises (MSMEs). In order to tap investment opportunities, it is therefore of utmost importance to convince investors that their financial contribution will not be in vain or fall into the wrong hands. Thus, the fact that an innovative project is eligible for IPR protection and that a company is able to secure this protection is a signal to potential investors that an investment could be worthwhile.⁴

137. Once an innovative project is accomplished, it is important to have it protected in order that the full benefits accrue to the inventor/creator. However, small companies often shy away from this step, not only because of a lack of awareness regarding the importance of IP but sometimes simply shy away from the initial administrative effort required to apply for an IPR or the costs involved in

³ Worldbank (retrieved from: [World Bank SME Finance](#), 31.05.21).

⁴ SME Info (retrieved from: [SMEinfo | IP for SMEs](#), 31.05.21).

the granting procedures.⁵ Consequently, financial capital plays a role not only in the elaboration of an innovative project, but also in protecting its continued existence.

138. Established IP assets can signal quality, productivity and commercial potential to investors.⁶ This is particularly so in the case of MSMEs, as the investor is provided with evidence that the company's business plan is backed up by a possibly valuable asset. This finding was confirmed by Bloom Bio-renewables, a Swiss start-up that our delegation featured at the March 2021 TRIPS Council for the IP and Innovation topic "Making MSMEs Competitive in Green Tech". This young innovative business explained that in its own case, IP was necessary to assure investors that the company is able to defend itself against potential illegitimate free riders. Thus, the interplay between IP and financial capital becomes clear once again, this time with IP serving as a trigger for the acquisition of financial capital.

139. Finally, the ultimate objective in developing IP is to generate positive returns, including through licensing agreements, for both the inventor/creator and the investor. Thus, financial capital again is essential to exploit the possibilities at hand to finance market research, pilot testing and the full commercialization of IP assets.

140. Financial capital is therefore an important consideration in the innovation cycle as it affects each stage of the innovative process and is directly linked to the development of the IP protected innovations and creations. This topic is particularly relevant for small businesses and there is much room for further analysis. Therefore, Switzerland is currently cooperating with WIPO for a project to explore the possibilities for SMEs to use IP assets to access funding to shed further light on this important subject.

12.3 United States of America

141. The United States is pleased to co-sponsor this agenda item on IP and Innovation and contribute to the discussion of "IP for Investment/Financing/Funding." I would like to thank the United Kingdom for introducing this agenda item and the co-sponsors for this item and all of the other Friends of IP and Innovation items. The United States welcomes this opportunity to discuss how a company's IP assets can be used to attract follow-on investment and financing, leading to further opportunities for innovation and growth of the business.

Introduction

142. The impact of the implications of the COVID-19 pandemic has led to many companies seeking ways to preserve cash to improve their financial position while simultaneously raising funds to ensure a continuation of operations. One option to consider is using the company's intellectual property (IP) portfolio as collateral for funding or to gain access to credit – also known as "IP-backed financing".

143. Intangible assets account for trillions of dollars in value in the US economy and as a result, billions of dollars have been injected into IP finance. It is critical that both business owners and their advisors understand not only where intangible asset value is found, but also how to access it. Effective IP financing can be a competitive advantage and a tool for growth.

144. According to data from the US Patent and Trademark Office, the number of patents recorded by the USPTO as having ties to a "security interest" or "security agreement" almost doubled to 400,000 during the four years ending in 2019 when compared with the prior four years.⁷

145. In the case of lenders who are otherwise on the fence about whether to put forth a loan to a company in need, an IP portfolio can be a hidden source of collateral, especially when the IP rights are generating revenue through licensing, patent assertion, or sales.

⁵ EUIPO 2021 (retrieved from: [2021 IP Rights and firm performance in the EU en.pdf \(europa.eu\)](#), 31.05.21).

⁶ Sahli, M.; Die Rolle des Geistigen Eigentums für Start-Ups, p. 6.

⁷ <https://www.ft.com/content/0b0e09b0-9362-11ea-899a-f62a20d54625>

Definitions and examples

146. There are various financial practices in which IP assets can function as a source of financing. These include securing venture capital, using IP as a collateral (i.e., to secure a loan), or IP securitization, which is still relatively rare, but refers to when IP assets are pooled together and packaged into an interest-bearing security.

147. In recent years, IP asset-backed securitizations are most common in the film and music industries, but the practice is increasing in the biotechnology and software industries. Licensing revenues associated with clothing designs and sports and film broadcastings, patents and trademarks, including the goodwill tied to them, have all been successfully leveraged.⁸

148. With respect to IP-leveraging in the biotech field, small and medium-sized enterprises (SMEs) and university entrepreneurs in the United States are increasingly at the forefront of innovation in medicines, but as relatively small companies or start-ups, they often require external investment to help them fund their research and in turn generate significant licensing cash flow. A number of economic studies over the past 20 years have shown that patenting activity by a start-up significantly increases the likelihood that that start-up will obtain venture capital funding or other types of investment. Further, a 2018 study which analysed venture capital backed start-ups, found that more than 25% of the patents awarded were then used to secure loans.

149. Recent conversations with SMEs and investors supported these trends. For example, in speaking with a VC at Techstars Berlin who has invested in start-ups in the UK, EU and US markets, he confirmed that more than 50% of the biotech start-ups he has worked with already had some sort of IP or were taking active steps to secure IP protection to help enhance their reputation and to secure external funding. The importance of IP grows, he added, as a company matures and is seeking additional investment for growth or acquisition. He noted that the other half of biotech start-ups that do not seek IP protection have struggled with lack of IP awareness, concerns over cross border patent prosecution inefficiencies, and theft of IP. The VC's comments are a reminder of the need for governments to continue providing tools and resources that build awareness for start-ups and SMEs on the importance of IP protection, international registration, and how to report and prevent infringement.

150. A telecom SME CEO further explained in a recent call that without using their IP portfolio, they not only would have been unable to finance the development and growth of their company, they also would have been unable to pay for litigation in the US to enforce against the infringement of their technology by much larger telecom companies. In another example of how to leverage an IP portfolio, the telecom SME was able to use their patent to finance their patent infringement case. "Litigation funding", also known as "litigation finance" or "third party funding," is an alternative means for a claimant to fund the costs of a legal dispute. Rather than paying litigation costs out-of-pocket, a commercial litigation funder finances the cost of the patent litigation in return for a share of any award or licensing revenue. The SME CEO noted that better awareness of IP financing options for SMEs will incentivize greater use of national and international patent systems, and without patent protection, it would have been impossible for his company to succeed.

Assessing IP and its Value

151. To leverage financing through IP, a business must understand the value of its IP assets. Valuing IP assets requires that a company first identify its IP assets, and second, assign a justifiable value to the identified IP assets; both steps require careful consideration. IP assets are more easily identified by a company in those instances where IP rights are embodied in a granting document, such as an issued patent or a registered trademark, also known as formal IP. However, non-formal/non-registered IP assets that may also qualify as a company's IP can be easily overlooked, such as: trade secrets; know how; business confidential information; and R&D. To ensure companies are confident that they are aware of all of their IP assets, an IP audit should be performed. A comprehensive IP audit generally includes an evaluation of a company's assets to identify its IP assets that it possesses, whether registered or unregistered IP.

152. In the United States, the USPTO's hub for start-up resources helps start-ups to address their specific IP challenges, including assessing IP portfolios and securing funding. Information can be

⁸ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3275999

found on USPTO's website for start-ups.⁹ In addition, the USPTO has partnered with the US Small Business Administration (SBA) to provide services to businesses seeking IP-leveraged funding, including loans, venture capital and SBA investment programmes. For those interested in intergovernmental organization support, WIPO has launched a new initiative for SMEs to undertake a basic identification and diagnosis of their IP assets. WIPO's online "IP Diagnostic Tool" can assist a company with an assessment of the IP assets that a business may have and how it may consider protecting and exploiting them, as well as the risks to the business of not managing these assets.

153. The second consideration for a business when pursuing IP-backed financing is IP valuation. Businesses must take steps to understand the commercial value of their IP, and ensure their proper valuation by professionals. However, valuing IP assets is often a difficult task because their true value may not be readily apparent. A further obstacle is that there are no standard IP valuation methodologies developed that are generally applicable to all IP rights big or small. For the purpose of securitization, technical valuations of IP rights are required and support for companies, including those in developing countries, is very much needed.

Conclusion— The Intersection of IP Laws and Secured Transaction Laws

154. WIPO recognizes more should be done in this area, and as part of its emphasis on SMEs, the IP for Business Division within WIPO's IP and Innovation Ecosystems Sector is developing several new resources, including comparative country reports to better landscape the current situation; promoting discussions on IP and finance, such as the organization of expert meetings and the preparation of additional longer-term sustainable plans; and continuing to develop new programmes to explore the evolving area of IP and financing.

155. Despite the ongoing policy and legal gaps that exist at the national and international levels concerning the intersection of IP laws and IP financing laws, businesses and lending institutions increasingly need to understand both fields, and governments and intergovernmental organizations should do more to link IP to business strategies in order to facilitate the rise of IP assets as a full-fledged asset class. While this process may be largely driven by the market, policy makers can design and deliver awareness campaigns and contribute to increased reliability in valuation standards and IP audit of assets to support the shared goal of ensuring that access to capital is eased for those economic units with the greatest growth potential, namely start-ups and SMEs.

12.4 Australia

156. Australia would first like to thank the UK for drafting communication IP/C/W/679 and is pleased to co-sponsor the paper. As an innovation economy, Australia recognizes the crucial role of financing in helping to commercialise new business ideas. As countries respond to the ongoing challenges posed by COVID-19, the role of private and public financing is going to play a fundamental role in enabling economic recovery and supporting the business community to return to health.

157. Australia recognizes that SMEs have been particularly impacted by the global pandemic, domestically and globally, and initiatives designed to target and support MSMEs in the current climate are particularly important. MSMEs have worked hard to continue and in many cases transform their operations, whether through online deliveries, virtual events or the adoption of new digital platforms. This readiness to innovate continues to be a key factor in Australia's response to the immediate challenges resulting from the COVID-19 crisis and will be central to helping all businesses and the global economy bounce back.

158. As communication IP/C/W/679 explains, innovative businesses can find it difficult to use their IP assets to unlock funding, particularly when compared to businesses that hold more conventional, tangible assets. To address this challenge, Australia is focused on ensuring that the IP system is accessible, well-understood and fit for purpose to support SMEs to commercialise their ideas and raise finance. For example, the Government commissioned a review of Australia's patent system for SMEs. The Patent Accessibility Review was tabled in Parliament on 27 May 2021. The review involved a number of recommendations to support SMEs to raise finance and use the IP system to commercialise their ideas and we look forward to engaging further with Members on its findings once the Government's response has been prepared.

⁹ <https://www.uspto.gov/learning-and-resources/startup-resources>

159. Communication IP/C/W/679 recognizes that beyond grant financing, there are ways IP offices can provide further tools to help SMEs access financing and commercialise their ideas. IP Australia, our specialised Government IP agency also offers a range of tools for SMEs to understand how the IP system can support them commercialise their ideas and raise finance. For example, the online SME Portal provides a single landing page for SMEs allowing access to a range of products and services designed to help SMEs navigate the patent process SMEs are able to fast track their standard patent applications by requesting expedited examination. Expedited examination is also available if an invention is in the field of green technology. We look forward to further exchanges with Members on how to use IP-related tools to support MSMEs in the green tech industry.

12.5 Singapore

160. Presented under agenda item 11.

12.6 Japan

161. The delegation of Japan appreciates the delegation of UK for introducing our concept paper. Taking this opportunity, we would like to share our experience and national policies regarding this agenda item. As stated in our concept paper, financing affects every stage of the innovation cycle, from commercialization of ideas to expanding and sustaining business. Start-ups and SMEs are facing a wide variety of business challenges, of which financing is one of the most important elements. For SMEs, which do not have a large number of tangible assets, financing that focuses on the value and potential of their IP is invaluable. However, in general, financial institutions are not usually very good at understanding the technological capabilities, meaning IP, which are the source of sales and business growth. If financial institutions understand the background of their clients' IP, they will be better informed to provide proper business support and management support to their clients.

162. In response to this situation, the Japan Patent Office (JPO) formed the IP finance promotion project. This project offers support to financial institutions by helping them focus on the potential of their clients' IP and enable them to provide business and management support. Specific examples of initiatives include writing and submitting two kinds of reports to financial institutions by affiliate research firms. The first reports are "IP business valuation reports", which evaluate the IP-based businesses of SMEs. The second reports are "IP business proposal reports," which include strategies on and solutions for management issues. In FY2019, the research firms made a total of 167 reports.

163. Also, under the program, IP experts are sent to financial institutions so that they can understand SMEs' businesses and create growth support scheme within financial institution based on an IP-based perspective. Furthermore, a web portal was created, and seminars are being conducted to raise public awareness and develop human resources in this field. Another initiative is the accelerated-examination system. This is also mentioned in the concept paper, as one of the initiatives that IP Offices can implement to enable SMEs to obtain financial support as soon as possible. The JPO offers accelerated examination under certain conditions, and start-ups and SMEs are also eligible for this system. In 2020, first action pendency from request for accelerated examination was 2.7 months on average, which is a significantly shorter amount of time compared to applications that do not undergo accelerated examination.

164. Furthermore, as a means to support start-up companies' applications during patent examination, the JPO implemented the following two programmes: "Accelerated Examination Using Interviews for start-ups" and "Super Accelerated Examination". These programmes are aimed at "working-related applications" of start-ups. The first programme includes interview examinations that are conducted prior to the first actions of examination results. The second program, super accelerated examination, provides first actions within one month from the request in principle. These two programmes meet the needs of start-ups in terms of their obtaining patent rights much sooner, as well as speeding up the process so start-ups can strategically obtain high-quality patents.

165. In summary, IP assets can contribute to financing. This is crucial to SMEs' business activities. Initiatives that support SMEs in acquiring more IP will ultimately help them financially. Japan would like to continue to support the activities of financial institutions and companies through implementing various initiatives and programmes. Japan also looks forward to sharing experiences with other Members.

12.7 Canada

166. Canada would like to thank the United Kingdom for drafting the communication for this agenda item as well as other Members that are sharing their views and information on this topic. Canada sees clear connections between the development and protection of IPRs by MSMEs and the ability to secure investment and financing, enhance their growth, conduct additional innovation, and expand further into domestic and international markets. Canada has also identified some opportunities to facilitate the capacity of businesses in this area, particularly MSMEs, and will present on several related initiatives.

167. As noted at a past meeting of the TRIPS Council, as part of its IP Awareness and Education programme, the Canadian Intellectual Property Office has launched an online IP Academy, featuring a suite of information materials and interactive learning resources for businesses and entrepreneurs. The IP Academy includes a recently-developed "massive open online course" developed by the Canada-based Center for International Governance Innovation on "Foundations of IP Strategy" that offers particular value for MSMEs. The IP Academy also includes an online self-assessment IP strategy tool for MSMEs which generates a tailored guide with information on what to consider when developing their IP strategies. One of many areas covered by this resource is IP-based financing, an area of growing importance and potential for innovative companies. As noted in the tool, IP-based financing strategies include IP-backed loans, IP royalty securitization, which involves the pooling and selling of future IP-related income streams in exchange for immediate financing, and IP sale and license-back arrangements which can involve the sale of IP assets in exchange for immediate financing, while retaining the option of using the IP assets through a license-back arrangement and potential option of to buy back the ownership of the IP assets at a fixed price at the end of the license period. The IP Academy materials are available online should any other Member wish to consult them, share with their own stakeholders, or have questions or feedback to share with Canada.

168. Additionally, in 2020 the Business Development Bank of Canada launched an IP-backed financing programme for businesses; the first of its kind in Canada to provide capital to high-potential companies in knowledge-based industries, particularly those who have monetized their IP portfolios through product commercialization or licensing arrangements, or both. If other Members with similar programmes – or with an interest in pursuing similar programmes – would have an interest in further discussions with Canada, we would be pleased to follow up and arrange conversations involving our respective authorities in this area, in the spirit of continuing to leverage the TRIPS Council as a venue for collective policy exchange and learning.

12.8 Chinese Taipei

169. In the knowledge economy era, IP plays a vital role in creating value and competitive advantages for enterprises. Not only can IP generate revenues through commercialization, but also it can provide funds for enterprises through licensing and being used as collateral for a loan to name a few. To encourage start-ups and SEMs to utilize their intangible assets for accessing finance, the "Statute for Industrial Innovation" was amended in 2017 to introduce a legal framework for the valuation of intangible assets.

170. Since 2019, with the support of the government, through patented technology valuation (in terms of market analysis, technology assessment, legal issues, etc.) conducted by the Industrial Technology Research Institute (ITRI) as well as credit guarantees provided by the "SME Credit Guarantee Fund (SMEG)", more than ten intangible assets financing cases have been facilitated. To continue promoting IP financing, starting from 2020, the ITRI has further cooperated with the SMEG to assist SMEs or start-ups that have already had or will have technical cooperation with the ITRI to have financial access. If approved by the board of experts, the SMEG can provide an over 80% guarantee for the loan. Currently, 26 banks are participating in this program.

171. We strive to provide better measures to effectively assist start-ups and SMEs to obtain funding through IP investment/ financing/ funding so that they can maintain business operations and continuous R&D. We therefore welcome Members' related measures and experiences in this area.

12.9 European Union

172. The EU delegation is pleased to co-sponsor this agenda item together with the delegations of the UK, the US, Canada, Japan, Switzerland, Chile, Australia and Singapore. We thank in particular the UK for the active role in the drafting of the document submitted in the present discussion to the TRIPS Council. Intellectual property rights play an increasingly important role in corporate strategy and the intangible assets created through innovation represent a major share of the value of today's businesses. The IP rights associated with intangible assets are the legal guarantee for potential returns on investment in innovation. Innovation is a complex activity usually with the involvement of many inventors. It is rare that there is a single inventor for any given innovative product or service, and hence there is a need to exchange and bundle inventions and intellectual assets that stem from different sources.

173. The world is becoming increasingly ingenious overall, although certain regions experience more intensive growth. For example, the total number of researchers in Asia is now larger than that of the US and EU combined. A well-functioning IP asset market makes a greater number of valuable inventions available for the market. In this respect, in finance, the securitization is an important instrument supporting IP valuation. Securitisation is a process through which an asset, especially a loan, is converted into marketable securities, typically for the purpose of raising cash by selling them to other investors. A solid new asset class in the market energizes the securitisation market. However, a number of obstacles currently preclude IP exchange platforms from working optimally. These include the difficulty for sellers and buyers to swiftly identify each another, the contract negotiation is a difficult process and there is a lack of agreed standards and terms.

IP valuation

174. As intellectual property (IP) and intellectual property rights (IPRs) play an increasingly important role in corporate strategy, the accurate valuation of IP remains a major obstacle to their emergence as a tradable asset class. Though there are several generally accepted ways to measure the value of IP, the introduction of more transparency in IP valuation procedures may render the trading of IP rights significantly more efficient and profitable. IP valuation is a complex process, rather than an automatic calculation. Therefore, there is a need to create a pool of IP valuation professionals and standardised methods that would be recognized by both the investors and the business partners. Existing ISO standards of IP valuation methods are a worthy starting point but more should be done in this regard.

175. There is also a need to work on the accounting frameworks to improve the way companies can report on their intangible assets, as currently it is mostly limited to optional descriptive reporting or reporting of assets that have been traded. A Report was prepared by the European Expert Group¹⁰ on Intellectual Property Valuation in 2013. The report covered the commercialisation of innovative ideas, with the value of the IP asset acting as collateral. The report looked especially at small and medium-sized enterprises. The report found that the role of IP in the financing process is often an indirect one. IP plays a supporting part in the bigger picture for the provision of loans and equity investments. In the regular banking, venture capital or private equity sectors, IP is generally evaluated but not formally valued. Equity investors typically invest into companies as a unit, but not into IP assets as such.

176. In return for their investments, investors receive an equity stake of a company, which owns IP and intends to exploit the IP. However, low quality IP can be a deal breaker for investors. An IP audit is considered by some Venture Capitalists as an important tool to assist the investment process by signalling the quality of the IP in possession of the investee. The Expert Group noted that an issue that influences a company's decision to protect its IP, especially in the case of SMEs, is to what extent such rights are enforceable, the time and costs involved in litigation, and the foreseeable economic results. The quality of the enforcement system has also an important impact on IP protection. SMEs, and large companies, need to be assured by an accessible justice system against infringements.

177. Large investment banks and private equity firms alike have raised and invested funds in IP and other intangible assets. Rather than looking for entrepreneurs and start-up companies, these

¹⁰ <https://op.europa.eu/en/publication-detail/-/publication/797124c6-08cb-4ffb-a867-13dd8a129282>

firms are looking to invest in IP and Intangible Assets for development and commercialisation purposes. These firms work with companies to either buy the IP and the Intangible Assets or invest in the company for commercialisation of the IP and the Intangible Assets.

Trademark Valuation

178. The valuation of IP rights has mostly focused on patent rights so far. But valuation of other IP rights is also possible. The EUIPO is looking to the IP valuation as one of the component to raise IP awareness and support businesses to access to finance. The EUIPO's work is at an early stage, looking into the opportunities and benefits that IP valuation could bring to EU SMEs. The EUIPO focuses on the valuation of trademarks and more specifically, EU TMs.

179. The EUIPO has started consultations with professional IP valuers and SMEs. The aim is to identify business cases where the understanding of the value of an intangible asset could help SMEs in various business stages and situations. The EUIPO is analysing the feedback received from IP valuers and SMEs and looking into some preliminary data modelling related to the valuation of EU trademarks. If the feedback is positive, the EUIPO will share the results and continue the work towards an IP assess valuation method.

COSME and Innovfin

180. The EU is very interested in exploring ways to promote the use of IP as collateral in debt financing. COSME is Europe's programme for SMEs. COSME aims to make it easier for SMEs to access finance in all phases of their lifecycle – including the creation, expansion, or business transfer. Thanks to the EU's support, businesses have easier access to guarantees, loans and equity capital. EU 'financial instruments' are channelled through local financial institutions in EU Members.

181. As regards the COSME Loan Guarantee Facility and the InnovFin SME guarantee facility, these are instruments that are managed by the European Investment Fund and deployed by eligible local banks, leasing companies and guarantee institutions. Within the assessment of the quality of the applications received by financial intermediaries to benefit from the guarantee, one aspect that is assessed is the ability of the applicant to finance SMEs, or facilitate finance to SMEs. Here is where a financial intermediary could indicate its expertise in assessing IP assets and their potential use as collateral. The Innovfin guarantee refers more directly to IP rights. This guarantee scheme financed by Horizon 2020 supports innovative SMEs. One of the eligibility criteria for such companies to obtain a preferential credit based on this guarantee scheme is the ownership of an IP right related to technical inventions and the aim of the loan is to enable the direct or indirect use of this technology right.

Cultural and Creative Sectors (CCS)

182. The culture and creative sectors perform various tasks for the economy and society. However, there are still structural problems, which are holding these sectors back from achieving their full growth potential. The Creative FLIP project – co-funded by the European Union – is aiming to resolve this situation. Its main objective is to establish constructive and sustainable framework conditions in the fields of finance, learning, innovation and patenting for the cultural and creative sectors in Europe.

183. Over the course of the 28-month project term, the project partners will develop various research and pilot measures to improve the use of the finance and patent system and to ensure greater integration of the cultural and creative sectors into the European competence and qualifications framework. The project also seeks to strengthen the relationship between players in this sector and formal and informal education through Peer2Peer exchanges and innovative Learning Laboratories.

184. Exploring this aspect seems quite relevant for the creative sectors, which rely on IP assets and where notably SMEs may find it hard to obtain financing general. However, in a context where IP assets prevailing in the creative sectors are protected by copyright or other non-registered IP (e.g. unregistered design), harnessing such use can be extremely challenging. With regards to debt financing, a better connection between the Cultural and Creative Sectors and financial intermediaries is needed. The experience of the Cultural and Creative Sectors Guarantee Facility (CCS GF) managed by the European Investment Fund is relevant in this respect.

185. The Cultural and Creative Sectors Guarantee Facility benefits micro-businesses and SMEs in the cultural and creative sectors, which often face difficulties in accessing affordable debt financing for their projects. The guarantee aims to change that. Loans supported by the European Union under Cultural and Creative Sectors Guarantee Facility are now available for business in all of the participating countries, which include the EU Members, Iceland and Norway.

12.10 Brazil

186. Brazil is pleased to join as a co-sponsor of document IP/C/W/679, which proposes a timely information exchange on ways to improve IP-intensive enterprises' access to funding. We see this discussion paper very much connected to the previous agenda item and somewhat a continuation of the topic of MSMEs and IP. It goes without saying that access to funding is the enabling condition for companies to be able to develop and bring their ideas to the market.

187. For small entrepreneurs, which most of the times have little marketing expertise, receiving targeted assistance to find financing options might be crucial for the success of their businesses. In order to create an innovation prone environment, governments may play a role in providing assistance to new businesses in that realm. Another promising path related to IP funding is the dissemination of IP marketplaces. Governments may also help here, by not only promoting these marketplaces, through organizing IP business rounds, for example, but also creating programmes and sectoral studies to facilitate the matchmaking. Brazil's IP Office is undergoing a profound transformation to go beyond the registration office paradigm and provide right holders with a diverse array of IP services.

188. The "INPI Negócios" programme (INPI Business, in English) has financing strategies for IP as one of its main pillars. The current President of the INPI, Dr. Cláudio Furtado, is an economist with a history of working in the segment of financing start-ups. In his speeches, Dr. Furtado always highlights the positive role that IP offices, when registering property rights over intangible assets, can play in promoting investments in innovation. We are looking forward to hearing other Members' experiences in this issue.

12.11 China

189. In 2020 and the first part of 2021, Members actively participated in discussion on "Making MSMEs Competitive through Intellectual Property (IP) and Innovation" in TRIPS Council. The discussions have provided important references for Members to use public policies to help MSMEs to promote their innovation ability and better participate in global trade. China shared our experiences and happy to make contributions to the discussion.

190. On the topic IP for investment/Financing/Funding, China attaches great importance to helping technological companies to tackle their financing strain and has adopted a number of measures to assist technological companies to obtain financing through IPRs. One of the important measures is to promote intellectual property pledge financing. Intellectual property pledge is a financing activity in which enterprises pledge their intangible assets including trademarks, patents and copyrights in order to obtain funding. Through intellectual property pledge, enterprises, especially technological MSMEs can better tackle their capital constraints, accelerate intellectual property transformation, and enhance competitiveness. Intellectual property pledge has produced positive outcomes, in 2020, financial institutions at national level have issued a total of more than 5,000 loans, amounting to CNY 59 billion.

191. In time of pandemic, in order to help companies to obtain rapid pledge financing, local intellectual property administrations in China have established a green channel for intellectual property pledge registration and improved the efficiency. This compressed the paper processing time of patent pledges to three working days and the electronic processing time to one working day.

192. Commercial banks in China also have improved the working mechanism of intellectual property pledge loans. For example, the Bank of Communications has launched a "Smart Financial Services" project in Beijing specifically for intellectual property pledge financing. This project has three advantages. Firstly, the project can save 2%-3% costs by reducing assets evaluation by asset appraisal companies, legal reviews by law firms, insurance service by insurance companies. Secondly, the project establishes a credit approval system in line with the characteristics of IPR.

Nearly 40 indicators being set up serve as an important basis for evaluating intellectual property quality, intellectual property financing risks, and approving credit lines, which can be easily measured by bank staffs. Thirdly, the project establishes a form-based standardized process for credit approval, the loan approval can be completed within three working days when the materials are already.

12.12 Côte d'Ivoire

193. We followed this agenda item with great interest, and we have appreciated the way Members have provided several examples of programmes and projects, including MSMEs funding to develop their intellectual property. The European Union announced several programmes, including one that was dedicated to the cultural sector and creation. We would like to know what sector that is focusing on, that is our question. My delegation would once again like to thank all the Members for this exchange of points of views and opinions on this highly important item.

12.13 European Union

194. We thank Côte d'Ivoire for the question. We will forward the question to the programme managers of this programme to get more details and then we are going to come back directly to Côte d'Ivoire.

12.14 United Kingdom

195. I would like to thank all of the delegations who have given a statement under this agenda item. We have heard a lot of focus on MSMEs and this links well to the previous year's theme focusing on this category of businesses. The growing amount of knowledge in the space of IP and growing understanding of the functioning of the IP ecosystem is especially valuable together with the e-TRIPS platform and its searchable database.

196. We also agree with the delegations who noted the benefits of collaboration with the WIPO, particularly its relatively new IP and Innovations Ecosystems Sector. A number of additional questions have also been raised, for example elements around securitisation, the differences between IP evaluation and valuation, as well as the role of enforcement. I would also like to thank delegations for sharing their specific national experience, projects and programmes in this area important and relevant to innovative and creative businesses. We think this was a useful discussion and look forward to further conversations in the future.

12.15 Jamaica

197. This statement is being delivered in our national capacity. At the outset, let me thank the proponents for their submission in document IP/C/W/679.

198. Jamaica has over the years recognized and continues to place a high premium on the level of importance given to intellectual property (IP). As a nation which possesses a cadre of talented individuals including artists, musicians, performers and innovators there has always been a deliberate effort to ensure that there is an awareness of the ramifications of the legal framework involved in IP such as trademarks and copyright. While IP is vital for all creators, it is becoming increasingly essential to the development of MSMEs. In Jamaica, it is estimated that MSMEs employ about 80% of the workforce. It is therefore critical that our MSMEs have a fundamental understanding of the advantages and the importance of greater IP protection to boost creativity, innovation and competitiveness.

199. Allow me to briefly share efforts currently ongoing at national level aimed at supporting MSMEs in the area of IP. The Government of Jamaica through our local IP Office, is currently leading a project titled "Strengthening the IP Ecosystem to Increase Innovation, Competitiveness and Growth in MSMEs in Jamaica" funded by the Inter-American Development Bank (IDB) and the Caribbean Development Bank (CDB). This project is geared towards strengthening the IP ecosystem in Jamaica so that MSMEs can leverage their IP assets and obtain financing. This will help to increase their competitiveness and foster innovation which will contribute to economic growth in Jamaica. The majority of Jamaica's MSMEs are in the micro-sector and they usually have challenges in obtaining financing as financial institutions or providers consider them to be risky borrowers and

they are the ones least likely to access funding even when resources are available. This project is part of the overall efforts of the Government to improve the local business climate and increase support and access to finance for MSMEs. The ultimate aim of the project is to shift public and stakeholders' perception and awareness of the benefits of IP creation, valuation and monetization.

200. My delegation wishes to commend the TRIPS Council for the discussion on "Making MSMEs Competitive through Intellectual Property (IP) and Innovation" held throughout the previous year and for the early parts of this year. Indeed, going forward priority must be given to MSMEs to ensure they are well equipped and well positioned to benefit from the intellectual property ecosystem.

13 PROPOSAL FOR A WAIVER FROM CERTAIN PROVISIONS OF THE TRIPS AGREEMENT FOR THE PREVENTION, CONTAINMENT AND TREATMENT OF COVID-19

13.1 South Africa

201. We would like to recall the introduction that South Africa made regarding the revised TRIPS Waiver Proposal (document IP/C/W/669/Rev.1) at the informal TRIPS Council meeting of 31 May 2021. As we speak, the pandemic continues to rage out of control. As co-sponsors we have on many occasions called for our negotiations to be brought to an expeditious end. During the last session of the TRIPS Council, we heard many Members favourably disposed to discussing the text which we presented. We heard that some Members were still studying the text or would revert during the today's meeting. Certainly, we are looking forward to hearing these particular views that are to be presented.

202. We want to remind Members that ending the pandemic everywhere in a timely manner is a public good and should be an overarching priority for the WTO and its Members. Our expectation as co-sponsors is that we get into a line-by-line discussion of the revised TRIPS Waiver Proposal. We have been in discussions for eight months now, given the time sensitivity of the situation, we cannot allow our discussion to go beyond July without severe consequences not only for the WTO as such, but for the world at large. As a very quick check, as of 7 June 2021, we are in excess of 3.7 million fatalities as reported to the WHO. As of 5 June, the number of vaccine doses administered is around 1.9 billion doses. The economic consequences unleashed by COVID-19 will continue for as long as inequitable access to health products and technologies persist, including vaccines, therapeutics and diagnostics.

203. Chair, on the process about which you asked very pointed questions, in order to achieve an outcome, it would be necessary to meet regularly during June and July in both plenary and open-ended small group settings. Chair we therefore call on you to ensure that an appropriate schedule of meetings is prepared in various formats and settings. As co-sponsors we have been active and have racked up a prodigious number of bilaterals in the last two months, and in the last three weeks we have reached out to several delegations to discuss the changes to our TRIPS Waiver Proposal. We would also need to prepare our recommendations and report to the General Council in July taking into account the latest developments in our discussions. Given the time sensitivity of this discussion, we look forward to making substantial progress towards the next General Council meeting.

204. As co-sponsors we remain flexible on the mode of interaction and would have already indicated three elements in our 31 May statement that can be discussed with greater focus and granularity going forward. For ease of reference, let me very quickly recall these points:

- a. In respect of the operative paragraph 1 of the TRIPS Waiver Proposal, we have revised and added specificity to the decision text, following some concern that the original decision text was reputedly too broad. From this perspective, the revised text addresses these concerns by focusing the text on "health products and technologies", noting that the prevention, treatment or containment of COVID-19 involves a range of products and technologies which include, *inter alia*, diagnostics, therapeutics, vaccines, medical devices and personal protective equipment. We further pointed out that intellectual property issues may arise with respect to the products and technologies, their materials or components, as well as their methods and means of manufacture. As we have explained, the continued surge of COVID-19 highlights the critical importance of meaningful access to personal protective equipment (PPE), tests, therapies, and vaccines to prevent the spread and to

reduce illness and death in high-risk populations and settings. These resources are acutely needed in many communities, with documented shortages and access barriers across the continuum of care. It is clear that the prevention, containment and treatment of COVID-19 involves a range of health products and technologies, which we have included in the Waiver Proposal. The same logic applies to diagnostics, for example. How will we know if we are winning the battle against COVID-19 if we do not have robust testing regimes in place? Quick identification of cases, quick treatment of people and immediate isolation to prevent the spread of the coronavirus is very important. As we have always said, testing is also important in the bigger public health picture on mitigation efforts, helping investigators characterize the prevalence, spread and the contagiousness of the disease. Our preambular text also points out the concern of continuous mutations and the emergence of new variants and consequently the many unknowns with respect to the COVID-19 virus.

- b. The second point that we made relates to the IP protections. As the text reads, the proposal also calls for a waiver of the application, implementation, and enforcement of TRIPS provisions on copyright, industrial designs, patents and protection of undisclosed information. These categories of intellectual property are relevant to the production, supply, and access to COVID-19 health products and technologies. Very quickly once again to reiterate, paragraph 3 of the revised text makes explicit that the waiver will not apply to the protection of performers, producers of phonograms (sound recordings) and broadcasting organizations under Article 14 of the TRIPS Agreement. To underscore, during the course of our discussions, we have highlighted in various documents the relevance of addressing existing and potential intellectual property issues in respect of copyright, industrial designs, patents and the protection of undisclosed information, *inter alia*, in documents IP/C/W/670, IP/C/W/672 and IP/C/W/673.
- c. The last aspect that we introduced was the operative part of paragraph 2 of the revised text, which deals with the issue of duration. In this regard, the revised text states that the Waiver shall be in force for at least three years from the date of this decision. This clearly captures the temporary nature of the Waiver. Furthermore, to bring this point home, the General Council would have to determine a date of termination of the waiver, once the exceptional circumstances justifying the waiver actually cease to exist.

205. In moving to closing, we think in light of the above substantive elements, the co-sponsors stand ready to deal with each of these categories in a line-by-line discussion. As already indicated by you, Chair, we would be relying on your good offices to facilitate our discussion based on a schedule on which we can agree so as to create predictability and to ensure that we have the best use of the months of June and July in order to make substantial progress in these negotiations. Furthermore, we look forward to the views that Members will express during this meeting and their contribution to our text-based discussions. We will continue to engage constructively and show the necessary flexibility towards finding a balanced outcome that has at its core the ramping-up and diversification of production across the world. This is critical in ensuring resilience against the current pandemic but more importantly, it is critical to help us to start to prepare for future pandemics.

13.2 Tanzania on behalf of the African Group

206. On behalf of the African Group, I want to thank the proponents and co-sponsors of the proposal which the African Group is also a co-sponsor. Our position remains the same as the one we shared during the consultative meeting on 31 May 2021 where we insisted the following main points:

- a. COVID-19 has continued to be the biggest challenge of our time and continues to impair our social economic progress built over the decades.
- b. Africa, like other continents, is grappling to contain the pandemic since its outbreak in 2020. The prevention, treatment and containment of COVID-19 remains a top priority of our governments until now.
- c. The current WHO statics on vaccination shows that Africa, developing countries and LDCs are not very satisfactory and therefore it should be our concern. This low pace of vaccination allows the virus to continue mutating and will lead to a point where it will be too complex to contain it in future. We also say that no one country or one continent will win this battle alone.

-
- d. To achieve the broad objective of ending COVID-19 needs solidarity, a collective approach, and collaborative efforts, particularly in scaling up the production and distribution of vaccines, therapeutics and diagnostic kits.
 - e. We also mention that numerous stakeholders and key groups of people across the globe, are acknowledging that the current centralised production and distribution of vaccines, contributes to the delay in reaching the 60% target of vaccination in the population as a head immunity target.
 - f. We believe that the proposed waiver will contribute to the scaling up of production and distribution of COVID-19 vaccine, therapeutics and diagnostic kits across the globe.
 - g. Therefore, the Group would like to welcome and thank Members' flexibility and support shown so far. As we are embarking on a text-based negotiation, we would like to insist that the envisioned waiver, to be meaningful, should not be a replica of the existing flexibilities enshrined in the TRIPS Agreement. That said, it will be important for Members to seriously consider the negotiation text as tabled by the proponents.
 - h. We would like also to insist on the importance of reaching an outcome as soon as possible, most preferably to be before the summer break. It has already taken us too long to start negotiation on this subject. We have heard too much in the question and answer discussions, which were worthwhile to consider because they will reduce the time to negotiate the line by line text. For the waiver to be meaningful in saving the lives of the people, we need to move swiftly, as the virus is ramping up and many lives are being lost. That said, the African Group would like to request the Chair to hold numerous consultative meetings in various formats such as small group, informal and formal configurations.

207. Basically what the African Group is looking for is that during the General Council, the TRIPS Council will be in a position to present the adopted waiver as its report. Chair, I want to also insist to Members that they remain as flexible as possible so that we can finalize this work as soon as possible.

13.3 Mongolia

208. The delegation of Mongolia wishes to thank Chair for your tireless efforts of bringing delegations to a middle zone on this important matter. My country has benefitted receiving doses thanks to the international collaborative efforts, becoming one of the highest vaccinating economies within the region. However, the economy and the livelihoods remain fragile due to ongoing economic strain, disruption in supply chain and transit traffic.

209. Although Mongolia alone might have succeeded in vaccinating the majority of its population, the situation remains unpredictable to many of the Members and economies. This current state undermines the efforts of tackling both health and economic crises. A recent IMF report analysed that pandemic policy is economic policy and there is no foreseen end to the economic crisis without an end to the existing health crisis, which will rely on the success of the race against the virus. However, the virus is evolving and mutating in high speed without waiting for us to discuss it, adding complexity to the control of SARS-COV-2.

210. The Council has been discussing the TRIPS Waiver proposal for months; whether it is necessary or sufficient. The proposal alone may not be sufficient to tackle the impediments caused by the pandemic. But we believe that it is necessary for the Council to step forward and start discussing how to operationalize the TRIPS Waiver Proposal and stewardship of the global economic reset.

211. Should the waiver fail to achieve its sole purpose of upscaling the production of vaccines, therapeutics and diagnosis, the revised text circulated under document IP/C/W/699/Rev.1 leaves a space for Members to review and take necessary actions at the General Council. With this, the Mongolian delegation urges Members to consider prevention and treatment of COVID-19 beyond vaccines in the proposed text. The delegation of Mongolia echoes other co-sponsors in asking you to facilitate consultations and engage Members in discussions towards substantial progress in the interest of time.

13.4 Malaysia

212. Malaysia wishes to thank the proponents and co-sponsors for their hard work and continued engagement in ensuring that multilateral efforts are taken to contain the global pandemic in order to end the human and economic suffering caused by it. We welcome the specificity contained in the revised text by the proponents on health products and technologies, including that the TRIPS Council assesses the need for continuing the waiver after three years.

213. As per our previous statement made in this Council, Malaysia had used compulsory licensing twice: once for the importation of HIV medication in 2003, and secondly in 2017 for the treatment of Hepatitis C. We remain cognizant of the role of intellectual property in research and development; nonetheless, the urgency of this pandemic situations needs to be addressed now and can no longer be suspended. Malaysia is entering its third wave and we are in total lockdown until 14 June 2021. As of 7 June 2021, we have recorded about 622,000 confirmed cases with 3,460 deaths. Vaccination is being rolled out, with only 3.47% of the population having been administered second doses.

214. On this account, Malaysia attaches great importance to timely and affordable access to COVID-19 vaccines and related goods. We view that any effective multilateral cooperation is vital to overcome these global challenges. As vaccines are a global public good, Malaysia supports and looks forward to the commencement of text-based negotiations on the temporary waiver of certain provisions of the TRIPS Agreement.

13.5 Fiji

215. Fiji expresses its support calling for the need to move forward and conclude this phase of negotiation for a decision on this IP Waiver Proposal. The wrath of the COVID-19 and its evolving mutation as well as the necessary tools to combat the continuous evasion of the pandemic into our society needs to be put to a halt through a means from the WTO. The continuous mutations and emergence of new variants of COVID-19 highlight the significant uncertainties and complexities of controlling this pandemic which underscore the urgency of this decision paper to be reviewed and finalised sooner. The concern and urgency as mentioned has been reflected and accommodated in the preambular paragraph of this revised draft decision paper.

216. We have noted that the COVAX Facility, despite its critical role, still falls far behind in terms of its perceived target of purchase and vaccination coverage. This is due to numerous factors, most of which are well-known to Members, which are closely related to production and supply chain limitations thus, it would be unwise for the global community to remain solely reliant on a single arm or entity to answer the global surge in demand especially so for the developing Members who are still far behind.

217. The rate of vaccine coverage remains unequal for all societies, some of which are more fortunate than the others. This deficiency requires global and multilateral collaboration and efforts not only in funding the COVAX Facility but more so in other innovative measures to boost production and supply of COVID-19 preventative tools to strengthen public health measures. Fiji is thankful to its neighbours Australia, New Zealand, the WHO and partners for their continued assistance to Fiji and the Pacific these recent weeks. However, we are equally mindful of our small island developing states community, likewise those developing countries, which are still far behind in their vaccination.

218. Further we are not only talking about vaccine; we need to think of all other tools such as therapeutics, diagnostics, PPEs and so on which needs to be diversified and scaled-up to curb the evolving mutations and to sufficiently equip our various health centres and bring confidence back to our public health facilities and economies. All these has been addressed amicably in the preambular section of the draft decision paper.

219. In terms of multilateral cooperation, we have heard in addition to the co-sponsors, the wide spectrum of support of the international organisations, and worldwide support from the general public; thus, it is only fair that we give a chance to the WTO and all its Members to progress forth together in solidarity.

220. This is global public good and our economies are fragile and rely on the service sector, such as tourism, to revive the economy. Without which, reviving the economy would remain challenging

and it is difficult for the travelling public, including investors, to find confidence in any economy. The proponents remain flexible to consider views as we dwell on the text to materialise this long-standing discussion in light of the urgent need to act to ensure that no one is left behind.

221. Regarding the process, we have noted the indicative dates of upcoming meetings; however, in view of the textual discussions that need to be pursued, we would welcome comments in any format by delegations. In addition, we would also welcome more regular consultations facilitated by the Chair in various predictable configurations to at least finalise this text to be presented to the July General Council. Beyond the summer break would be quite difficult, as we have various other competing priorities to address before the MC12. The two months before us, we believe, should be sufficient to gather comments and responses in view of the urgent agenda.

13.6 Egypt

222. Egypt aligns itself with the statement delivered by Tanzania on behalf of the African Group; we also would like to thank South Africa for presenting the revised proposal. We would like to reiterate that the extraordinary circumstances caused by the COVID-19 pandemic require extraordinary measures to respond, and that the waiving of intellectual property on COVID-19 medical tools is needed to help end the pandemic. The Members co-sponsoring the Waiver Proposal recently submitted a revised proposal to the WTO outlining its scope and duration, with the objective of progressing to formal text-based negotiations.

223. After almost 15 months since the beginning of the current crisis, it became evident that there are limitations on relying on using the TRIPS flexibilities, including compulsory licensing; these flexibilities are not enough to address pandemic-level challenges. Countries need to have all options at their disposal to encourage the manufacturing of COVID-19 medical tools across the world and we believe that the revised TRIPS Waiver Proposal would provide countries with a critical policy space to address intellectual property barriers to increase collaboration in research and development, manufacturing, scale-up, and supply of COVID-19 medicines, vaccines and other health technologies in order to put an end to this pandemic. Regarding the process, we reiterate our call for accelerated in-depth engagement on the text of the revised proposal in order to conclude discussions and reach agreement in advance of the General Council in July.

13.7 Pakistan

224. Pakistan wishes to recall all its previous statements on this issue in previous formal and informal meetings of the Council. We also wish to align ourselves and echo the statements that have been or will be made by other co-sponsors on this item.

225. Well over a year into the pandemic and almost eight months since we started discussing this proposal, we are now entering a defining stage, and not with a moment to lose. The last several months have had intensive debate and have presented a revised text for the proposal which is specific, comprehensive and addresses the most immediate and critical elements in our fight to overcome the pandemic. The scope of the waiver is designed to cover those elements without which an effective response to the pandemic would not be possible. This includes diagnostics and therapeutics. Similarly, the scope of intellectual property for all these aspects includes patents, copyright, industrial designs and trade secret protection. The duration of the proposal is also justified and gives a minimum period for fulfilling the objectives even though the situation remains unpredictable and uncertain.

226. We wish to welcome the recent developments including the increasing number of co-sponsors, the expression of support from many Members including those earlier opposed to the waiver, and most recently the commitment by APEC Members to take this text forward, and the support of the DG. These developments with the support of the entire membership have set us up perfectly for text-based negotiations.

227. We are now in the final phase with a conceivable finish line. Constructive engagement on this text by all Members is the only way forward to deliver on the most crucial issue confronting us today. Time is of the essence now. This proposal cannot and should not wait till MC12. We must seek to conclude these textual discussions before the General Council in July and deliver on this waiver. For

that, Chair, we thank you for your coordination so far, and urge you to convene as many meetings and in whichever format, as may be necessary to arrive at a consensus on the revised text.

228. This is our moment of truth. The world has all eyes on the WTO to deliver on this opportunity to save precious lives and address the global inequities in access to the crucial elements for overcoming the pandemic. Let us not fail in our duty, especially when a comprehensive text sits before us to be accepted.

13.8 Sri Lanka

229. Though not a co-sponsor, Sri Lanka has been strongly supporting the Waiver Proposal since its inception and spoken at great length on the imperative need for Members to take the proposals presented by the proponents seriously for finding an urgent solution, so that the WTO can deliver one of the most crucial solutions towards addressing the global health crisis of unimaginable magnitude. It is needless to emphasize the imperative need for Sri Lanka to secure the required amount of vaccines on an urgent basis, as the country is undergoing a very complex and challenging pace with the emergence of the third wave which has already created an unimaginable impact on our population. The country is currently on a long lockdown and is trying to stop the spread of the disease desperately. We are thankful to many countries, such as the United States of America, European Union, China, Russian Federation, Australia, India, and other numerous countries, which came forward to support us at this very crucial time in numerous ways.

230. In the same vein, we welcome the revised decision text for the TRIPS Waiver (contained in document IP/C/W/669/Rev.1) submitted by the 63 co-sponsors and focused comments by WTO Members on the revised decision text.

231. We have heard with great interest the explanations provided by the South African Ambassador in presenting the revised decision text for the TRIPS waiver on 31 May and today by the delegate of South Africa. We are of the view that the revised decision text brings greater specificity and clarity as to the objectives, the scope and the duration of the waiver which the proponents and Sri Lanka are seeking for. The preamble text captures well the challenges the international community is facing with respect to the SARS-COV-2 as well as the resulting uncertainties and complexities.

232. With respect to the scope, the range of interventions governments have deployed to control COVID-19 underscores the need for a much broader scope beyond vaccines. It is important for the scope of the revised decision text to include therapeutics, diagnostics and others COVID-19 health products and technologies. These categories of intellectual property are relevant to the production, supply, and access to COVID health products and technologies.

233. The continued surge of COVID-19 highlights the critical importance of meaningful access to personal protective equipment, tests, therapies, vaccines and medical devices to prevent the spread and reduce illness and death in high-risk populations and settings. Accordingly, many countries' national COVID response strategies acknowledge the need to ensure equitable access to critical COVID-19 PPE, tests, therapies, vaccines and essential medical devices. These resources are acutely needed in many communities, with documented shortages and access barriers across the countries.

234. One of the examples, which I wish to highlight here today, is a specific type of a medical device that measures the oxygen saturation of blood, which is in great demand in many countries, including mine, due to the COVID-19 pandemic. We never thought that this device could be in such demand in any of our lives. Since the early months of the pandemic, doctors have been aware of an alarming subgroup of COVID-19 patients who develop "silent hypoxia" – where they show no obvious symptoms of being severely ill, despite having worryingly low oxygen levels. According to information currently available, the phenomenon is difficult to detect without monitoring blood oxygen levels, and it is dangerous because these patients can rapidly deteriorate and require urgent access to machines that can support their breathing.

235. Pulse oximeters cannot diagnose COVID-19, but they can alert patients who are already infected with coronavirus when levels of oxygen in the blood are falling. They are therefore most appropriate for use by those at high risk of developing serious symptoms, such as the older population, and those with medical conditions that put them in a higher risk category, such as serious heart or lung conditions. When we look at the data on the amount of deaths recorded in Sri Lanka,

we are sad to state that the aged population constitutes a better portion. This is not unique to Sri Lanka. It is the case in many developing countries. For instance, the UK's National Health Service is currently offering pulse oximeters to COVID-19 patients who are aged 65 years and older and/or are regarded as clinically extremely vulnerable.

236. According to information currently available, the devices work by shining two different wavelengths of light through people's skin to measure how much oxygen is being carried by their blood. Blood containing plenty of oxygen absorbs different ratios of these wavelengths compared to deoxygenated blood. This is a non-invasive device that clips to a fingertip or earlobe and measures how much oxygen is being carried by the blood, as well as heart rate. This information, alongside other health data, can help healthcare workers decide if someone needs extra breathing support and should therefore be transferred to hospital.

237. This prior testing on acute patients will reveal whether those patients should require to be transferred to hospitals for urgent medical treatment, including treatment at ICU rooms, so their lives could be saved. We in Sri Lanka, the hospitals and other medical professionals, are using pulse oximeters to segregate those patients who require urgent medical treatment at hospitals, so the health infrastructure in Sri Lanka will not be overwhelmed and can be well managed during this vigorous third wave, and certain segments of COVID-19 affected population can be easily treated in other care centres established for the same purpose.

238. In view of such benefits, the sales of pulse oximeters are booming in some countries as both individuals and health systems invest in them to monitor the symptoms of discharged COVID-19 patients at home. We also note that there is a scarcity of supplies, not having availability in abundant quantities and at an affordable price, making this essential device not accessible to many developing countries such as mine.

239. When one looks at this medical device alone, it reveals that it entails most of the IP regimes such as, patents, industrial design, possibly trademarks, integrated circuits and trade secrets. Also the data reveals that this medical device has been patented in many countries around the world by many private companies. A commercial prototype of medical grade pulse oximeter as a competitive product on par with other similar products in the local market (which have been imported from foreign countries) has been developed by a team of researchers by a university in Sri Lanka with the financial support under the Technology Grant Scheme.

240. If Sri Lanka wants to produce them locally using the available manufacturing capacity through compulsory licences, there may be a need to issue compulsory licences not only on patents but on an array of related IP regimes. Sri Lanka has also assessed local manufacturing capacity of producing certain vaccines in Sri Lanka which are based on viral vector technology or messenger RNA technology, and have approached many patent holders for securing voluntary licenses assuming that their vaccines have not yet been patented in Sri Lanka. Responses from certain pharmaceutical companies are still being pursued with a view to obtaining know-how transfer programmes to ensure the expeditious commencement of their production in Sri Lanka.

241. Such classical examples demonstrate the scope of intellectual property under the waiver must include aspects that are relevant to the COVID-19 health products and technologies that are patents, copyright, industrial designs and trade secret protection.

242. In relation to the duration contained in the proposal, we have read the justification for the proposed duration provided in the introduction of document IP/C/W/669/Rev.1. Operative paragraph 2 of the revised text adds a paragraph on the proposed duration and the revision states that the Waiver shall be in force for at least three years from the date of this decision. This clearly captures the temporary nature of the Waiver. We agree that the duration has to be flexible and practical in view of the fickle situation we are in. Every day we are learning something new about the pathogen and the new variants and the mutations that emerge, their effectiveness against vaccines, therapeutics and diagnostics. The situation with respect to production is also unreliable. We are looking forward to continue even further in-depth engagement on the text.

243. We call on you Chair to hold a series of informal and formal meetings with the aim to conclude discussions and reach agreement in advance of the General Council to be held in July this year. We also urge you to hold and organise these discussions and consultations with Members in different

configurations while preserving the three key principles of openness, transparency and inconclusiveness, so that collectively we will be able to engage in good faith, solution-oriented discussion that will result in a balanced outcome that addresses the concerns of all.

244. Every day counts. We have been discussing this proposal for eight months; we need to accelerate the discussion on the text and reach an agreement that can deliver equitable access. The world is waiting for the WTO to deliver a fair outcome and we must not disappoint. My delegation assures its fullest desire to engage constructively to find a sustainable solution to this pandemic, which requires sharing of new COVID-19 technologies with producers having local manufacturing capacities, such as mine, accompanied by know-how transfer programmes to ensure the rapid uptake of quality high volume production.

13.9 Indonesia

245. We would like to support the statement of South Africa and other co-sponsors. As the pandemic is still progressing in many parts of the world, we should not wait any longer in finalizing this proposal. This waiver is critical in ensuring that we tackle one of the key barriers to the global access of health products and technologies for prevention, containment, and treatment of the COVID-19 pandemic. We are heartened to listen, during the last informal meeting, a broader view to accelerate the negotiation pace of this Waiver Proposal.

246. We have stated during the previous meeting that the revised proposal provides more clarity, especially in terms of objectives, scope, and duration of the waiver. We would like to elaborate further on this. The revised preambular provision specifically underlined continuous challenges that we are all facing, especially from the threat of virus mutation that are now spreading unabated. This mutation is particularly dangerous as scientific data shows that some strains are more immune to particular vaccines. This situation has also posed challenges in COVAX distribution where few Members have returned or redirected vaccines donation.

247. These challenges require our immediate response. And this proposal shows how we should apply coordinated responses to ensure global action for unimpeded, timely, and secure access to quality, safe, efficacious and affordable health products and technologies for all. The scope of the products reflects the specific need for prevention, treatment, and containment of COVID-19. We are of the view that all the health products and technologies listed are necessary given the severity of this pandemic and serious shortages of those products in many Members.

248. The WHO specifically urges countries to adopt contact tracing mechanisms as key components of public health tools to interrupt transmission of COVID-19 and control the virus. However, many Members, especially developing countries and LDCs, still have significant difficulty to access this technology because of the shortages or unaffordable price of the technologies.

249. Moreover, diagnosis should also follow with an effective treatment that is widely available and affordable to ensure no patients are left untreated. At the same time, protections of our medical practitioners are also of critical importance. Alongside with the rollout of safe and effective vaccines, diagnosis and treatment are indispensable elements to stop this pandemic. Indonesia as one of the co-sponsors is also of the view that the materials or components of the products, as well as their method and means of manufacture are equally important to ensure an efficient transfer of technologies and know-how.

250. On the duration, Indonesia is acutely aware of the epidemiology analysis of the WHO. In light of this, the proposal offered a restricted time for the application of the Waiver. However, as there are many things that are still unclear concerning the course of this pandemic, there is an immense possibility that this pandemic and inequality of access to health products and technologies would last longer than predicted. Hence, the review to determine the existence of the exceptional circumstances for the waiver is needed after the three years. We are encouraged that delegations are and will provide views to the revised proposal. We are ready to engage positively with all Members for the conclusion of this proposal.

251. Concerning the modalities, we share the views that we can start discussion from preambular provision and continue paragraph by paragraph of the operative provision. In this regard, we call on the Chair to facilitate further in-depth engagement on the text by holding as many meetings as

needed. These meetings can also be dedicated to specific issues in the proposal. By providing adequate meeting time, we are hopeful to conclude discussions and reach agreement prior to the General Council meeting in July.

13.10 Bangladesh

252. The delegation of Bangladesh appreciates your sincere efforts to facilitate discussions on this issue. With all the co-sponsoring Members, including the LDC Group, Bangladesh attaches high importance on the issue of immediate access to vaccine against the ongoing pandemic. Bangladesh also aligns with the statement to be delivered by Chad on behalf of the LDCs.

253. The ongoing pandemic has already done enough damages and the LDCs particularly are the hardest hit. The priority now is to ensure unconditional, affordable, equitable and timely access to vaccine, required medical equipment and other curative measures to stop the pandemic. Members that have local manufacturing capacities should be allowed and supported by all means to produce vaccines and therapeutics to address supply constraints in developing countries and LDCs. It is also essential that they get an unhindered supply of materials and components as well as the transfer of technology, methods and means of manufacture.

254. As promised, the proponents have already circulated a revised version of the submission (document IP/C/W/669/Rev.1) to define a suggested period for this temporary waiver and make an indicative list of the products that would be required for the treatment and containment of COVID-19 pandemic. The revised decision text provides greater specificity and clarity as to the objectives, the scope and the duration. My delegation also commends the United States of America for its decision to extend support to this Waiver proposal on COVID-19 vaccine to help end the pandemic and their willingness to actively participate in text-based discussions. Several other Members are following the US initiative.

255. As the way forward, Bangladesh supports that a text-based discussion should begin without further delay based on the revised submission as proposed by the proponents. My delegation looks forward to engaging constructively on this important proposal.

13.11 Australia

256. Securing equitable and widespread access to COVID-19 vaccines and other health products is a key priority for the Australian Government. For that reason, we are interested in, and open to, all proposals in the WTO that may support this objective, including proposals for a waiver of TRIPS Agreement obligations. Given our shared interests in finding a consensus outcome, we are ready to engage in text-based discussions on proposals for a waiver, as well as any other practical and tangible proposals. In that regard, we also thank the European Union for putting forward its proposal to the TRIPS Council. We look forward to negotiations in the TRIPS Council and the WTO more broadly on how we might find a practical and mutually agreed outcome as soon as possible. Of course this will require a great deal of compromise from all WTO Members.

257. There are still a range of views among WTO Members about how best the multilateral IP system can support the increased production of COVID-19 vaccines, so any outcome will need to fairly accommodate these views, and not lose sight of our shared objective of ensuring timely, equitable and widespread access to COVID-19 health products.

258. Alongside these important IP-related discussions, we look forward to further exploring what other tangible outcomes the WTO can deliver. I know that is not the matter at issue here, but it is important to take that wider view as well, and think about issues such as tariffs, export restrictions and trade facilitation, and any role that the WTO can play as a matchmaker between vaccine developers and manufacturers. Finally, we want to take this opportunity to thank the Secretariat for its very informative presentation this morning on vaccine production and agreements. This is exactly the sort of information that is helpful as we work together to look for the policy responses that were made to drive vaccine doses globally into arms.

13.12 Mexico

259. Mexico recognizes that in order to effectively move towards economic recovery, the COVID-19 pandemic needs to be brought to an end, which, in turn, can only be achieved by ensuring access to vaccines in all countries because as we know, the virus does not respect borders. Mexico thanks the co-sponsors of document IP/C/W/669 and for the revised version, which was circulated on 21 May 2021. The Mexican authorities are continuing to examine the scope and impact of the proposal.

260. In this connection, we acknowledge the work put into providing clarity regarding the scope, implementation and duration. However, we are concerned by the breadth of the list of health technology and products indicated in the proposal. Similarly, as has been pointed out by other delegations, we are struck by the fact that the mechanism for reviewing the duration of the waiver could lead to it being extended indefinitely, since the consensus of the General Council is required for its termination. Likewise, we thank the European Union for its recently circulated proposal, which is also being examined by our authorities. We welcome the fact that this proposal is based on and clarifies the flexibilities contained in Articles 31 and 31*bis* of the TRIPS Agreement.

261. As we have already stated, this delegation considers that we must strike a balance between finding solutions to the COVID-19 health crisis and protecting intellectual property rights, which, in our view, have been a driver of innovation and technological progress to the benefit of both consumers and producers. In this connection, Mexico expresses its intention to proactively participate in the discussions held in order to reach an agreement on this important matter.

13.13 Bolivia, Plurinational State of

262. We consider this forum, the TRIPS Council, an important platform for seeking consensus on how to address the current crisis resulting from the shortage of vaccines in most countries as a consequence of vaccine hoarding carried out by a small number of countries. We appreciate and welcome the presentation of the revised document by its sponsors working with 63 co-sponsors, which we believe reflects the needs and priorities identified by our governments with a view to ramping up the global effort to tackle COVID-19. The revised text is more specific and clearer in terms of its objectives, scope and duration and includes a few aspects that were of concern to a certain number of countries.

263. We salute the good offices of the Chair of the Council to advance discussions on the text. It is clear that the revised text places the focus on prevention, treatment and containment of COVID-19. Since 20 October 2020, when India and South Africa presented the waiver proposal, there was a long discussion, followed by a series of questions and answers which, in fact, prevented us from making genuine progress on the proposal in a situation where every minute counts for us to save lives. In the last eight months, we have lost over 2 million people worldwide and today we have crossed the 3-million mark since the start of the pandemic. If we continue down this path, in a few months we will be mourning the loss of several millions more.

264. While we acknowledge that intellectual property is not the only obstacle to increased vaccine production, but it is the most important one. We need to work on these intellectual property barriers so that we can increase production. Only then will we have the necessary number of vaccines available. The scientific evidence is unequivocal: the virus will continue to mutate, thus becoming increasingly dangerous and unpredictable and prevent us from winning the fight. The goal of achieving 70% global immunity will only be possible if we can provide for equitable, timely and affordable access to vaccines and other medicines.

265. Bolivia has implemented the TRIPS flexibilities, which are designed to or should be to serve governments at times of extreme emergency such as this, an unprecedented situation in modern history. Yet, we are noting the huge deficiencies in the current system under the WTO. Public health is affected by the pandemic, and we see that the mechanisms put in place at the WTO are not ineffective, but are accompanied by genuine political disinterest.

266. In an interdependent world, only a collective, effective and timely response would allow us to halt this pandemic, a pandemic which is wreaking havoc at a social and economic level. We believe that the current text submitted reflects the COVID-19 challenges facing the international community,

the unprecedented and multifaceted aspects of the pandemic, which has altered life as we know it as well as trade, the economy and tourism and the huge gap between developed and developing countries. The challenge is to be able to work together to develop generic versions of the vaccines so that they can reach all people and all nations of the world. We cannot continue to postpone and prolong the discussion. This is why we ask that consultations start in small meetings using all mechanisms available so that we can reach the General Council with a consensus text and that once and for all we can respond to the current concerns. We wish for constructive discussions and call for consensus before the Ministerial Conference in November. Measures are needed urgently and without delay because this is what humanity requires.

267. The waiver proposal before us today opens up the possibility for us to show the world's citizens that we are capable of taking the measures necessary that would enable equitable access to vaccines. We can show the usefulness and validity of multilateralism.

13.14 European Union

268. The pandemic continues and so must our efforts to ensure equitable distribution of COVID-19 vaccines. The immediate goal is to continue to ramp up production, to share vaccines wider and faster and to ensure equitable access to low - and middle-income countries. Equity does not only mean access but also access at affordable prices. We believe that this is a common goal for all of us. The European Union is doing its utmost to achieve this objective. With over 300 million doses exported, the EU continues to remain the largest COVID-19 vaccine exporter in the world. The EU and its member States also remain the biggest donor to COVAX Facility, a global effort to distribute vaccines equitably, with EUR 2.8 billion worth of funding. In addition, the EU has committed to donate 100 million doses of vaccines to those in need by the end of 2021.

269. Certain important advances in the effort to ramp up production have been made - in less than a year, the global production of COVID-19 vaccines has gone from 0 to 2 billion doses produced by end of May 2021. It is estimated that more than ten billion doses of COVID-19 vaccines will be produced by the end of 2021. However, the urgency of the public health crisis requires not only the acceleration of the production of vaccines but also of their global distribution. We believe our discussion in the TRIPS Council should concentrate on how the IP system can contribute towards increasing the manufacturing capacity and the equitable access to vaccines around the world. We are willing to discuss any proposal that aims at effectively achieving those goals. And we have tabled a proposal going in that direction.

270. But before presenting our proposal let me start by thanking the proponents for their revised proposal which we have been considering carefully. We note that the proposal waives obligations of Members to implement or apply Sections 1, 4, 5 and 7 of Part II of the TRIPS Agreement with regard to a wide range of health products, technologies, devices, personal protective equipment and components for the prevention, treatment or containment of COVID-19. This means that all the relevant intellectual property rights (except for trademarks) that concern these products could be potentially waived as the result of this proposal with regard to a very broad range of products, technologies and components.

271. We also note that the provision on the duration of the waiver is proposed in a manner that does not indicate the date on which the waiver would be terminated. Following three years and subject to exceptional circumstances ceasing to exist, the General Council would determine the date of termination of the waiver. This would indicate that the waiver could stay in force for an undefined period of time after the exceptional circumstances, which are presented as those justifying the waiver, cease to exist.

272. We would like to engage in a thorough discussion of this text to examine how the revised proposal addresses the identified bottlenecks for the production and distribution of COVID-19 vaccines, including its expected impact on the transfer of COVID-19 vaccines technology. Indeed, following the intense discussions in this Council as well in other fora and events organised by the Director-General of the WTO, it is our assessment that limited manufacturing capacity, access to raw materials and other inputs are the main bottlenecks as regards the production and distribution of COVID-19 vaccines. In addition, know-how is key due to the complexity of the production process of these vaccines.

273. In order to deal with these bottlenecks, the EU believes a multi-pronged approach is needed. This is why on 4 June the European Union submitted to the WTO General Council a Communication on "Urgent trade policy responses to the COVID-19 crisis", document WT/GC/231, calling for a multilateral and comprehensive response by trade-related measures to the COVID-19 pandemic. The EU proposes that WTO Members agree as soon as possible on a global trade initiative for equitable access to COVID-19 vaccines and therapeutics encompassing the following three components: first, trade facilitation and disciplines on export restrictions; second, concrete actions to expand production and ensure supply of vaccines at affordable prices to low and middle income countries during the pandemic and; third, clarification and facilitation of TRIPS Agreement flexibilities relating to compulsory licences.

274. While the EU considers that the General Council should be the forum to address all three components in a comprehensive manner, the third component on intellectual property is in the remit of the Council for TRIPS. For this reason, on 4 June 2021 the EU also submitted a dedicated Communication on "Urgent trade policy responses to the COVID-19 crisis - intellectual property", document IP/C/W/680, to the Council for TRIPS. With this proposal the EU would like to find a way forward in the discussion on the role of intellectual property in enhancing access to affordable COVID-19 vaccines and therapeutics and proceed with concrete short and medium term solutions to enhance universal access to COVID-19 vaccines and therapeutics at affordable prices.

275. The EU is ready to continue discussing the revised proposal on the waiver but is not convinced that the broad waiver proposed by a number of WTO Members is the right response to the pandemic. In addition to ensuring the uninterrupted flow of raw materials and inputs for the vaccine production, the key issue for increasing access to COVID-19 vaccines is to enhance the transfer of COVID-19 vaccine technology. Contrary to simple chemical medicines that are relatively easy to replicate, COVID-19 vaccines involve a complex biological process which requires the relevant know-how.

276. Voluntary licences are the most effective instrument to facilitate the sharing of know-how. Intellectual property framework provides a platform that incentivises collaboration and transfer of know-how. We agree that intellectual property rights should not stand in the way of deploying existing capacity or creating new capacity or of ensuring that access to COVID-19 vaccines and therapeutics is equitable. The EU believes that it is possible to achieve this objective while at the same time maintaining the protection required for incentivising technology transfer and investment in innovation, so that we can fight against new strains of COVID-19 and any future diseases.

277. We would therefore want to include in this discussion a different and more targeted approach. We hope that we will be able to convince Members that our approach, including the key components that will be addressed in the General Council, represents the best way to respond to the crisis in a short term in an effective and pragmatic manner.

278. The Doha Declaration on the TRIPS Agreement and Public Health affirms that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health. It further affirms the flexibilities contained in the TRIPS Agreement, including specific flexibilities related to compulsory licences. The Doha Declaration states that each Member has the right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted. It also states that each Member has the right to determine what constitutes a national emergency or other circumstances of extreme urgency which includes public health crises.

279. The discussions in the Council for TRIPS since the start of the COVID-19 pandemic have identified aspects related to the use of compulsory licensing that, in the view of a number of WTO Members, limit the use of this tool. In order to address these aspects, provide more legal certainty and enhance the effectiveness of the system, the EU considers that all WTO Members should be ready to agree on the following: first, the pandemic is a circumstance of national emergency and therefore the requirement to negotiate with the right holder may be waived; second, to support manufacturers ready to produce vaccines or therapeutics at affordable prices, especially for low- and middle-income countries, on the basis of a compulsory licence, the remuneration for patent holders should reflect such affordable prices; and third, the compulsory licence could cover any exports destined to countries that lack manufacturing capacity, including via the COVAX Facility.

280. Clarifications on these aspects would, in our view, provide the necessary legal certainty to Members that have the possibility of using the existing capacity or increasing its capacity to produce

COVID-19 vaccines and therapeutics. They would also promote production and supply of those products to low- and medium-income countries at affordable prices, including via the COVAX Facility. And this should be our priority right now.

281. The first element is to clarify that in a circumstance of a pandemic, governments can proceed quickly and they do not have to engage in the negotiations with patent holders, which normally is the longest part of the procedure. Doubts were raised as to whether this 'fast-track' procedure can be used only in the case of compulsory licences for domestic use or also with regard to the, crucial now, licences for exports. We want to make it absolutely clear that this possibility applies also to licences for exports.

282. The second element concerns remuneration for patent holders. This is a crucial element of a compulsory licence and we need to promote those manufacturers that are ready to produce at affordable prices for low- and medium-income countries and to provide supplies to COVAX. This means different levels of discounted prices, for example supplies at cost or at lower prices to low- and middle-income countries. The clarification would provide legal certainty that in such cases manufacturers will be supported by governments setting the remuneration for patent holders reflecting these discounted prices, in order to ensure that the remuneration does not become a blocking factor in enhancing production.

283. The third element deals with an often-raised, procedural problem of country-to-country application of compulsory licence. We want to make sure that a willing manufacturer can easily export to all eligible countries, including via COVAX, under a single simple procedure. We are talking about a substantial reinforcement of the TRIPS flexibilities and of the legal certainty required for their use. It is our objective to bring all sides of the discussion closer together on this approach and find solutions quickly while also fully engaging on other aspects of our comprehensive proposal which are key, in our view, to make a real difference on the ground. We invite all Members to consider our proposal and engage on this approach. We are of course open to discuss which other requirements concerning compulsory licensing can be clarified to facilitate the use of the system.

284. We are ready to immediately start a discussion based on the proposal set out in our communication and intend to follow up with a more elaborated text. At the same time, as mentioned, the EU is ready to continue discussing the revised Waiver Proposal. We are ready to continue this discussion in the course of additional meetings of this Council that the Chair may decide to convene to advance the discussion.

13.15 Venezuela, Bolivarian Republic of

285. We would like to thank you for your summary and for leading the informal sessions. It is concerning that there is growing evidence that we are facing a two track pandemic, given that many countries still face an extremely dangerous situation, while some of those with the highest vaccination rates are starting to discuss bringing an end to restrictions. For the latter, there could be a misperception that things are going well. However, nobody will be safe until we all are.

286. Access to vaccines and other inputs required to tackle the pandemic continues to be the main challenge that we must address. This is clearly demonstrated by the updated petition, which was submitted on 7 June, to the WTO and was signed by over 2.7 million people from around the world calling for universal access to affordable COVID-19 vaccines guaranteed at a fair price. On 31 May, those of us who co-sponsor this proposal presented the revised decision text for the TRIPS waiver and the justifications of this text.

287. The revised decision text is clear that the focus is the prevention, treatment and containment of COVID-19. Based on that perspective, the revised text includes the health products and technologies required to tackle the pandemic. We are convinced that this text is a solid and appropriate basis for moving on to the text-based negotiations phase.

288. We are encouraged that delegations are participating and offering their points of view on the revised decision text. In this connection, we call on the Chair to facilitate even deeper engagement in the text and accelerate the process by holding as many meetings as necessary in order to conclude the discussions and reach an agreement prior to the meeting of the General Council in July. We are extremely concerned by the staggering global inequality. Each day that the WTO fails to reach an

agreement is another day that, together, we have failed to offer a solution so as to ensure fair, equitable global access to vaccination and swiftly bring an end to the pandemic.

13.16 Paraguay

289. My delegation would like to thank the proponents for the revised Waiver Proposal. We would also like to thank the European Union for the proposal made today. The COVID-19 health crisis is worsening and has widespread implications. Urgent solutions are therefore required, especially those aimed at increasing the production of vaccines, medicines and treatments for COVID-19, and ensuring their equitable distribution.

290. Cooperation and solidarity are essential to tackle the pandemic. Members must urgently prioritize health over commercial interests. Equitable access to vaccines is an ethical imperative to prevent the health crisis from becoming more protracted. For this reason, we encourage taking a comprehensive approach to this problem that is affecting us all, including by trying to ensure to prevent the spread of infections and mutations of the virus from countries without the necessary inoculants.

291. Paraguay has secured 8,279,800 doses of vaccines so far but has only received 484,400 doses; less than 6% of what we paid for after considerable efforts. Vaccine shortages on the market, export restrictions imposed by certain Members, vaccine hoarding and logistical problems in importing these products into our country have significantly delayed our immunization process. At the same time, we read in the news that vaccine tourism is booming and that in some countries unused vaccines are expiring, while there is an urgent need in other parts of the world, particularly in developing countries. We firmly believe that there is a pressing need for reinforcement and innovation through alternatives that enable a rapid increase in the production of vaccines and their corresponding distribution and use as soon as possible, where other mechanisms prove to be insufficient.

292. We therefore recognize the proposed text as a call to continue broad discussions on the various positions and to seek convergences. It is true that waivers alone may not be enough to guarantee access to vaccines, but we have a shared responsibility to search for responses that provide a solution in the short term, in order to avoid further human losses worldwide. We must ensure joint actions to find solutions by including all sectors, encouraging public-private partnerships, strengthening knowledge and technology transfer, and increasing global vaccine production while accelerating global vaccine distribution.

293. In this regard, my delegation agrees in principle with the need to move forward in the text-based negotiations, calling for openness and willingness by all Members in considering measures that contribute to equitable access to vaccines. We believe that the revised draft text offers a way for the WTO to make a real contribution to the pandemic crisis, but we hope that additional immediate measures related to the vaccine supply chain and their components will be implemented, and that trade facilitation measures for equitable distribution will be promoted.

13.17 Maldives

294. To date, there have been more than 49 million confirmed cases of COVID-19 and over 1.2 million deaths reported to WHO. This disease continues to prove to be life threatening and the world continues to face the cumulative and interconnected health, economic, social and human rights issues related to this pandemic. A year into the pandemic, we are grateful to have vaccines that are being administered in some countries. However, there is increasing concern over equitable access to vaccines. To meet the global vaccine shortage, it is vital to address the intellectual property challenges. An exceptional waiver of certain provisions of the TRIPS Agreement will greatly help to ensure equitable and timely access to affordable medical products including COVID-19 vaccines and medicines for all.

295. The Maldives, as a co-sponsor of the waiver proposal, welcomes the statement by the United States to support the waiver and actively participate in the text-based negotiations. We are hopeful that all WTO Members will work together in global solidarity and agree on moving forward with text-based negotiations with the aim of providing universal access to COVID-19 vaccines, treatments, testing and other products to control the pandemic and to reach Sustainable Development Goals.

296. In this regard, I would like to echo previous speakers in calling for accelerated efforts to achieve substantive progress through textual discussions and reaching a positive outcome with regard to the proposed waiver in the interest of time.

13.18 Chinese Taipei

297. We thank India, South Africa and other proponents to submit the revised text for discussion. In principle, we agree on the waiver with respect to vaccines related intellectual property rights. With respect to other medical products, my capital is still assessing the text. In any event, we welcome discussions on various implications arising from the proposal.

13.19 Korea, Republic of

298. My delegation would like to extend its appreciation to the co-sponsors of the revised proposal. I believe all Members recognize that the IP system is vital for the promotion of innovation and therefore should be adequately respected to that end. At the same time, it is my understanding that the co-sponsors made this proposal for the TRIPS waiver as a measure aimed at helping respond effectively to the unprecedented global health crisis we are all facing. With this purpose of the proposal and the global need to deal with the current circumstances of extreme urgency in mind, Korea is ready to constructively engage with other Members in discussing the TRIPS waiver issues and will do its part to contribute to building consensus.

299. Please allow me to make one additional point. My delegation agrees with many other Members that along with the IP-related measures, a broadly based and holistic approach should be taken to deal with current health crisis, particularly in order to promptly ramp up the production of COVID-19 vaccines and ensure their equitable distribution. In this vein, my delegation believes that the international efforts should be continued to facilitate supply chains for raw materials and ingredients related to essential health products, encourage cooperation among businesses for proper know-how transfer and licensing, strengthen the operation of COVAX, and further enhance the infrastructure of manufacturing and distribution of vaccines. I take note of the European Union's communication recently circulated, which I found constructive. Korea will continue to do its part in addressing all the related issues at the WTO.

13.20 Nepal

300. I would like to thank South Africa for introducing the revised version of the waiver proposal. My delegation wishes to associate with the statement to be delivered by Chad on behalf of the LDC Group. I wish to refer to Nepal's statements delivered in various formal and informal meetings on this Waiver Proposal since October 2020 and reiterate Nepal's full support to this proposal. Starting text-based negotiations without any delay and concluding this matter at the earliest possible would be appreciated.

13.21 Turkey

301. We would like to thank the co-sponsors of the document IP/C/W/669/Rev.1 which contains revised text of the proposal for a waiver from certain provisions of the TRIPS Agreement. This pandemic is the most serious global health crisis of our times. It has been also a powerful reminder of the necessity for a strong and responsive global trading system in our interdependent world. We all agree on the importance of ensuring timely, global and equitable access to affordable, safe and effective COVID-19 vaccines and therapeutics.

302. For this objective, we need strong international solidarity that can help us for ramping up supply and equitable distribution of vaccines. It is quite clear that we encounter some trade-related challenges in this process. The WTO should play its role in finding a creative and pragmatic solution to these challenges. Turkey believes that we should act urgently. By doing this, we can avoid further damage to human life and the global economy. In this regard, we are pleased to see that the Waiver Proposal was revised recently. We are ready to engage in constructive discussions on this revised text. We hope that these efforts can move us closer to a possible landing zone in responding to this very serious challenge for human life.

13.22 Canada

303. Canada is committed to a comprehensive, global response to COVID-19 that leverages the entire multilateral system in supporting the research, development, manufacture, and distribution of safe and effective COVID-19 vaccines and other medical products. Canada is ready to discuss proposals on a TRIPS waiver, in particular for COVID-19 vaccines, and remains committed to finding solutions and reaching an agreement that accelerates global vaccine production and does not negatively affect public health. Canada can support any consensus-based way ahead in this process, including text-based negotiations.

304. Canada will continue working closely with all WTO Members, including engaging on new proposals from any Member or group, in seeking a consensus-based outcome to address any IP challenges created by COVID-19. In this regard, Canada thanks waiver co-sponsors for the revised proposal in WTO document IP/C/W/669/Rev.1, as well as the European Union's recent proposal on IP in document IP/C/W/680, and is prepared to engage on any proposals that will advance a consensus-based outcome towards addressing these challenges at the WTO.

305. More broadly, Canada continues to work closely with international partners as part of ongoing efforts towards ensuring the timely and equitable distribution of vaccines and medical products around the world, including the Trade and Health Initiative, and support for the Director-General's ongoing engagement with developers and manufacturers of COVID-19 vaccines and medical products. Canada's focus is resolutely on the objective of getting more safe and effective COVID-19 medical products, in particular COVID-19 vaccines, to more people.

13.23 Chile

306. Chile is committed to the common objective of providing universal and affordable access to effective, safe and high-quality vaccines and medicines. We shall therefore continue to constructively participate in this discussion with an open mind and in the spirit of seeking a consensus solution that effectively improves the equitable production and distribution of COVID-19 vaccines worldwide. We are convinced, like other Members, that a genuine solution must involve adopting holistic measures at the WTO, including in relation to, *inter alia*, export bans, trade facilitation, regulatory coherence and improvements in customs. This is why our country co-sponsors the Trade and Health Initiative, which is focused on addressing the pandemic in a cross-cutting manner. We have also supported the Director-General's process known as the "third way".

307. Against this backdrop, Chile remains convinced that intellectual property is not an end in itself, but rather a tool for development. Intellectual property systems must therefore strike the right balance that serves the interests of creators and innovators by incentivizing research and development, while also protecting the interests of society as a whole. For this reason, we reaffirm that the TRIPS Agreement can and should be interpreted and implemented in a manner supportive of the rights of WTO Members to protect public health and, in particular, to promote access to medicines for all.

308. Therefore, and to reiterate the Joint Statement of the Asia-Pacific Economic Cooperation Trade Ministers, we consider that we should, as a matter of urgency and without ruling out *a priori* any possible solution, explore and discuss all necessary avenues for effectively improving the equitable production and distribution of COVID-19 vaccines worldwide.

309. We thus thank the proponents for submitting the revised version of their proposal contained in document IP/C/W/669/Rev.1, which is under review in our capital. We hope that it has adequately addressed the concerns and questions raised on previous occasions. We also thank the European Union for the submission of document IP/C/W/680 and hope that in the future we shall have the opportunity for this document to be properly presented at this Council. I would like to conclude by indicating that we must ensure in this exercise that the consensus solution genuinely fulfils the above-mentioned objective, avoids any counter-productive effects on vaccine production and limits the creation of false expectations for citizens.

13.24 Singapore

310. Allow me to make three quick points. First, we would like to thank both the European Union for tabling its communication to the TRIPS Council, as well as the proponents of the TRIPS Waiver Proposal for the revised communication. We are studying both communications seriously and carefully and will participate actively in the negotiations.

311. Second, Singapore would like to reiterate that we are all committed to the same objective of equitable vaccine production and distribution. These positive developments underscore the importance of active engagement and dialogue that Members are having in the TRIPS Council. While divergences may still remain, Members have shown an effort to meet in the middle, and we should keep an open mind on how best to achieve our common objectives.

312. Third, we need to step up the pace of discussions in order to develop a concrete and constructive response to the pandemic before MC12. If we continue to be flexible and engage each other in good faith, I am hopeful that we will be able to achieve mutually agreeable outcomes in due course.

13.25 Jordan

313. Chair, first we would like to thank you for your efforts in coordinating on this matter. In terms of vaccine availability, it is clearly noticed that there is huge gap in access between the high-income countries and low-middle-income countries to not only the vaccine, but also to other medical products related to COVID-19.

314. While we are seeing the positive effects of the vaccine, as the cases in the vaccinated countries are down, and infection rates have decreased sharply, many low and middle income countries have far less access to vaccines. Sixty-three Members are co-sponsoring the proposal, including Jordan, as the most recent. Jordan strongly supports to have consensus on the proposal in July, before MC12, as we believe it could be possible to reach an extraordinary success to end the pandemic, but only if all countries could get the vaccine to their people. And having the waiver would contribute to increasing the possibility of speeding up the production.

315. The COVID-19 pandemic is an unprecedented crisis and vaccinating most of population in some countries will not end the pandemic. The question is to Members: if we do not have a consensus on the waiver now, then when? Actually, we appreciate Members who have shown support to the proposal, I think it is a big millstone. We call on all countries to work with the co-sponsors countries to get consensus before end of July. And as mentioned by South Africa, the co-sponsors are flexible and ready to engage for further discussion on the waiver and also on the EU proposal to reach to balanced decision.

13.26 New Zealand

316. New Zealand supports the waiver of IP protections on vaccines as an important part of our collective effort to address the human catastrophe of the pandemic. As set out in the APEC Ministers Responsible for Trade Meeting Joint Statement, New Zealand is ready to act proactively in support of text-based discussions.

317. We have listened and agree that the circumstances relating to COVID-19 vaccines are exceptional and justify a waiver of certain TRIPS rules. In making that assessment we have considered all sides of this issue, including the purpose and value of TRIPS rules in incentivising innovation and providing certainty to parties throughout the supply chain for health products and technologies. However, we have also balanced those considerations against the human catastrophe of the pandemic and the extraordinary circumstances relating to vaccines. They are the single most important tool we have to respond to the pandemic, we need vaccines available to everyone around the world as quickly as possible, and a vaccinated world is the best way to address the need for other COVID-19 treatments. Therefore, if intellectual property protections are preventing or slowing the manufacture and distribution of vaccines – we need to be able to waive those protections, at least until we have sufficient global manufacturing capacity to meet global demand.

318. However, it is also our strong view that addressing TRIPS rules can only be a part of the WTO's response to the pandemic. Equally, we must also address trade and other barriers that are limiting the free movement of vaccines as well as the raw materials and equipment needed for the manufacture of those vaccines. New Zealand supports the Ottawa Group trade and health initiative and the Director-General's "third way" approach, both of which demonstrate how trade policy can help improve access – for example through trade facilitation measures, tariff liberalisation and disciplines on export restrictions. We must also continue to strongly support COVAX and other mechanisms supporting equitable global access.

319. There are clearly differing views on the effect of waiving IP rights, but we should all cease positioning and begin a text-based discussion to identify where consensus can be found. The WTO must do, and must be seen to do, all it can to respond to the pandemic. Focusing these discussions on vaccines provides a justifiable and meaningful path forward.

13.27 Vanuatu

320. Vanuatu joins the co-sponsors in supporting a TRIPS waiver to enable the scaling up of COVID-19 vaccines. We associate ourselves with the statements by the proponents and co-sponsors and we also welcome the revised proposals that are now before us.

321. As the factsheets suggest there is continuing rise in infections and deaths from COVID-19 as well as in new variants of the virus, as vaccines are not reaching Members quickly enough, especially to developing countries, LDCs and Small Island Developing States. Cognizant of this and the sensitiveness of critical timing and distribution, access to vaccines availability to developing countries is a reality and remains a concern.

322. We are concerned with the slow roll out of the vaccines adding stress to our public health systems which will continue and the ensuing the slow-down and stress on our economies is unfortunate. This is happening today, and it will continue to happen if we do not address this matter quickly. This is a situation that cannot and must not be ignored by WTO Members. We thank those WTO Members who have made statements on the proposal.

323. To advance this we ask you Chair to avail the resources and time to accelerate plans for periodic meetings through plenary and small group meetings and through the various configurations so that we can proceed to text-based negotiations to ensure that we have a solution well before MC12, and to focus on a timeline of July 2021.

13.28 Ukraine

324. Ukraine thanks the co-sponsors for their efforts and the submission of the revised draft decision text, presented in document IP/C/W/669/Rev.1, which is being analysed by the Ukrainian authorities, in consultations with relevant experts and interested stakeholders. Based on the preliminary feedback received, we would like to reiterate the importance of all categories of intellectual property and underscore the necessity of dissemination of technology and know-how to ensure rapid response to the COVID-19 pandemic.

325. Ukraine strongly believes that intellectual property rights play a key role in the promotion of research and innovation. The protection and enforcement of intellectual property rights should contribute to the transfer and dissemination of new technology, to the mutual advantage of developers and manufactures, as set out in the TRIPS Agreement. We also agree that extraordinary circumstances, caused by the COVID-19 pandemic, require extraordinary measures to scale up vaccine manufacturing and distribution globally for achieving objective of social and economic welfare.

326. Ensuring the availability and greater access to affordable vaccines and other health products is a matter of top priority for Ukraine. In this regard, we would like to indicate that Ukraine has manufacturing capacity in the pharmaceutical sector, which can be used for expanding COVID-19 production capacity. Even more, our pharmaceutical manufactures have referred to COVID-19 vaccine developers with the proposals on technology transfer on the terms of manufacturing agreements, but, according to the information at our disposal, no progress has been achieved so far.

327. In this light, Ukraine would welcome further steps that would facilitate the international transfer and dissemination of technology, allow for the establishment of the collaboration and achieving agreements with developers so as to ramp up manufacturing and supply of needed health products to end the COVID-19 crisis.

328. Ukraine has been following the extensive discussions on the Proposal and would like to confirm its readiness to constructively engage on the text-based negotiations in order to achieve the common goal of ensuring timely and universal access to vaccines and other health products needed to fight the COVID-19 pandemic. We are interested in participating in further discussions in various formats as suggested. In this regard, would rely on your guidance and suggestions by the co-sponsors with regard to the timing and format of such meetings.

13.29 Norway

329. We thank the proponents for their revised proposal, and for their joint statement. Quite a few questions have been asked about the original proposal, and answered by the proponents. The discussions during the last week showed that some Members still have reservations about certain aspects of the proposal. I like to underline that Norway will not object to starting text-based negotiations on this proposal, as well as other proposals that have been submitted or may be submitted in the future. The recent communication from the European Union is one such example. However, the Chair would have the best possible basis for such negotiations if those delegations that would like to propose changes to the different proposals do so in writing. That would allow the Chair to start developing a text on this proposal and texts on other proposals where questions to be resolved are put in square brackets.

330. We would like to urge any delegation that has reservations about document IP/C/W/669/Rev.1, or would propose alternative provisions, to present their proposals in writing as soon as possible. This will assist our work in finding solutions that will assist us in our efforts to reach consensus. Commenting on document IP/C/W/669/Rev.1, although we do recognize that the proponents have made efforts to narrow and clarify the scope of the proposal, Norway remains concerned about its broad coverage. We also question the duration of the proposal, and would suggest that its duration should be limited to a specific time period - to be negotiated - unless explicitly extended by the General Council. That is the common practice for waivers or other decisions that are not permanent. We feel certain that the membership would extend any such waiver for as long as necessary to fight this pandemic.

13.30 China

331. China appreciates co-sponsors' efforts in revising the proposal and thanks South Africa, and other proponents, for its presentation. As several Members stated before me, with the continuous mutations and emergence of new variants, it is more urgent for us to accelerate our work with a view to reaching balanced and effective solution in this Council. WTO is well equipped to provide comprehensive solutions to tackle the pandemic, and IP is one of the important aspects. The revised proposal has further clarified the duration and scope of the waiver, which marks an important step to the text-based negotiations. We also notice that the proposal submitted by the European Union to the General Council and this Council. Different approaches but the same goal, all the Members believe that the WTO should play a central part in the response to pandemic. China will conduct in-depth analysis on the two proposals and is committed to actively engaging in the further consultation convened by the Chair.

332. China attaches great importance to promotion of the availability and affordability of vaccines for developing Members and the LDCs. Notwithstanding the limited production capacity and enormous demand at home, China has provided free vaccines to more than 80 developing countries in urgent need and has exported vaccines to 43 countries. Meanwhile, Chinese vaccine companies have already cooperated with companies in Brazil, Turkey, Indonesia, Malaysia, and the United Arab Emirates in local production of vaccines. Recently, Sinopharm's and Sinovac's vaccines have been approved to be included in the WHO Emergency Use Listing, paving the way for making our further contribution to the global response to the pandemic, including donation to the COVAX. Hopefully with the coordinated efforts by all stakeholders, we could bring our life back to normal soon.

13.31 Hong Kong, China

333. Hong Kong, China would like to thank the proponents for submitting the revised proposal, and the European Union for the communication IP/C/W/680. We are still analysing both documents and would carefully consider all suggestions in the documents taking into account the deliberations at this meeting. Regarding the revised proposal on TRIPS waiver, we would like to share our initial observations as follows. In view of the scale of the pandemic and the severe health crisis, Hong Kong, China stands ready to engage with Members on further discussing the revised proposal, including the scope and duration of the waiver. We consider that the scope "health products and technologies" in the revised proposal remains broad and uncertain. The actual scope of the proposed waiver should be clearly defined, targeted and be proportional to the problem.

334. Regarding the duration, we are concerned that the proponents suggest mandating the waiver to be in force for at least three years and only thereafter the General Council shall review the existence of the exceptional circumstances justifying the waiver. We consider that the waiver, if granted, should have a definite duration. Hong Kong, China will continue to constructively engage with other Members in this Council and other fora of the WTO to find solutions that would provide prompt and comprehensive responses to the COVID-19 pandemic.

13.32 Brazil

335. Brazil is deeply committed to providing solutions within the WTO framework for supporting global efforts to end the pandemic. There is no simple formula for tackling the wide array of challenges involved in developing, manufacturing and distributing vaccines and therapeutics around the globe. As we have repeatedly stated, a holistic solution is required. That it is why we have been working on different fronts to build a robust trade and health framework for the WTO, one that deals with the diverse challenges in a comprehensive way. And we remain open to other proposals that may contribute to further improve the tools available within the WTO to respond to health crises. We are also looking into the future. We want to leave this pandemic better prepared for the next ones.

336. It is clear that the world is not equally equipped to fight such a pandemic, and this imbalance is something we should urgently address. Production of life-saving drugs and vaccines is too concentrated in certain parts of the world. This pandemic has proven that this has to change. In the past year, we have also seen emerge technologies that might increase the speed of our response to future pathogens and other variants of COVID-19. These technologies might also be an important tool to fight local epidemics everywhere, including in the developing world. Disseminating this crucial knowledge would certainly enhance the world's level of preparedness for future threats.

337. Discussions on this Council have eminently focused on IP protection, but only marginally touched upon the transmission of technology and know-how, which might not automatically flow to potential manufacturers of vaccines and therapeutics once IP rights are licensed or waived. We would like to see more in-depth discussions on the operationalization of this important practical aspect that is fundamental to the success of an IP waiving strategy. We are also interested in solutions that preserve transparency and a sufficient level of legal certainty for stakeholders, so that we do not unreasonably disrupt collaboration efforts. Brazil will support any solution that will contribute to building a more equitable and efficient worldwide response for this pandemic and future ones. Brazil is ready to start text-based negotiations regarding a waiver for TRIPS provisions during the pandemic. We will engage openly and constructively in such discussions aiming at tangible results in the shortest timeframe possible.

13.33 United Kingdom

338. First of all, I would like to thank the proponents for submitting their revised proposal to this Council. We recognize the passion and the interest around these issues and we note the changes made and have considered whether these changes address the concerns raised by the UK and other Members in previous TRIPS Council sessions on this subject. I would like to underline that we will continue to engage constructively on this issue. We do not think, however, that the amended proposal does really address the questions that we have posed and indeed in some respects it raises additional concerns on how a waiver as envisaged in the proposal would actually genuinely help us

scale up and speed up the production and distribution of COVID-19 supplies for the prevention, treatment, and containment of COVID-19.

339. Overall, we fear that the revised text does not bring our positions closer together. In particular, the text continues to suggest that the international IP system is a barrier when we still do not think that we have seen evidence of that being the case. We all recognize the rapid action that is required by all of us, both governments, industry and international organizations, to accomplish our shared aim of tackling COVID-19; therefore, we consider it important to concentrate those efforts on pragmatic solutions and steps that we collectively believe will resolve these issues surrounding vaccine equity in a rapid and effective manner.

340. Fundamentally, we remain to be convinced how an IP waiver, if agreed, would actually increase the supply of COVID-19 goods. To date, we have still not seen evidence demonstrating intellectual property as a limiting factor in either the production or the supply of COVID-19 goods. We note, for example, some WTO Members already have the policy flexibility to operate without being subject to the obligations under the provisions of the TRIPS Agreement. At the same time, some of these Members have reported having manufacturing capacity. We are at a loss to understand why that immediate production has not happened in these countries on that basis.

341. Voluntary licensing and technology transfer partnerships are making real, positive real-world impact on vaccine delivery, as exemplified by the Oxford AstraZeneca vaccine with its numerous partnerships around the world. These partnerships have enabled the delivery of more than half a billion doses to 168 countries around the world, and they account for around 96% of total COVAX supply. We know that we need to do more. We continue to encourage and work to facilitate more partnerships like the Oxford AstraZeneca one and once again call on Members who do have the right manufacturing capacity and experience to come forward to work with the pharmaceutical sector to scale up supply. Whilst we cannot overstate the role industry has played, we recognize further work is required. British Ministers are continuing to engage with the pharma sector and are pushing them to deliver concrete proposals to further scale up supply of COVID-19 goods.

342. This pandemic is not over and nor is it sadly likely to be the last one, so we do have to consider the long-term consequences of potential short-term action on intellectual property. A key priority for the UK is ensuring the multilateral IP system remains fit-for-purpose to respond both to the current crisis and future crises by continuing to encourage innovation that is at the heart of our response to this pandemic. Without that, new vaccines for new pandemics will simply not be developed. That is the challenge. The UK believes TRIPS flexibilities are legitimate tools to access COVID-19 goods and should be used already where needed. We welcome news of Members who have begun exploring this avenue, including in yesterday's debate. I would like to thank the European Union for its communication. We welcome the introduction of additional proposals for consideration by this Council and we had welcomed the opportunity to come back for a fuller consideration of the EU proposal, and indeed others that may be brought to the table of this Council, in due course.

343. The recent communiqués from the G20 and G7 affirm the shared global commitment to finding effective solutions within the multilateral rules-based system. Ensuring targeted and sensible principles focused on addressing trade and health concerns has been a key priority for us as Chair of the G7 this year. The G7 trade ministers in their communique of 28 May underlined their commitment to continue to support work here at the WTO in identifying solutions to expand global vaccine production and distribution. They want to work with industry, the COVAX Manufacturing Taskforce and the ACT-A Manufacturing Working Group to scale up capacity and engage on forward supply planning. In addition, we will support open, diversified, secure, and resilient supply chains in the manufacture of COVID-19 critical goods, vaccines and their components, and we welcome the termination of many trade restrictive measures. Looking towards the future, we will be working in partnership with our G7 members to formulate pragmatic, effective, and holistic solutions to support trade in health ahead of and at MC12. We believe these actions can best guide measures to increase the production, supply and access to COVID-19 technologies. We look forward to reporting back to Members on the conclusions of this weekend's G7 Summit in Cornwall where these issues will be foremost in leaders' minds. We are glad to say that the Directors-General of the WTO and also the WHO will be participating in these discussions.

344. The UK has been working with the WHO on developing C-TAP, including with other key partners such as the United Nations Development Programme, the Medicines Patent Pool and Cambridge

Enterprise, to share our approach to medical licenses for sharing of IP. A useful next step for C-TAP would be the WHO to work even more closely with governments to demonstrate how to incentivise industry players to participate in the scheme. We encourage further engagement by Members in the C-TAP space, as well as drawing on expertise from WIPO and WHO via the trilateral cooperation framework with the WTO.

345. We need to focus on pragmatic practical solutions that will actively address the blockers to vaccine equity – solutions that will speed up the elimination of tariffs on ingredients and production tools, production bottlenecks and supply chain issues such as specialised raw material shortages - solutions that ensure that available doses are effectively distributed and administered, whilst continuing to scale up existing and new vaccine production - solutions which deliver real world change, quickly, effectively, equitably.

13.34 Switzerland

Introduction

346. At this stage of the COVID-19 pandemic, the most urgent challenge remains to ensure a rapid and equitable roll out of vaccines globally, as this is the only way to control the virus effectively. The WTO has an important role to play in achieving this objective. Switzerland is convinced that a holistic approach is needed, facilitating trade and reducing barriers to trade, enhancing collaboration in order to scale-up production, and making sure that the tools provided for under the multilateral framework, including the TRIPS Agreement and its flexibilities, can effectively be used. In this regard, we thank the European Union for introducing its new submission in WT/GC/231, on urgent trade policy responses to the COVID-19 crisis, which outlines such a broader approach.

On revised TRIPS Waiver Proposal

347. We thank the proponents for introducing their revised proposal IP/C/W/669Rev.1 for a TRIPS waiver request. In relation to "scope", we note the revised proposal is indeed more specific, while its breadth remains unchanged. On "duration", we note that next to the newly proposed minimum duration of three years, the termination of the waiver is made dependent on a decision of the General Council, implying that the waiver could remain in force indefinitely. There is consensus among health scientists that the new Coronavirus will stay with us for decades to come, comparable to the influenza virus. Permanent innovation in R&D of vaccines will be necessary to contain the novel Coronavirus and its future variants. Thus, a consensus in the General Council over whether the virus will at some point be successfully defeated might be elusive for many, many years.

348. Also in relation to the proposed duration of the requested waiver: in our view, a consequence of the waiver would be that innovative COVID-19 related health products and technologies developed during the waiver period would not be eligible for patent protection even after its termination. This, because they would no longer fulfil the patentability requirement of novelty. Accordingly, such innovation would, in fact, lose the full term of 20 years of patent protection. This could have a dramatic impact on investment into R&D on vaccines and therapeutics, and thus on the international community's pandemic preparedness. We note that the revised version contains language in its preambular paragraphs that recognizes the need to maintain innovation incentives for this purpose. However, we fail to understand and think the revised proposal stands in contradiction to the underlying concept of the waiver in that respect. It remains unclear to my delegation how proponents imagine this goal could be achieved under their proposal.

Why the waiver is not an effective means to achieve the goal of global and equitable access to COVID-19 vaccines and therapeutics and why TRIPS and IP are enablers to achieve this goal

349. As already expressed in our previous statements, in Switzerland's view, the suspension of intellectual property rights is not an effective means to achieve quick scaling up of global production and distribution of vaccines and treatments against COVID-19. To the contrary: The innovation pipeline that TRIPS and IPRs underpin has so far produced more than a dozen effective vaccines since the outbreak of the pandemic 18 months ago, giving us the tools to combat the pandemic effectively. IP and TRIPS play a key role, also now at the stage of scaling up production further.

350. Suspending the TRIPS Agreement would throw existing partnerships between vaccines developers and manufacturers– into a legal void. – According to data from Airfinity, this would concern up to 300 international manufacturing partnerships that have been established

internationally since the development of the new COVID-19 vaccines. A TRIPS waiver also risks hampering the establishment of new manufacturing partnerships and could thus block quick progress in scaling up manufacturing, since only in such partnerships is know-how and technology transfer happening promptly. Under a waiver, new manufacturers would have to do it on their own, the development, set up the production process, the safety and efficacy testing and obtain market approvals. This will be time consuming, but time is of essence – another point Members agree on – which is why a waiver in our view will not quickly or efficiently help us achieve our shared goal.

Alternative measures more effective than a waiver

351. What then can be an effective contribution of WTO to help us reach the said goal? In our view, a holistic approach needed:

- a. One, supporting and facilitating partnerships between COVID-19 vaccine developers and qualified manufacturers with adequate production capacity. This implies among others that more and well documented information is made available concerning existing and non-utilized production capacities they dispose of.
- b. Two, ensuring the smooth functioning and resilience of the supply chains, minimizing barriers to trade. Over the last few months, we have seen serious and artificially created bottlenecks that have slowed down or literally stopped manufacturing process of vaccines of some producers. All the capacity of the world is useless if timely delivery of raw materials and components along the supply chains breaks down.
- c. Such export restrictions have also worked to the serious detriment of WHO's COVAX mechanism, through which the international community wants to ensure equitable access to COVID-19 vaccines, in particular for poorer countries.
- d. Three, dose-sharing as provided in the context of the COVAX Facility, will also be essential to achieve equitable access.
- e. Four, facilitating the use of the TRIPS flexibilities on compulsory licences if Members encounter problems in practice when applying them.

On EU Proposals

352. Finally, as mentioned in the beginning of our statement, we thank the EU for introducing its new submission on Urgent Trade Policy Responses to the COVID-19 Crisis. This communication highlights measures the WTO should take in the field of trade and health, some of which I also referred to in our statement today, and that Switzerland supports in its own right, but also as a Member of the Ottawa Group's initiative on Trade & Health. We thus welcome the contribution of the EU and look forward to discussing it, including the additional submission to the TRIPS Council the EU announced and submitted yesterday and that we will have to examine further.

Conclusion/On the way forward/In reaction to Chair's request

353. Switzerland is ready to discuss all the proposals put forward by Members to identify what the most effective contribution can be for the WTO to help us achieve our shared goal of making global and equitable access a reality as far as possible. We request the Chair to continue facilitating the Council's discussion under this agenda item through your consultations in the formats as you see fit, and to treat all the proposals Members submit on an equal footing.

13.35 Japan

354. Japan will constructively discuss various issues and measures with Members and will participate in any form of discussions thereon, including a text-based negotiation, in order to increase vaccine supply and ensure globally fair and equitable distribution toward the early convergence of the COVID-19. From this perspective, the delegation of Japan notes with high level of interest in the revised TRIPS Waiver Proposal by India and South Africa, as well as the European Union's proposal. Japan will continue to consider with WTO Members what measures will contribute to expanding the production of safe vaccines and ensuring fair and equitable access.

355. In addition, it is essential to encourage technology transfer in cooperation with pharmaceutical companies in order to scale up the production capacity of safe vaccines promptly. In this context, Japan supports the initiatives by WTO Director-General to find a "third way" through dialogues with pharmaceutical industries.

356. Japan has put emphasis on Universal Health Coverage. There are various challenges toward the end of the COVID-19, and one of the major challenges is ensuring fair access to vaccines all over the world, including developing countries. In this regard, Japan attaches great importance to the role of the COVAX Facility and Japan co-sponsored the "COVAX Vaccine Summit" with Gavi on 2 June. During the Summit, Japan announced an additional contribution of USD 800 million, which brings the total contribution of USD 1 billion to the COVAX Facility. In addition, Japan also published that Japan intends to provide around 30 million doses of vaccines manufactured in Japan, including through the COVAX Facility, to other countries and regions, when circumstances allow, and at an appropriate time. Furthermore, Japan has been extending the programme named "Last One Mile Support" to ensure equitable access to vaccines for all people in need across a country by supporting a cold chain system including medical equipment such as cold-storage facilities and transportation.

357. Japan will continue to exchange views on the TRIPS Waiver Proposal closely with WTO Members, and at the same time, Japan remains committed to tackling various problems caused by COVID-19, together with the international community.

13.36 Russian Federation

358. Russian Federation thanks India and South Africa and all co-sponsors of the document IP/C/W/669/Rev.1 for presenting to the Council the revised version of the initiative. We are convinced that new clarity will help to move the dialogue in the TRIPS Council forward. We agree that the supply and availability of vaccines for combating COVID-19 are the most important issues right now. Russian Federation supports all negotiations and activities which will lead to a consensus decision on this issue and multilateral initiatives which will help Members respond effectively to the pandemic.

359. The Russian government is still analysing the revised version of the waiver and the new proposal from the European Union in document IP/C/W/680. For our part, we are trying to support Russian scientific institutions and companies that were pioneers in the country in the development of a vaccine against coronavirus, and at the same time, provide assistance to countries in need.

360. This assistance takes place in diverse forms. It can be direct deliveries of the vaccine, transfer of technology, supporting production in these countries. For example, Sputnik V is approved for use in 67 countries, and arrangements for production have been concluded with 11 countries. We are ready to engage in dialogue in the TRIPS Council.

13.37 El Salvador

361. My delegation would like to thank you for your consultations and for facilitating these important discussions. We also wish to thank the proponents for the revised proposal, which is being examined in detail by my authorities. As we have stated on previous occasions, El Salvador attaches the utmost importance to preserving human life and ensuring the equitable and universal distribution of vaccines. In this connection, we are open to continuing the discussions on the TRIPS Waiver Proposal with the proponents and other interested Members in order to find a targeted and balanced solution that takes into account Members' various points of view, including the comments and considerations put forward by my delegation, which still stand.

362. As we have previously stated, promoting and incentivizing intellectual property and innovation as a tool for boosting and accelerating our country's development is a top national priority. El Salvador's scientific and technological progress and modernization are becoming increasingly important in these times of crisis and for economic recovery. Furthermore, we would like to thank the European Union for its proposal, which is being examined by our authorities. You may count on our delegation to continue working constructively on this matter.

13.38 Mozambique

363. We thank the Chair and the WTO Secretariat for organizing this meeting and for having included this agenda item. This statement is aligned with the one delivered by Tanzania on behalf of the Africa Group yesterday. We thank for the presentations made by the representatives of South Africa on behalf of proponents and co-sponsors and support all statements presented in favour of this need to advance on the basis of this revised submission. As one of the co-sponsors of the TRIPS Waiver from Certain Provisions of the TRIPS Agreement for the Prevention, Containment and Treatment of COVID-19 for a limited time, we also would like to express gratitude to all Members who have expressed their support as well as those who have been devoting efforts towards advancement of this issue and appreciate the willingness to engage.

364. As the world continues to be hit by COVID-19 and its dramatic effects, and as daily top news continue to show that huge limitations on quantity of vaccines, and other needed goods in order to ensure the containment, prevention and elimination of COVID-19, continue to face the globe, more than ever it is time for the WTO Members to advance the debate and as urgent as possible, get into the positive closing of this matter so that production can be fostered in view to upgrade the current levels that desperately do not respond to the urgent demand, and all the needs to save people's lives.

365. The burdensome effects of COVID-19 do not only challenge human lives, they are also continuing to reverse social and economic achievements that had already been attained, thus worsening the already uncertain perspectives as to if it will be possible to advance and achieve the sustainable development goals, as foreseen in 2015.

366. Engagement of more countries in the production of vaccines and others is surely the most adequate way to go so that production can be improved in a redoubled effort involving new producers, and which will join efforts with those producers that have assured the vaccines that were made available up till now. For our delegation, this shows the need and the relevance of collaborative effort, as well as of cooperation and solidarity in a clear exercise to collectively find solutions for a common problem facing the globe. The elimination of COVID-19 can only be possible if collectively dealt with.

367. We would like to reiterate our previous interventions and call upon the WTO Members to consider, with no delay, advancing to text-based discussions and convergence. In view to facilitate discussions, line by line-based debates are the most direct and practical way to expedite the work, so that progress can be achieved in view to added engagement in production process. This is the only way to increase production, as well as availability of needed goods, thus enable us to save millions of lives and ensure preparedness for any eventual future pandemic. To conclude, we thank the European Union for their presentation and explanation yesterday, and would like to reiterate our view of positive engagement to continue these discussions.

13.39 Philippines

368. The Philippines thanks India, South Africa and co-sponsors for the revised proposal, document IP/C/W/669/Rev.1 of 25 May, which with other elements provides for a limited three-year waiver period. The Philippines remains open and encourages Members to undertake text-based discussions towards reaching a consensus at the soonest possible time. We also take note of the European Union's new proposal and we look forward to engaging on this matter within the TRIPS Council and other fora in order to address this very important issue of the WTO's response to the pandemic with the ultimate aim of the safeguarding the health of our citizens.

13.40 Angola

369. The Angolan delegation is in line with the revised document presented by South Africa and the statement made by Tanzania on behalf of the African Group. We reaffirm our statement made at the last TRIPS Council meeting held, where we requested the Members of this Council to consider the proposal. Now with the revised text, we are in the condition to move to another phase.

13.41 Jamaica

370. Jamaica thanks the proponents of the waiver for their efforts in constructively engaging Members on this matter. We note that their constructive spirit has resulted in their revision of the proposal. We welcome this gesture and are of the view that it will serve to encourage further dialogue and to make progress towards finding an amicable solution on the matter.

371. Jamaica is not a co-sponsor but continues to support the underlying principles in the proposal which seeks to ensure equitable access on a non-discriminatory basis to medicines and vaccines. We have taken note of the revision, which is under consideration in capital.

372. Our preliminary assessment of the revised proposal shows that it has taken on board many of the comments or concerns raised by Members in the discussions. We commend the co-sponsors for their willingness to listen to others and their hard work in seeking to incorporate the views of non-proponents.

373. It is without a doubt that all countries have been significantly impacted by the pandemic, as such, there must be a global, coordinated response. It is only through such coordinated efforts that we will be able to prevent, treat and contain the virus and jump start economic recovery efforts.

374. The WTO, as the multilateral institution responsible for global trade, has a critical role to play in the international community's efforts to preserve the health and save the lives of millions of people across the globe. We have a duty to strike an appropriate balance between the objectives of incentivizing innovation, on the one hand, and on the other hand, safeguarding health and saving lives. We can see where the revised proposal is seeking to strike that balance. We are, therefore, in solidarity with the sentiments of proponents.

375. Having exhausted the question and answer process, we support a move to text-based negotiations on the document, which we believe would give other Members an opportunity to propose amendments and, where possible, pursue a merger of the various submissions on this very pressing issue. Our collective objective should be to arrive at a final version that all WTO Members can live with.

376. Jamaica remains encouraged by the robust discussions and exchanges on the proposal which have ensued over the past months and is confident that WTO Members are capable of arriving at a consensus to ensure that the Organization plays an effective role in the response to this pandemic.

13.42 United States of America

377. We wish to thank South Africa, India, and the other proponents of revised document IP/C/W/669.Rev.1 for their presentation and for their remarks. As we have indicated consistently, including at the informal meeting on 28 May, our top priority is saving lives and ending the pandemic around the world and in the United States.

378. It is our aim is to get as many safe and effective vaccines to as many people as fast as possible. The United States is continuing to ramp up its efforts - working with the private sector and all possible partners - to expand vaccine manufacturing and distribution. Just last week, President Biden announced a US commitment to share a total of 80 million doses by the end of June.

379. This is a global health crisis, and the extraordinary circumstances of the COVID-19 pandemic call for extraordinary measures. The United States believes strongly in intellectual property protections. But we must do what is necessary to accelerate manufacturing and equitable distribution of vaccines.

380. In the view of the United States, the WTO must show that it can step up in a global crisis and act efficiently to improve the lives of ordinary people. We must all come together to find a solution expeditiously, especially as the pandemic continues to spread with new variants. As noted in our 5 May announcement, the United States has endorsed initiating a process at the WTO. We have not prejudged an outcome.

381. While we are still reviewing the revised proposal, our initial reaction is that it is a relatively modest change. While we recognize it is not for the proponents to negotiate with themselves, it is a shared responsibility to find common ground and to respond to the issues raised by other Members, and time is of the essence.

382. In our view, the most expeditious pathway toward consensus would be to focus our efforts on what actions might be needed to address the supply and distribution of vaccines specifically. For our efforts to have an immediate effect, a revised scope for discussion seems the most promising next step.

383. We recognize that the consensus-based nature of the WTO and the complexity of the issues involved mean that this will be a time-consuming process. Therefore, it is imperative that we focus our efforts in the areas that are most likely to lead to acceptance by others as quickly as possible. We continue to hope our support for engaging in a text-based discussion will spur additional proposals or ideas to be put on the table.

384. We are glad to see we are making progress toward a process at the WTO on these issues and thank the European Union for its recent submission. We would welcome hearing whether there is consensus to have open and honest conversations about what can be done in this space. We continue to encourage others to step forward with something to which they can say yes.

13.43 Peru

385. We would first like to thank India, South Africa and all the co-sponsors for the revised draft, in addition to thanking the Chair. As a result of the COVID-19 health emergency, the Peruvian Government adopted a series of measures to contain and prevent the spread of the virus. While these measures were necessary to safeguard the population's health, they led to significant economic losses and an increase in unemployment and poverty in Peru, exposing economic and social inequalities. We know that this situation is echoed in many Members of the WTO.

386. Peru has been one of the Members to impose strict health measures aimed at containing the virus. Despite this, the mortality rate in our country has been high, for which reason the vaccination of our population is a priority in order to prevent the number of infections and deaths from continuing to rise. We are members of the COVAX Facility and we have every confidence in that multilateral organization. We recognize that we will not be able to overcome the pandemic until our population and the entire global population are properly immunized.

387. In the light of the foregoing, Peru supports the launch of the text-based negotiations in the WTO for a temporary waiver of vaccine related intellectual property rights for the containment of COVID-19. The Peruvian authorities are in the process of assessing the proposal following the presentation delivered at the meeting of 31 May.

13.44 Argentina

388. We thank the proponents for the revised document and for the efforts they have made to narrow the gaps between positions. Argentina reiterates its support for the proposal and reaffirms its belief that COVID-19 vaccines should be global public goods to which all persons have equitable access.

389. This pandemic has lasted almost a year and a half, and regrettably conditions have not improved. The situation is especially critical for many developing countries, and the production and distribution of vaccines has been very unequal throughout the world. Given the magnitude of the current health crisis, we believe that any initiative should aim to guarantee equitable access, and promote the transfer and dissemination of technology and knowledge, and enhance local production capacity and the timely distribution of vaccines at the global level, should be given immediate and additional consideration.

390. We cannot waste any more time. The world is waiting to see what happens in the TRIPS Council. For this reason, we invite all the delegations to begin text-based discussions. We must be able to take concrete, consensual and coordinated action that places the WTO at the centre of the economic and health recovery.

13.45 Chad on behalf of the LDC Group

391. We would like to begin to reiterate our position of the LDC Group which is one to support to this revised proposal, the subject of which concerns us all. It is about saving lives and about ensuring that the pandemic does not aggravate the current situation causing a high number of victims and forcing states to take measures and restrictions with which we have seen a slowdown in global economic activity. We need to ensure that everybody has access in a fair manner to medications and to vaccines and to the new technologies that are needed to control the pandemic. This is a requirement for all of us individually but also it is the great challenge that lies ahead of us. Relevant arguments have been put forward and responses and clarifications have been provided by the co-sponsors to some of the concerns and hesitations of some governments. It is in that same spirit that we need to continue to respond to these concerns and indeed look at the updates which are made because we can see in the revised proposal that there is a clear willingness of the co-sponsors to move towards a compromise and to move towards consensus. We underline that the proposal for the waiver is an opportunity to take concrete steps to help to prevent new tragic repetitions of this in terms of vital treatment. No country has been spared by the COVID-19 crisis. But LDCs are those who are least capable of bouncing back after this crisis because of the significant deficits that they bear in terms of development.

392. The pandemic has ravaged LDCs' fragile economies and the global recession which has followed has the lead to a collapse of the external demand of the goods and services from LDCs and has led to a decrease in the prices of principal exports and limits in terms of investment flows. For our resources, we see the capacity of production and diversification which has been severely restricted. LDCs generally do not have the resilience that they need in order to resist to such a crisis and its various economic shocks and so we think that in the current context that Members must demonstrate flexibility and must show an approach and a vision that is focused on adopting a decision within the TRIPS Council decision that is up to the expectations of over millions, or indeed billions, of individuals across the world. With regard to a waiver for certain provisions of the TRIPS Agreement for the containment and prevention of COVID-19, the rapid spread of the pandemic has meant that we have realized that we need a true global partnership and therefore consensus within the WTO so that nobody is left behind. We not only to limit ourselves to a moral commitment, but also respond to medium and long-term considerations in terms of the resilience of the multilateral trading system. We also share what was said by the African Group yesterday that we need to intensify our activities of meetings and other types of consultations, both informally and formerly, in order to level the playing field and to reduce divergences and show that we can provide access in a fair and equitable manner. South Africa's calendar is relevant given the significant challenges to be overcome on the health basis. The LDC Group should like to reiterate its appeal for text-based discussions, looking through towards a rapid adoption within the TRIPS Council.

13.46 Viet Nam

393. Viet Nam would like to thank South Africa and the co-sponsors for the revised proposal for a TRIPS Waiver relating to the prevention, containment, or treatment of COVID-19 pandemic. We would like also to express our appreciation to the European Union for their hard work for seeking a comprehensive solution for vaccine production and distribution.

394. Viet Nam would like to reiterate that we support any solution that helps to minimize the negative impact of IP protection on access to pharmaceuticals and medical devices, especially the accessibility of pharmaceutical products in developing and least developed countries. Such solutions, however, should maintain incentives for investment in the research and production of new pharmaceuticals and medical devices.

395. As in any other part of the world, Viet Nam has been suffering a new wave of the pandemic and at the same time we lack the of doses of vaccines for domestic need. Therefore, Viet Nam supports text-based negotiation and looks forward to achieving a consensus among WTO Members in terms of vaccine production and distribution to quickly put an end to the COVID-19 pandemic.

13.47 Namibia

396. Firstly, my delegation appreciates the effort by Republic of South Africa and India for this well-crafted revised proposal for a waiver from certain provisions of the TRIPS Agreement for the

prevention, containment and treatment of COVID-19. At the outset, Namibia associates with the statement delivered by Tanzania on behalf the African Group.

397. As one of the co-sponsors to the proposal referenced in document IP/C/W/669/Rev.1, my delegation is satisfied with the content and the Draft Decision Text for a waiver from certain provisions of the TRIPS Agreement. The COVID-19 pandemic is the crisis of a century. In addition to the number of deaths due to COVID-19 (3,718,849), ILO reports that the crisis-induced global shortfall in jobs is estimated to reach 75 million in 2021, and 23 million in 2022. In addition, the related gap in working-hours, which includes the jobs gap and those on reduced hours, amounts to the equivalent of 100 million full-time jobs in 2021 and 26 million full-time jobs in 2022. Furthermore, global unemployment is expected to stand at 205 million people in 2022 which is far higher than the 187 million in 2019. The figures clearly indicate the socio-economic impact of COVID-19 to the global economy.

398. Therefore, we need to be pragmatic, flexible and work in solidarity with a view to ensure timely, equitable, and secure access to safe, effective and quality COVID-19 vaccines and other therapeutics for the treatment and containment of COVID-19. It is against this backdrop that my delegation fully supports the Revised Decision Text and the Draft Decision Text and calls for text-based negotiations.

399. On the modalities, my delegation supports and call for line-by-line negotiations on the Draft Decision Text. The referenced sections in the Draft Decision Text to which the temporary waiver is being sought provide a good basis for our work moving forward with the aim to reach consensus and compromise in order to address the current challenges we are faced with concerning the supply constraints of vaccines, diagnostics, medical devices, PPE, therapeutics and others to treat and contain COVID-19.

13.48 European Union

400. I would just like to thank all the Members that expressed their interest in the EU proposal on clarifying the requirements on compulsory licensing to help enhance the production and distribution of COVID-19 vaccines and therapeutics. We are very grateful for these expressions of interest. We invite all Members to the discussions on our proposal and we will be happy to answer questions and provide explanations, both in the context of the discussions here and bilaterally. I would like to reiterate that we have focused on the points for clarification which have come up in our discussions which we are of the view are most relevant for a rapid response. However, we are very open to enlarge the scope of the discussion to other issues that could be relevant to ensure that intellectual property does not stand in the way of our common objective. We intend to come forward with a more elaborate text very soon. We would already like to invite reflection and discussion on these proposals. We are convinced that we can find agreement on this matter in a short term which would allow us to have rapid concrete solutions to the matters at hand.

13.49 India

401. I will begin by expressing thanks to the new co-sponsors and Members who have come forward to support our proposal. We thank Members for their pragmatism which is important to take these negotiations to their logical and timely conclusion.

402. The past year and a half have been unprecedented in the history of this organisation. As the challenges posed by the pandemic unfold, we work towards collaborative efforts to combat COVID-19. In this regard, Members have submitted proposals at the WTO seeking to combat the crisis and enhance preparedness for future pandemics, however, it is our firm belief that the TRIPS Waiver Proposal remains at the core of our response and preparedness. We have introduced the revised text after many rounds of informal and formal meetings of this Council and small group meetings and bilateral discussions. The revised text addresses the concerns raised by Members in these meetings. Let me quickly touch upon the changes that we have brought out in the revised text. Out of these five changes, three changes have been made to the preamble and the other two concerning the scope and duration.

403. The first change draws our attention to the emerging variants and mutations that reinforces the belief that the solution must be global and timely or else the virus and its mutations and variants would outpace and beat the solutions designed.

404. The second change is made to integrate elements from TRIPS Council Chairs' report to the General Council reflecting solidarity shown by the membership in treating this as a global problem that needs a global solution.

405. The third change to the preamble reflects the balance between commercial interests of IP rights holders and public health at large also showing that for the co-sponsors it is not an ideological debate, we are not against incentives for R&D and innovation while at the same time we acknowledge the importance of public health during a pandemic.

406. The scope and duration bring in specificity to the proposal, as the scope focuses on the prevention, containment, and treatment of COVID-19 and includes the health products and technologies needed to deal with the pandemic, the specific duration considers uncertainties surrounding the pandemic while also brings out the temporary nature of the waiver. The proponents have no intention of continuing the waiver for indefinite period and no intention of denying benefits of IP rights to right holders beyond the waiver period.

407. It is encouraging to note that in the past eight months the proposal has been actively discussed in various formats at the TRIPS Council meetings both formal and informal, in small group meetings as well as in bilateral engagements. A fair conclusion can be drawn that all Members have concurred that the solution needs to be comprehensive and multipronged, and that various ways can be pursued simultaneously and without prejudice to each other.

408. We gather from the informal meeting held on 31 May and the discussions held yesterday and today that Members have expressed their willingness to engage in discussions on the text and we thank the Members for this flexibility. Also, in the informal meeting Chair you had asked delegations to come prepared to deliberate upon the modalities and format with regards to the text-based negotiations. Let me briefly present our five suggestions with respect to the way forward.

409. First, we would like negotiations to begin after this formal meeting i.e., by mid-June. Second, looking at the severity of the second and third wave hitting different parts of the world, we cannot lose time, and therefore we look at concluding these negotiations by the end of July before we go for the summer break. Third, we would like to enter line-by-line negotiations on the text, and for this we are open and flexible to engage in all possible formats whether in a plenary or small group meetings. Fourth, we request all necessary cooperation regarding administrative and logistical arrangements from TRIPS Council Secretariat to go forward in this regard. Finally, we urge that as we are working on a tight schedule, we can engage daily in the similar way as we are engaging to conclude the fisheries negotiations.

410. In conclusion I would say that we have reached a critical juncture in this process and any dilly dallying would only cause more harm especially when we are in a race against time. If there are any Members who are still in two minds, and have concerns on the text, we urge them to come to the table, join the text-based negotiations and we can continue discussions and work on thrashing out these issues of interpretation therein.

13.50 South Africa

411. I just want to thank all Members who took the floor. I think it has been an engaging discussion and we have not heard anyone not wanting to engage. I think this is a good basis for us to take our discussion forward. We would like to thank the European Union for the text that it put forward. Albeit this text is brought on a different basis to at the waiver, which is brought on the basis of Article IX.3. But nonetheless, as co-sponsor, we are happy to discuss with the European Union and to understand what the objective of this particular text is. We also recognize the inputs by other Members, including the United States, Switzerland, the United Kingdom and Australia, for example. There are broader issues that we believe could be more effectively discussed outside of the TRIPS Council. Going forward, we believe the modalities and the meetings that we have to set up will be important for us to take these discussions forward.

412. I am thankful for all Members who took the floor and who constructively have contributed to this debate. We will reach out bilaterally and of course also within the context of the TRIPS Council. I look forward to a schedule of meetings that will allow us to get into the granular details that all of us say we want to discuss.

13.51 Iran

413. The COVID-19 pandemic has brought unprecedented challenges for the communities and economies worldwide, causing a profound effect on the lives of millions of people all over the world.

414. Despite multilateral commitments and political declarations of solidarity and cooperation to ensure access to COVID-19 vaccine, it has not been practiced by all Members of the international community. The vaccine nationalism approach, and self-centred political behaviour of leaving others behind in access to the necessary tools to respond to the pandemic will remain as one of the major moral and political failures of our era.

415. An effective response to the current health and economic crisis should be guided by values of genuine international solidarity, multilateralism, equality, and global collaboration in practice. Global solidarity is not only morally right, but also offers the best and quickest way to end the health crisis.

416. We firmly believe that the intellectual property objectives must be balanced against realizing the right to health, of which access to health products and technologies including diagnostics, therapeutics, vaccines, medical devices and their materials or components and their methods and means of manufacture for the prevention, treatment or containment of COVID-19 medicines and other health products is a central part. The provisions of TRIPS should be interpreted and applied in such a way as not to impede the access to vaccine and transfer of technology to developing countries, especially in the face of international health emergencies. Accordingly, we support the joint proposal by South Africa and India for waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19. It certainly would be an effective way to end the COVID-19 pandemic and return to normalcy through ensuring the scaling of the production of pharmaceutical inputs, allowing the adoption of a comprehensive strategy to ensure timely, sufficient, equitable and affordable access to all technologies developed to fight COVID-19.

417. The adoption of the revised waiver proposal will overcome potential obstacles that some categories of intellectual property rights may create to get timely and unfettered access to technologies and products needed to address the pandemic. It will not affect, however, the enforcement of other categories of rights covered by the TRIPS Agreement, nor its full implementation in relation to matters unrelated to the prevention, containment or treatment of COVID-19. Therefore, the adoption of this proposal is critical to ensure availability of medical products at affordable prices for the prevention, containment and treatment of COVID-19.

418. Having said that, due to the urgency of the matter, it is necessary to convene as many meetings as possible to reach consensus on the joint proposal by South Africa and India through text-based discussion before General Council meeting in July.

14 EXTENSION OF THE TRANSITION PERIOD UNDER ARTICLE 66.1 OF THE TRIPS AGREEMENT FOR LEAST DEVELOPED COUNTRY MEMBERS

TRIPS Council meeting on 8-9 June 2021

14.1 Chad on behalf of the LDC Group

419. Thank you very much, Chair, for the efficiency with which you are conducting the work of the TRIPS Council. The LDC Group is extremely grateful for your many efforts to achieve a successful outcome on the proposal we have submitted regarding the extension of Article 66.1.

420. We would also like to take this opportunity to thank all Members for their support or their consideration of our proposal. It should be recalled simply that the submission was tabled and discussed in the TRIPS Council meeting in October 2020 and was followed up regularly, as you mentioned. With regard to Article 66.1, as we also said at our informal meeting the previous week, it is acknowledged that LDCs face particular economic, financial and administrative constraints.

Consequently, it is understood that they cannot apply certain provisions of the Agreement in the same way as other more advanced Members. It is also recognized that LDCs need flexibility to create a viable technological base and address development challenges, which is why LDCs are exempt from applying the provisions of the Agreement, except for Articles 3, 4 and 5, for a specified, renewable period. The fact is that it is difficult to assess when LDCs will be sufficiently able to overcome their economic, financial and administrative constraints, which means that flexibility is needed as long as there is significant uncertainty and as long as LDCs are not able to create a viable technological base.

421. In the current context, it has been observed that the pandemic has further exacerbated the challenges faced by LDCs and the negative effects of the crisis are yet to be fully gauged. Thus, the combined GDP of LDCs declined by 5% in 2020 compared with pre-pandemic estimates, and large numbers of infections and COVID-19-related deaths have placed significant strain on our countries' already highly fragile health care systems. Due to financing constraints and limitations in the supply of vaccines globally, many LDCs may not complete mass immunization against COVID-19 until 2023 and possibly even beyond, exacerbating the existing challenge. Therefore, we believe that Members need to ramp up support to LDCs to ensure affordable and equitable access to all the necessary tools that will enable them to move towards development. More broadly, we must bear in mind that LDCs comprise approximately 13.4% of the world's population, but only account for 1.3% of global GDP and close to 1% of world trade. Therefore, extending the transition period for LDCs, as well as the additional 12 years that we have called for, would greatly benefit LDCs by setting them on the path to development.

422. Chair, we therefore look forward to your input and the Members' responses on how to address this situation, since the deadlines are approaching. We hope that a favourable decision will be taken before the current transition period expires on 1 July 2021. We shall therefore pay close attention to the Members' comments and shall take the floor again to respond to them.

14.2 Bangladesh

423. My colleague, the LDC Coordinator from Chad, has well explained the context and the continued challenges of the LDCs. Let me provide a few more points.

424. Article 66.1 of the TRIPS Agreement has affirmed that "The Council for TRIPS shall, upon duly motivated request by a least-developed country Member, accord extensions of this period. 'It may kindly be noted that the text does not specify the total period that the LDCs may further request for the extensions. On the other hand, submitting the duly motivated request by the LDCs is the only requirement according to the mandate of this Article.

425. Therefore, the LDCs have assessed their needs and challenges and submitted this duly motivated request at the TRIPS Council seeking extension for the total period for as long as a country remains in the LDC category and a few more years after graduation to address their needs and challenges. There is no legal barrier in making such a request as stipulated in Article 66.1 of the Agreement. The LDC Group has submitted this request eight months back, on 1 October 2020, much ahead of the expiration of the current transition period on 1 July 2021.

426. In the past, the TRIPS Council extended this general transition period on two occasions. In both instances, a specific number of years of a short length was decided without any assessment or justification (i.e. seven years and six months in 2005 and eight years in 2013). The LDCs, with small delegations, are again struggling now with the same issue. It means that the length of both extensions in the past was impractical.

427. The LDCs have been continuously engaged with Members for a positive outcome on this submission. During the last eight months, the Group has received support from a large number of Members.

428. With the initiative of the TRIPS Chair, the LDC Group has also informally consulted some Members. We are grateful to colleagues of those delegations for their collegiality and good spirit during our discussions. To understand their concerns and to know their specific positions on this issue, the LDC Group also has asked them four sets of questions; but the Group has not received any precise response. During the discussions those Members have only emphasised that a

time-bound extension would be practical. However, they have not yet made any specific proposal on any specific length or period. In addition, there is a suggestion to remove the "post-graduation element" from the submission.

429. The LDC Group has carefully reviewed their suggestions and requested considering the following two points:

- First, evidence shows that a decision building on past practice does not help in this regard. Otherwise, the LDCs would not be seeking a third extension now. As long as the LDC challenges recognized in TRIPS Article 66.1 are in place, and the need for flexibility to create a viable technological base is relevant, the LDCs will be in continuous need of extensions of this transition period. And it is most likely that these challenges and needs will be there as long a country remains in the LDC category and for a few more years after graduation.
- Second, particularly after the outbreak of the COVID-19 pandemic, the LDCs are the hardest hit. Therefore, the length of extension should also consider the new circumstances.

430. Let me also take the opportunity to explain again why the post-graduation extension is relevant in this Council. We all agree that the application of TRIPS provisions is severely challenging. It requires putting in place the necessary legal framework, institutions and other infrastructures. This was the logic behind adopting this transition period in the first place.

431. When TRIPS was negotiated, WTO Members were given initial transitional periods depending on their development status. In spite of having had strong IP regimes for over a hundred years prior to the TRIPS Agreement, developed country Members required a one year transition period for the application of TRIPS provisions. Likewise, all developing countries were given a five year transition period. An additional five years on the issue of specific product patents for the same purpose was also given to many developing countries.

432. It is reasonable that LDCs, after their change of their status, that is after graduation, will need some extra time to address their transitional challenges regarding the application of TRIPS provisions.

433. We can also explain the issue referring to the already graduated countries. Since the creation of the LDC category in 1971 by the United Nations, to-date only six countries have graduated from the list. Botswana graduated in 1994, before the establishment of the WTO. The following are the graduation years of the remaining five countries: Cabo Verde in December 2007, Maldives in January 2011, Samoa in January 2014, Equatorial Guinea in June 2017, and Vanuatu in December 2020.

434. Can anyone now prove that these five countries sufficiently could address their TRIPS application-related needs and challenges immediately before or after their graduation from the LDC category? Or could any of these five countries create a viable technological base in their countries before graduation? The answer is negative. This means that the support measures for technology transfer through TRIPS Article 66.2 and technical cooperation through Article 67 did not sufficiently work for these countries. Therefore, the remaining LDC Members must need the continuation of this policy space under Article 66.1 for a sufficiently longer time if we really want their meaningful integration into the international trading system, particularly in the context of TRIPS.

435. Any issue related to TRIPS has to be first discussed in TRIPS Council and the TRIPS Council would either take a decision or make a recommendation to the General Council. The LDC Group's proposal on the transition period regarding the application of the TRIPS provisions for the LDCs after graduation, as provided in this submission, merits discussion in the TRIPS Council. If some Members do not want to discuss this in the TRIPS Council, it means that they want to follow the past practice of providing a number without justification, instead of a meaningful transition period for the LDCs.

436. On 4 June 2021, during the open-ended informal TRIPS Council meeting, we provided a summary of the responses on the issues raised by some Members. With your kind permission Chair, we request the Secretariat to include the following issues and our responses in the present meeting records:

- a. An extension of the transitional period without a time limit, as proposed by the LDC Group, would slow down the process of gradually integrating LDCs into the multilateral trading system.

437. On this issue, the LDC Group wants to clarify that the LDCs do not ask for an unlimited time period. Every LDC will graduate, therefore the request is not for an unlimited period. And a specific time after graduation has been proposed, which is also not unlimited. The transition does not exempt the LDCs from the provisions of Articles 3, 4, and 5. It means the LDCs are not completely exempted from all obligations of the TRIPS Agreement. Getting a longer extension will not slow down the LDCs' integration into the multilateral trading system. Such a step with congenial policy space will motivate LDCs to gradually improve their national conditions and their progress in social, economic and technological development.

- b. A certain level of intellectual property rights (IPR) protection and enforcement is beneficial to LDC Members, because IPRs are a catalyst for innovation and an important tool for sustainable development.

438. On this, the LDCs think that as long as the recognized challenges of the LDCs are in place, they will never be able to apply the provisions of TRIPS. Only having IP laws or some IP-related policies does not guarantee TRIPS enforcement. That involves resources and capacities to implement, administer and enforce TRIPS-compliant IP laws through well-coordinated and efficient management, including specially trained judges, lawyers, police, customs officials, administrators, inspection services, information systems, data management, border management, etc. The LDCs as a whole lack these prerequisites. There is no economic evidence that LDCs at their initial stage of industrialization benefit from strong IP protection. The LDCs are not a target market for innovative and creative owners of IPRs to commercialize their latest technological innovations or creations that would call for the protection of IPRs, and this will continue to be the case for a long time. At the current stage of their development, LDCs will not benefit from IP protection and they must be exempted from the application of TRIPS provisions until they have a strong and viable technological base.

- c. The LDCs' request for an additional period of 12 years exemption, calculated from the date an LDC Member graduates from the LDC category, appears to go beyond the scope of Article 66.1 of the TRIPS Agreement.

439. On this issue, the LDCs find that there is no legal bar in the text on the length of the extension. The text does not also clearly say whether the TRIPS Council can accord such an extension that may go beyond LDC status, to meet the present and future needs of the LDCs. It means that the determination of the length of the extension depends on Members. And the Members should do such a favour for the LDCs, considering their continued vulnerability, their negligible share of global trade (less than 1%), and the special circumstances prevailing after the outbreak of the pandemic.

- d. It should be noted that the request for an additional period of 12 years exemption from the date an LDC Member graduates from the LDC category is included also in the communication on smooth transition.

440. The LDCs want to clarify that this is exactly not the case. At the WTO General Council (GC) the LDCs have submitted a Ministerial draft decision (WT/GC/W/807) that proposes to allow LDCs specific available flexibilities and support measures after graduation to support their smooth transition for 12 years. On the other hand, the TRIPS Council has not yet decided the extension requested by the LDCs. Therefore, at this moment no link has been established between the two submissions. The submission at the TRIPS Council should be considered on its own merit under the provision of Article 66.1 of TRIPS.

441. As the way forward, the LDCs are ready to discuss any proposal of any proposed length that can sufficiently address the needs and challenges of the LDCs. Therefore, we request you to consider the following two points:

- Members who do not agree to the LDC Group's proposal may please suggest a specific time as an ideal length that they think is good. We also request our partners to note that

the LDCs are the hardest hit by the ongoing pandemic, which has posed severe uncertainty for the recovery of their economic and social progress achieved in recent years, including in terms of poverty and social outcomes. Those Members may please consider the new circumstances while suggesting the length of the next extension. Only copying from the previous decisions will not help in this context.

- The issue of TRIPS application challenges for the LDCs after graduation is, of course, an integral part of our proposal. We request a discussion of this issue here, and including this part, Members can agree to accord the extension as requested by the LDCs. Otherwise, as an alternative, if Members agree that this issue should be additionally endorsed by the General Council, here in the TRIPS Council we may approve and recommend that issue to the General Council. There are previous instances of approving and forwarding such recommendations to the General Council from the TRIPS Council.

442. We believe that in WTO reasons prevail over pre-conceived ideas and scholastic biases. We also trust that Members will take a favourable decision for the LDCs by allowing a reasonable, meaningful and effective transition period before the current transition period expires. The LDCs are ready to constructively engage as and when required.

14.3 Tanzania on behalf of the African Group

443. Thank you, Chair, for your efforts in ensuring that this important matter is brought to a close in a meaningful way. The African Group would also like to thank the delegations of Chad and Bangladesh for their introductory remarks on this agenda item. On behalf of the African Group, I want to restate briefly the Group's position stated during the consultative meeting held on 4 June 2021 as follows.

- a. This agenda item is a high priority for the African Group, given that nearly three-quarters of least developed countries are from the African continent. The Group continues to follow attentively the evolution of this matter.
- b. The little progress towards settling this agenda item is of great concern to the African Group, considering the short period left until the current extension comes to an end at the end of this month.
- c. Many Members are supporting the LDCs' request, but only a few Members have continued to delay the decision for an extension to be made. The African Group is supporting the proposed waiver as enshrined in document IP/C/W/668.
- d. The Group believes that LDCs need the waiver now more than ever before, due to the impact of COVID-19. The situation of many LDCs has worsened. Their vulnerability has much been exposed during the pandemic due to their lack of an industrial technological base to produce basic needed COVID-19 health products and therapeutics.
- e. The LDCs' financial needs have been exacerbated during the period of the pandemic, and will remain so until the pandemic is over, due to the need to procure COVID-19 PPE, diagnostics kits, vaccines and therapeutics.
- f. LDCs have been predicted to experience the worst economic performance in 30 years, which has been reported by UNCTAD in 2020.¹¹ This is because of the COVID-19 crisis. Major economic strides attained by LDCs in over a decade, under the support of multilateral and bilateral arrangements, have been stricken off within a short period of time and extreme poverty will rise in LDCs.
- g. Economic recovery in LDCs will be prolonged post-pandemic due to the failure of the supporting private sector, economically and financially. Even before the pandemic, the LDCs reported not to have progressed in over a decade to reach the Istanbul Programme of Action target of doubling their share of global trade.
- h. All of these conditions, including financial and administrative needs, which necessitated granting LDCs the waiver as enshrined in Article 66.1, are now more prevalent in LDCs due to the impact of COVID-19.

¹¹ UNCTAD [Least Developed Countries Report 2020](https://unctad.org/topic/vulnerable-economies/least-developed-countries/ldc-report): <https://unctad.org/topic/vulnerable-economies/least-developed-countries/ldc-report>.

- i. Moreover, LDCs still do not have the viable technological base envisioned in Article 66.1. Developed country Members committed to support this endeavour, as stipulated in Article 66.2 of the TRIPS Agreement.
- j. Therefore, the African Group once again reiterates the importance and urgency for the TRIPS Council to extend the LDC TRIPS waiver.

444. The TRIPS Council should also ensure an effective implementation of Article 66.2 of the TRIPS Agreement, with a view to building strong productive industrial capacity in LDCs. LDCs should be able to produce basic needed products, particularly pharmaceuticals, and particularly in times of crisis, like now.

445. The African Group was expecting that this important matter could be brought to a close today, as discussions have already been prolonged, considering that the proposal was tabled in October 2020. Prolonged discussions on subjects like this cause LDCs to worry that this situation could reoccur in the future. To avoid prolonged discussions on a similar matter, we think the proposal of until graduation is very relevant for the consideration of Members.

14.4 Nepal

446. I associate with the statement delivered by Chad on behalf of the LDC Group. My delegation refers to the statements delivered by Nepal at various formal and informal meetings held earlier while discussing this agenda item and reiterate Nepal's arguments and justifications shared in those meetings in this regard. Sufficient justifications and evidence have been well-presented at a recently held informal open-ended meeting of this Council on 4 June in favour of this proposal by a large scale of the membership.

447. Despite a long transition period since the establishment of the WTO to-date, LDCs have not been able to create a viable technological base to revive their productivity growth. They lag significantly far behind in science, technology, and innovation. A huge digital gap has hindered LDCs from benefiting from e-commerce and the digital economy. In this context, the LDC Group has submitted a duly motivated request for extension of the transition period for as long as a country remains a least developed country, and for 12 years after it graduates from LDC status.

448. This submission is fully in line with the provision of Article 66.1 and the preamble of the TRIPS Agreement. Similarly, LDC graduation is not only a global commitment and target but also a common responsibility to achieve. Graduation itself does not ensure a sound technological base in the LDCs; rather it presents additional challenges to them in trade and development. Therefore, this submission is fully justified and rational.

449. Additionally, technology transfer under TRIPS Article 66.2 and other support as reflected in Article 67 would be helpful for LDCs to effectively implement this Agreement. Recent data related to science and technology reveals that the LDCs are not on the scene at all. Against this background, I would like to call upon all Members to extend their valuable support in favour of this proposal. It would convey a positive signal that the WTO cares about the LDCs by adopting supportive policy measures as and when needed.

14.5 Zambia

450. My delegation wishes to endorse the statement made by Chad on behalf of the LDC Group, as well as the statements made by other delegations in support of the submission of the request for extension of the transition period under Article 66.1 of the TRIPS Agreement.

451. Many LDC economies are still faced with many challenges and the ongoing COVID-19 pandemic has only made the situation worse – the extent of which will only be determined after the pandemic is fully contained and economies return to some form of normalcy. Given that the pandemic remains a moving target due to the slow pace of vaccinations in LDC countries, it may take many years for LDC economies to return to normalcy. This, therefore, necessitates maximum flexibilities to be granted to LDCs under the TRIPS Agreement to enable us to build the necessary conditions that would facilitate the effective protection of IP while maximizing economic benefits from the exploitation of IP.

452. The current transition period is set to expire on 1 July 2021 and this date is almost upon us. We therefore look forward to Members' positive consideration of our request in this meeting and an extension of the transition period beyond the current expiry date.

14.6 Senegal

453. My delegation aligns itself with the statements made on behalf of the LDC Group and the African Group. Eight months ago, the LDC Group submitted a duly motivated request (document IP/C/W/668) and the proposal received considerable support from Members, leading experts, academics and civil society organizations worldwide.

454. It is true that, in the past, the TRIPS Council has twice extended this transition period before it was due to expire. However, LDCs, which have small delegations, are once again grappling with the same problem. This means that the two past extensions were not long enough. The next extension should be longer in duration so that it provides significant leeway for addressing the needs and challenges of LDCs, as recognized by Article 66.1 of the TRIPS Agreement.

455. As long as Article 66.1 of the TRIPS Agreement acknowledges that LDCs exist and that the need for flexibility to create a viable technological base remains relevant, LDCs will constantly need this transition period to be extended. There are no legal obstacles to such a request, as stipulated by Article 66.1 of the TRIPS Agreement, and the proposal is fully justified. My delegation therefore supports the LDC Group's proposal and invites Members to authorize a further extension of the transition period under Article 66.1 of the TRIPS Agreement.

14.7 Angola

456. The Angolan delegation is in line with the statements made by Chad on behalf of the LDC Group, Tanzania on behalf of the African Group and Bangladesh. We believe that the COVID-19 pandemic is simply another real reason added to the other reasons that our main structural economic challenges remain undefined. So we request the Members of this Council to consider the proposal for extension of the transition period under Article 66.1 of the TRIPS Agreement. The Angolan delegation does not believe that the WTO becomes a negotiating centre without some sensitivity and flexibility.

14.8 Chile

457. For Chile, the LDCs' request merits consideration, particularly after having witnessed how the pandemic has forced all Members to redirect their human and economic resources. In our view, multilateralism requires us to show empathy and a spirit of solidarity, and it is therefore vital that we recognize the special needs and requirements of LDCs, as well as their economic, financial and administrative constraints. For this reason, our delegation hopes that the discussions will have a positive outcome.

14.9 Uganda

458. My delegation wishes to thank our coordinator and our focal point for their strong leadership on this issue of most importance to our group. We align ourselves with the statements made by Chad and Bangladesh in this regard. We also thank the African Group for its support and endorse the statement delivered by Tanzania on behalf of the African Group. We wish to stress a few points at this meeting.

459. There is no question that our countries, as LDCs, are the most impoverished and economically vulnerable economies of the world. We are officially classified as such by the United Nations. It has been the case for many years, absent aggravating factors and in particular the COVID-19 pandemic. With the pandemic raging on, our countries have been and will continue to be the most affected by it for years to come. Much of the progress that we recorded prior to the pandemic has been greatly undermined by the effects of the pandemic. More than ever before, this alone justifies the need for the longer transition period.

460. Moreover, the goal of the transition period is a long way from being attained. Many of our countries are yet to graduate from LDC status. And yet we must also acknowledge the fact that

graduating is not a single day's event; neither is maintaining the newly-acquired graduated status. Such a delicate situation necessitates flexibility for graduating LDCs. We call upon our partners here to share with us clearly the difficulties that they have with the LDC Group request in this regard. Furthermore, this Council is the most appropriate forum to take a decision or to make a recommendation on this issue, and must not be seen to ignore its duty. Our Group has presented a duly motivated request for the extension of the transition period for as long as the country remains an LDC and for a defined time upon graduation.

461. My delegation fully supports this proposal. It must be recalled that this request was made close to eight months ago. As a reclamation, it is now a matter of weeks before the current transition period lapses. It is shocking and saddening for us that an issue so critical to the weakest Members of this Organization has taken so long to be settled. It is therefore a matter of utmost urgency. We therefore invite all Members to fully support the request put forward by our Group.

14.10 Vanuatu

462. I would like to first thank you for the good progress on this matter that we have seen, supported by your chairmanship as well as our group coordinators. We also thank WTO Members who have expressed favourable views on the proposal. We associate ourselves with the statement made by Chad on behalf of the LDC Group, and we support the statements made by other LDCs.

463. It is not easy to evaluate if a country such as my own, Vanuatu, is able to fully meet and comply with the TRIPS Agreement, wherein Article 66.1 was purposefully set out to help us. As you know Chair, Vanuatu is in the transition period for LDC graduation. Does graduation mean that all the difficulties that Vanuatu faced have been resolved? Not at all. Vanuatu as a graduating LDC remains a small country. It remains a small island state. It remains susceptible to vulnerabilities from environmental disasters and the threat of climate change. These have remained unchanged. Have we advanced in science and technology, and other considerations set out in the TRIPS Agreement? No. Does graduation mean we will meet those requirements quickly? No. The current COVID-19 pandemic has added stress to our public systems and our economies. Despite the negative impacts of COVID-19 and the challenges faced by Vanuatu last year, we took the decision to proceed with the graduation. The transition began in December 2020, only six months ago. So, in our experience, we asked a question: will LDC countries face similar situations in the future, those who will be graduating? The answer is yes. Vanuatu supports the call for WTO Members to agree with the extension and we hope that a decision is made to extend the transition period as set out in the proposal as soon as possible. We hope that in the present Council meeting the transition period will be extended.

14.11 Pakistan

464. We thank the LDCs for their submission and support this extension of the transition period under Article 66.1 of the TRIPS Agreement, so as to allow the LDCs to have the policy space and flexibility that is necessary for them, given capacity constraints and the needs of least developed countries. We note that the duration of previous extensions was arbitrarily decided and was inadequate, resulting in a continuous struggle for LDC Members. We look forward to the approval of the request of LDC Members for a meaningful extension of the transition period.

14.12 Malawi

465. My delegation joins the LDC coordinator Chad, Tanzania on behalf of the African Group, and Bangladesh as the focal point.

466. Malawi requests the Council to consider this proposal on Article 66.1. It has to be reemphasized that the digital divide that has been spoken of before is now uglier than anticipated. With the pandemic some industries in our Group will take ages to recover, which means limited job options and eventually loss of income, which will further increase our vulnerability. As commodities have always characterized our economies, we have noted the increase in services trade and the intangible valuation of assets. LDCs do not have any companies representing global behemoths. It has therefore been expected that we should diversify our economies, and technology provides an opportunity for many of our Members.

467. As it is known, graduation does not mean that all sectors of the economy have progressed. Therefore, this request will greatly reduce the burden on our Members and even the development partners who time and again have to come to our rescue. Article 66.1 is helpful to ensure that no one is left behind. Since we submitted eight months ago, with a few weeks to go before it expires, the situation is becoming even more precarious if we are to successfully diversify our economies. The need to create a viable technology base is relevant for us to also contribute to the global economy and to meet the Sustainable Development Goals (SDGs).

14.13 Mongolia

468. My delegation is of the view that the Council should take into account different angles of vulnerability of the LDCs and the current new and severe challenges before Members. The delegation of Mongolia, in the capacity of the landlocked developing countries (LLDC) Group coordinator, wishes to highlight that the pandemic has hit landlocked countries even harder, impeding free movement of persons and goods, access to medical products, as well as the daily necessities, due to ongoing economic strain and disruptions in supply chains and transit traffic.

469. 14 Members out of 32 landlocked developing countries are LDCs, making them the most vulnerable segment of the international trading community. Current health and economic crises have impeded the graduation process of the 12 LDCs and many others' efforts into graduation. The LDC Group tabled their duly motivated request to extend the transition period long before the expiration date.

470. Mongolia, as an economy which transitioned in the early 1990s, knows that transition has never been easy and short for any country. Viable international support plays an important role in progress towards self-sustained development. Considering multifaceted challenges and the special needs of the LDCs, Mongolia fully supports the extension of the transition period under Article 66.1 of the TRIPS Agreement for LDC Members based on the duly motivated request. This delegation calls on the Members of the Council to decide favourably before the deadline and provide them a self-sustaining policy formulation period.

14.14 India

471. We thank the LDC Group for their statement. India has consistently supported the LDC Group's request for extension of the transition period under Article 66.1 of the TRIPS Agreement. It is evident that the LDCs need more time to address the extensive development and technological challenges facing them, especially as the COVID-19 pandemic has disproportionately impacted their economies. We therefore support the extension of the transition period under Article 66.1 of the TRIPS Agreement for LDC Members if the Member remains in the category of least developed country. We also support that a reasonable period be granted as a transition period for ensuring a smooth transition for graduating LDCs. We request Members to consider this proposal favourably and work towards an expeditious outcome in this regard.

14.15 Myanmar

472. Myanmar aligns itself with the statements made by Chad and Bangladesh on behalf of LDCs. History has shown that the extension of the transition period under TRIPS Article 66.1 has been granted to LDCs due to our vulnerabilities and our economic, financial and administrative constraints. In considering the need for flexibility to create a sound and viable technological base for LDCs, the TRIPS Council and WTO Members have proven their strong political will and solidarity by agreeing to extensions two times.

473. COVID-19 and the related challenges caused the global economy to shrink by 3.5% the previous year, representing the deepest global recession since World War II. In this situation, already vulnerable economies with limited resources and weak institutional capacity are affected most and find it impossible to survive without any further assistance and helping hands. Therefore, Myanmar would like to reiterate its support for the LDC proposal and commend the continuity of flexibilities granted to LDCs under TRIPS Agreement.

14.16 Argentina

474. I would like to reiterate our statement of 4 June by saying that the Argentine Republic supports the proposal set out in document IP/C/W/668.

475. We understand that the request for an extension is particularly important in our current circumstances and that least developed countries have a special need to maintain some room for manoeuvre in order to adjust their intellectual property policies in a way that is most favourable to their development.

14.17 Brazil

476. Brazil has been carefully following discussions on this agenda item. We want to express our overall openness to the proposal tabled by the LDC Group. We acknowledge the difficulties they face, and the extra challenges posed by the COVID-19 pandemic.

477. Building a solid IP regime takes time and may require intensive institutional capacity building. We are aware of the progress the LDCs have made on this front, and we are confident they will continue to make it in the future. Besides having additional time to build their IP frameworks, we particularly support the idea that LDCs continue to enjoy enhanced flexibility in the IP regime for public health purposes. We are confident that with your able guidance, Chair, we will be able to produce a consensual approach to this issue that very much takes into account the needs of the LDC Group.

14.18 Mozambique

478. We commend you on the way you are guiding our work towards advancing discussions on the request presented by Chad on behalf of the LDC Group, through which the Group is demanding the extension of the transition period under TRIPS Agreement Article 66.1, document IP/C/W/668. This statement is aligned with the statements delivered by Bangladesh, Chad, and Tanzania, representing the LDC Group, focal point and African Group.

479. Since the COVID-19 pandemic emerged, the LDC countries are the ones that have been suffering most, tremendously hit in all health, social and economic spheres. The LDC Group has long been expecting more transfer of technology to contribute and help each government's efforts towards increasing internal development in view of progress in social and economic development.

480. The duly motivated request submitted by LDCs eight months ago has been receiving huge support, not only from WTO Members, but from political leaders, eminent experts, academics, civil society organizations all around the globe, and other entities and organizations that see the proposal as fully justified.

481. This new submission was a subsequent one, as two had been submitted and positively considered in 2005 and 2013, having shown that more time would be needed to allow LDCs to achieve substantial progress. This means that the length of the next extension should be longer so that it may sufficiently provide LDCs meaningful policy space to address the needs and challenges they continuously face in their efforts towards achieving substantial progress to develop. The ongoing pandemic caused tremendous reversal of our modest already registered economic progress and brought uncertainty as to how we are to recover and cope with the new normal.

482. For these and other reasons, we are of the view that the length of extension of the duly submitted LDC proposal should take into account the new tough and hard circumstances. We would like to reiterate the statements made by Chad and Bangladesh, and urge Members to positively consider and support the LDC request so that they will be able to cope with the challenges most of them have already referred to, as well as other needs.

483. My delegation supports the proposal of the LDC Group and invites Members to agree with and allow a further extension of the transition period under Article 66.1 of the TRIPS Agreement as requested by the LDC Group proposal. Thus, an extension under TRIPS Article 66.1 for as long as a country remains in the LDC category and for a few more years after graduation.

14.19 China

484. China reiterates our firm support for the LDC's proposal to extend the transition period under Article 66.1 of the TRIPS Agreement for LDC Members, for as long as the Member remains in the category of least developed country and for a period of 12 years from the date of entry into force of a decision by the UN General Assembly to exclude the Member from the least developed country category. The current transition period for LDCs will expire this July. China hopes that all Members will positively consider the LDC Group's proposal and reach consensus as soon as possible.

14.20 South Africa

485. Thank you, Chair, for the update on consultations that were held with Bangladesh for presenting the request by the LDC Group to extend the transitional period under Article 66.1 of the TRIPS Agreement for LDC Members. We refer to our previous statements in this regard and wish to reiterate South Africa's support for the request by the LDC Group under Article 66.1 of the TRIPS Agreement, for as long as they remain LDCs, and for an additional period of 12 years following their graduation from the LDC category, as determined by the United Nations. Article 66.1 recognizes LDCs' special needs and requirements, the economic, financial and administrative constraints faced by LDCs, and their need for flexibility to create a sound and viable technological base. An estimated 1.06 billion people live in the world's 47 LDCs and by 2030 over 15% of humanity will be living in them. Despite their large demographic weight, LDCs account for less than 1.5% of global GDP.

486. At this time of heightened uncertainty, LDCs need special development support more than ever. Therefore, based on the very well and duly formulated request, South Africa is fully in support of the LDC request for the extension of the Article 66.1 transitional period.

14.21 Australia

487. Australia recognizes the challenges LDCs continue to face in reaching their development goals, and we recognize that these challenges have been exacerbated by COVID-19. Australia calls on all Members to support an outcome that responds to the unique position of LDC Members, while recognizing the role that intellectual property can play as a tool for supporting innovation, investment and development. Any outcome should also be legally consistent with Article 66.1 of the TRIPS Agreement.

488. Australia supports an extension to the LDC transition period, and we encourage Members to take a pragmatic approach to advancing these discussions in a way that will give us the best possible chance of finding a mutually agreed period for extending the transition period prior to the 1 July deadline.

14.22 Norway

489. Norway supports the extension of the transition period for LDCs, and we are flexible regarding the duration of the extension. Given the fact that the transition period expires in the near future, Norway believes that the Council should give priority to finding a consensus solution on this issue before the end of this month.

490. The question of accommodations for Members that have graduated from the LDC category may be discussed separately, as this issue does not have the same urgency, and in light of questions related to whether the TRIPS Council is the right body for considering such a request.

14.23 United States of America

491. The United States supports an extension of the implementation period, using the 2013 decision model as a basis for the decision text. Having a decision by the 1 July deadline is an important win for LDCs and the WTO. The development of effective laws and regulations for the protection of intellectual property plays a critical role in promoting development. TRIPS Agreement implementation, which is the fundamental question we are discussing, furthers this development objective. All that is needed is to reach agreement on a number as to the length of time to extend.

492. The United States does not support a post-graduation time period or standing agenda item on the issue. We do not find standing agenda items to be a useful approach to discussing issues in WTO bodies. We have engaged in good faith with the proponents of this extension, as we have done every time this extension has come up in the past. We should avoid unnecessarily complicating the process by requesting an extension that is outside of the scope of TRIPS Article 66.1.

493. As the US has noted in prior meetings, the LDC proposal concerning plus 12 years after graduation does not fall within the scope of the TRIPS Council's authority to provide extensions under TRIPS Article 66.1. Article 66.1 waives the implementation of the TRIPS Agreement specifically for "least-developed country Members". Once a Member has graduated from LDC status, it is no longer a "least-developed country Member" and would therefore fall outside the scope of Article 66.1. The United States believes we should move forward to the next step in reaching agreement on the length of the TRIPS extension and set aside issues that are not needed to reach agreement under the current process.

14.24 Canada

494. Canada recognizes the concerns expressed and the challenges faced by least developed Members, and reiterates its support for a further extension of the transition period under Article 66.1 of the TRIPS Agreement for so long as a Member remains a least developed Member, or upon the expiry of a number of years to be mutually agreed, whichever occurrence would be earlier, this approach being in accordance with previous practice. Canada looks forward to Members reaching a mutually agreeable solution, compliant with the TRIPS Agreement and other WTO agreements, as applicable, before the expiry of the current transition period.

14.25 Switzerland

495. You summarized the state of discussions in the Council succinctly, Chair, and we thank you for it. My delegation simply would like to confirm its full support for a further extension of the transitional period for LDCs. Switzerland is flexible on the length of such a next extension. Its duration shall take into account the LDCs' needs for legal certainty. And provide a sufficiently long window of time so that they can put in place a TRIPS-compatible IP framework which responds to their specific needs and supports them in their efforts to create a sound and viable technological base and integrate in the international trade community.

496. We understand that the part of the LDC request that extends beyond graduation raises a number of legal issues in relation to the TRIPS and WTO Agreement to which an appropriate response needs to be found. We are committed and confident that with a pragmatic attitude, Members will now find rapidly a mutually agreeable solution in line with Article 66.1. We thank you, Chair, for facilitating finding such a decision now promptly, by way of continuing your consultations in the formats you consider useful.

14.26 Japan

497. As we have stated several times at previous meetings, the delegation of Japan supports the extension of the transition period for LDC Members.

498. At the previous meeting held on 4 June, Members exchanged views and we had fruitful discussion. The delegation of Japan will continue to contribute constructively to the discussion on the conditions of the extension. As to the extension for a certain period after graduation from the LDC category, this topic is being discussed comprehensively, along with measures in other WTO agreements, in the General Council. Therefore, we firstly should deepen the discussion at the General Council. We believe that intellectual property (IP) rights are an important instrument to support economic development, even for LDC Members. We hope this aspect will be taken into account in this discussion.

14.27 European Union

499. Given the importance of flexibility, legal certainty and policy space for LDC needs, especially in the time of the pandemic, another extension of the transitional period for the implementation of

the TRIPS Agreement is fully justified. Therefore, the EU fully supports the extension of the transitional period and is flexible as to the various solutions on the duration of the extension.

500. We should rapidly find an agreement on this matter, and the EU is committed to working with the LDC Group and other Members to achieve this agreement as a matter of urgency. In that context, we support a pragmatic manner to advance on the discussion, and would support the proposal to proceed with what is most urgent now, and where we have a high degree of convergence on the position of all Members: that is, the extension of the transitional period under Article 66.1 of the TRIPS Agreement.

501. As regards the second part of the LDC request, namely the request for an additional period of 12 years exemption calculated from the date an LDC Member graduates from the LDC category, the EU believes that such a request falls outside of the scope of Article 66.1 of the TRIPS Agreement.

502. We note that the request for a 12-year additional exemption is also included in the communication¹² on smooth transition in favour of countries graduating from the LDC category submitted by the Mission of Chad on behalf of the LDC Group on 17 November 2020 to the General Council and is under discussion in the General Council.

14.28 United Kingdom

503. The United Kingdom would like to thank delegations for their contributions to advance progress in reaching a consensus on an extension of the LDC transition period to implement the TRIPS Agreement. However, these discussions have not brought the Members' positions closer together. As many have noted, the deadline to reach an agreement on an extension is rapidly approaching, so reaching consensus must be a priority for all Members. We therefore call upon Members to further intensify discussions so that the TRIPS Council can agree on an extension as soon as possible. The UK stands ready to work with all Members over the coming days and weeks in order to achieve this goal.

14.29 Turkey

504. As highlighted on numerous occasions, we recognize the constraints faced by LDCs in implementing international obligations such as the TRIPS Agreement. Due to the negative effects of the pandemic, financial, economic and structural vulnerabilities have become even more evident and critical for LDCs.

505. We believe that the extension would create a viable technological base and enough policy space for LDCs to craft solid and sustainable IP protection systems. Turkey thus supports a further extension of the TRIPS transition period under Article 66.1. We are only a few weeks away from the expiry date of the transition period. We call upon all Members to engage constructively and find a solution very soon.

14.30 Togo

506. Chair, in view of your procedures for our meeting, we simply ask you as a least developed country to add our support to the LDC Group request concerning the extension under Article 66.1.

14.31 Chad on behalf of the LDC Group

507. On behalf of the LDC Group, I would like to thank all Members for their statements and their support. Several Members have stressed the relevance of the duly motivated and justified LDC request. Some Members consider that the part of the request regarding graduation should be discussed elsewhere, in the General Council, and should not be included in the current drafts. We have shown flexibility throughout our discussions with our partners.

508. We will continue in this spirit in order to bridge the gaps and find areas of consensus. It is now the collective responsibility of the TRIPS Council to consider the extent to which the Council can approve a new extension for LDCs taking into account their present situation in view of the extremely

¹² WT/GC/W/807.

difficult current context. We would like to have a genuine new extension, involving a reasonable and significant transition period for LDCs. We have duly noted Members' statements. We are going to discuss them internally within our group and get back to you very quickly in order to inform you of the situation.

509. In the meantime, and unless a consensus is found at our formal meeting, we, the LDC Group, ask you to temporarily suspend this item of our agenda until Members conclude their consultations. Thereafter, you may convene formal meetings of the TRIPS Council as soon as possible before the expiry of the current transition when you consider it appropriate to finalize this issue. This is our suggestion, while reiterating our appreciation for your efforts and our commitment to finding a mutually acceptable solution before the deadline, in other words before 1 July 2021.

14.32 Bangladesh

510. The LDC Group sincerely appreciates all the delegations who have spoken in support of the submission. Our Group also welcomes those delegations who expressed their willingness to engage further on this issue. We also thank them for their flexibilities on the length of the extension and the call for urgency, as the current extension will end soon.

511. If the Council cannot make a decision, may we request you, Chair, to temporarily suspend this agenda item until Members finish consultations and you may again convene this Council meeting. The LDC Group is optimistic that under your able guidance and facilitation, the informal exchanges will soon be able to come to a positive decision on this issue. We also urge those Members who are still shy to please pass to us a precise suggestion as to a specific length of time, so that we can mutually discuss and settle this issue.

512. We repeat that the LDCs comprise less than 1% of world trade. Therefore, extending a long transition period to the LDCs as proposed will not impact the global community but would greatly benefit the LDCs. Once again, we express the LDC Group's readiness to engage with Members in positive spirit.

Resumption of the Council for TRIPS on 29 June 2021

14.33 Chad on behalf of the LDC Group

513. It is a pleasure to participate in this afternoon's meeting. Today is an important day for our Group. I would like to thank all of our partners for this significant achievement. For almost nine months, the TRIPS Council has been discussing our request for an extension of the transition period that we submitted. Our request has received very broad support from the Members of this Council, for which we are grateful. Similarly, our well-reasoned request has also received significant support outside the WTO from legislators, non-government organizations (NGOs), civil society and academics. We are grateful to them as well.

514. In good faith and with goodwill, we participated in the informal consultations you kindly organised to find a solution. We have engaged in direct talks with Members who have expressed concern and have also worked in different settings and configurations. We have made significant concessions. This is the hallmark of any negotiation, especially one based on consensus. The nature of any negotiation is that nothing is agreed until everything is agreed. The compromise that we have reached through the adoption of this decision is the result of many months of intense negotiations. It does not fully meet the ambition of our request; namely that the duration of this extension request should be until our countries cease to be LDCs, and then for a limited period of time following graduation.

515. However, I must say here that I appreciate the consensus we have reached today contained in document JOB/IP/46. It is therefore a compromise solution that we accept, on the understanding that Members have also assured us of their readiness to continue discussions in good faith on a post-LDC graduation transition period in the General Council.

516. Our group is grateful to all those who have contributed to this outcome. We thank the Members of this Council who supported our cause and encouraged us to find a solution. We thank our partners for their commitment to finding a way forward. We thank you, Chair, for leading the many informal consultations and helping to move the process forward late into the night on 25 June 2021. We also

thank your predecessor, H.E. Ambassador Xolelwa MLUMBI-PETER, who facilitated the process before you took over. We also thank the Secretariat for the logistical support it provided during the process.

517. LDCs will therefore benefit from an extension of the transition period by thirteen years, until 1 July 2034. The next few years will be difficult for all, but especially for LDCs. While health restrictions are beginning to be lifted in Geneva and Western Europe, many of us LDCs are still suffering the full impact of this pandemic. Without listing the LDCs where restrictions are still in place, or those that are in the process of tightening them to cope with the third wave, our first concern is still to save the lives of our people. We are also trying to contain the economic decline that has occurred.

518. Secondly, we need to make up for the valuable development gains made over the past decades, which have been lost over the past 18 months. In this regard, we sincerely hope that our partners will indeed implement enhanced support measures for LDCs, particularly in the areas of trade and technology transfer, within the competence of this Council and as provided for in Articles 66.2 and 67 of the TRIPS Agreement.

519. As the situation of LDCs improves and we are equipped to participate increasingly in global trade and the multilateral trading system, we will have more incentives, and capacity, to implement the provisions of the TRIPS Agreement.

14.34 Bangladesh

520. My delegation aligns with the statement delivered by Chad on behalf of the LDCs. Bangladesh welcomes the draft decision contained in document JOB/IP/46 that proposes further extension of the TRIPS exemption under Article 66.1 for the LDCs for the next 13 years.

521. The LDC Group submitted a duly motivated request (document IP/C/W/668) the previous year requesting an extension of the transition for the LDCs under TRIPS Article 66.1 proposing the extension be as long as a country remains an LDC, plus a few more years after graduation from the LDC category. According the TRIPS Agreement, there is no legal barrier to making such a request.

522. During the last eight months, we remained engaged with all stakeholders to get their support for our proposal. As a result, we did get support from a large number of WTO Members. In addition, lawmakers, civil society organizations (CSOs), intellectuals and academia all around the globe supported the LDC Group's request as fully justified. The LDC Group is grateful to all delegations. Although, some Members had different views on our two issues in the submission: full time extension and additional years for the LDCs after graduation. Those Members also preferred to follow the 2013 decision text.

523. The delegation of Bangladesh appreciates you, Chair, for facilitating informal meetings with Members. My delegation also recognizes the flexibilities shown by the LDCs and other Members in the negotiation to help the TRIPS Council make a decision before the current expiry date. We are happy to finally have a consensus-based decision. The LDC Group is committed to working with its partners.

524. The shock created by the pandemic to the LDCs is severe and the impacts are yet to be measured fully. Almost all recent reports, analytical studies and academic papers warn that the crisis will reverse years of painstaking progress by the LDCs in social fields such as poverty reduction, nutrition and education. Overall, the future is an uncertain journey for the LDCs, including those on the path to graduation. Under these circumstances, the LDCs will be struggling to preserve any progress made in social and economic sectors. Therefore, making progress on the TRIPS provisions by the LDCs will be a far cry. The LDCs request the developed country Members' fullest support, including reinvigorated efforts to ensure technology transfer to the LDCs under Article 66.2 to make this extension impactful.

525. Graduation from LDC status has taken on new momentum. Currently 16 LDCs have now met graduation criteria. In addition, ten other countries have already met at least one criterion for graduation and many of them are expected to be eligible in the next United Nations Committee for Development Policy review in 2024. On the other hand, to-date five countries graduated from the

LDC category after the establishment of the WTO since 1995. It is evident that these countries could not sufficiently address their TRIPS application-related needs and challenges immediately before or after their graduation. They could not create any viable technological base. It means that the remaining LDC Members must need the continuation of this policy space under Article 66.1 for an appropriate period if we want their meaningful integration into the international trading system, particularly in the context of TRIPS.

526. My delegation earlier emphasised that any issue related to TRIPS must be first discussed in the TRIPS Council and the TRIPS Council would either take a decision or make a recommendation to the General Council. The specific aspect of the LDC Group's duly motivated request on the transition period regarding the application of TRIPS provisions for the LDCs after graduation merits discussion in the TRIPS Council. However, some Members still prefer that this issue should be sent to the General Council. My delegation requests the TRIPS Council to make a strong recommendation to the General Council to positively and favourably consider granting the LDCs a transition period for a reasonable duration, exempting from implementing TRIPS provisions as a country graduates from its LDC status, to ensure a smooth transition. In conclusion, my delegation thanks all Members for their empathy and support for the LDCs in making this decision that we are adopting in the present discussion.

14.35 United Kingdom

527. The United Kingdom would like to thank delegations once again for their contributions to advance progress in reaching a consensus on an extension of the LDC transition period to implement the TRIPS Agreement. We would like to thank you, Chair, for sharing the revised proposal following negotiations throughout past weeks. The UK supports this solution which we believe adequately meets the needs of LDCs without losing the momentum of TRIPS implementation and the many successes that have already been achieved thus far. We thank least developed country Members and other WTO Members for their sustained cooperation throughout this process to reach an agreement. We stand ready to assist least developed country Members to continue implementing the TRIPS Agreement, and by that building a balanced domestic IP framework that supports economic, social and cultural development.

14.36 Nepal

528. I wish to associate with the statement delivered by Chad on behalf of the LDC Group and would like to add a few points. My delegation would like to extend sincere appreciation to you, Chair, for your continuous efforts and contribution. I also wish to thank the former Chair of the TRIPS Council, H.E. Ambassador Xolelwa MLUMBI-PETER for her contribution. Nepal welcomes the decision, and sincerely appreciates all Members of the WTO for their entire support in adopting this decision at this meeting by consensus.

529. The decision has well-recognized the special needs and requirements of the LDCs. It will provide us needful policy space to overcome the difficulties that we are facing. My delegation also wishes to thank Chad, the LDC Group coordinator, and Bangladesh, focal point on TRIPS, for their continuous efforts and contribution. I commend all Members who supported this proposal fully by expressing their views in favour of the proposal while discussing it at various meetings. I also thank all Members who have raised concerns on our proposal and finally showed sufficient flexibility and expressed their willingness to agree at this level, although the consensus is below our expectations.

530. My delegation also appreciates all views expressed in favour of our proposal outside the WTO system. The draft decision may not be up to our expectation as submitted, but it has progressed to a higher level from the earlier one. Therefore, this is a good beginning in the context of MC12 through which we expect many more positive outcomes in favour of the LDCs, including the graduating ones. We were of the view that the draft decision should also incorporate some reference to the graduating LDCs as stated in our submission. However, my delegation believes that this matter will be recommended to the General Council, which will be a good reference for us to relate this matter to the graduation related agenda at the General Council.

531. Nepal is fully committed to a rules-based, predictable and just multilateral trading system, and effective implementation of WTO laws in a timely manner. However, implementation of the TRIPS Agreement is not so easy for the LDCs. Therefore, the Agreement has envisioned longer

transition periods and mutual responsibilities where the developed country Members are expected to extend technology transfer as per Article 66.2 of the TRIPS Agreement with a view to building a sound technological base in LDCs. This indicates that the developed country Members have also a significant role to play in this regard. Furthermore, while discussing the need for such a transition period for graduating LDCs, we believe that graduation itself does not ensure a sound technological base in the LDCs.

532. Graduation presents additional challenges to them in trade and development. Graduated countries have a great risk of falling back into the LDC category if their progress is not sustained. Therefore, all the LDC-specific flexibilities need to continue to apply after graduation, and be phased out progressively in line with the globally accepted principle of "smooth transition". This extension would not restrict any LDC, including graduated ones, from undertaking an early implementation of the provisions of this Agreement as and when appropriate and possible.

533. Finally, enriched technology transfer under TRIPS Article 66.2 and other support measures, as reflected in Article 67 of the Agreement, would contribute to enabling LDCs to effectively implement the TRIPS Agreement in a timely manner.

14.37 Tanzania on behalf of the African Group

534. Let me join others who have spoken before me to commend you, Chair, for the good efforts and commitments you have demonstrated in the whole process to-date. The African Group would also like to restate its appreciation to your predecessor, H.E. Ambassador Xolelwa MLUMBI-PETER. The process began during her tenure. It would be remiss of us to not also appreciate the flexibilities demonstrated by the entire membership in the process that has taken us to the decision we have just made.

535. The African Group would like to restate its support for the just-extended LDC TRIPS waiver. We have alluded in the previous meetings that the TRIPS waiver for LDCs poses a great interest to the Group due to the fact that two-thirds of LDCs are from the African continent.

536. The current situation and economic challenges facing LDCs are enough to justify the extension of the waiver without delay, as it has just been decided. LDCs represent the most vulnerable category of the WTO membership and the globe, accounting for 14% of the world's population, but with their economies accounting for just 1.3% of the world total. Many researchers and scholars have confirmed that LDCs lack basic prerequisites to benefit from the WTO TRIPS Agreement, such as skilled labour, productive capacities and necessary quality infrastructures.

537. The COVID-19 pandemic has effected the development of LDCs manifold. The UNCTAD LDC report of 2020 ascertains that LDCs are experiencing the worst economic performance in 30 years, with extreme poverty set to rise to 35%.

538. Considering the predictions and the current situation, the African Group was in favour of an extension of the TRIPS waiver until graduation, since shorter periods have proven not to be supportive in building the envisioned industrial technological base in LDCs. Nevertheless, we want to welcome the consensual text containing the 13 years extension, although it does not reflect the reality and development needs of LDCs.

539. In the future, it is advisable to undertake a thorough assessment of the usefulness of the periods being extended in relation to meaningful technology transfer and investment. While the Group joins the consensual text on extension, we want to use this opportunity to urge the Council to ensure implementation of Article 66.2 of the TRIPS Agreement is effectively done. Articles 66.1 and 66.2 are inseparable provisions that should be adhered to altogether.

540. The African Group fully supports the implementation challenges of graduating LDCs, a provision which was embedded in the LDC Group's submission. We had preferred that provision to be addressed in conjunction with the extension period in the same decision. However, for the sake of consensus we have heard those Members asking to refer it to the General Council, to be addressed with the general transition period request that has been submitted by the LDC Group. We would like to see that call being reflected well in the Council report to the General Council.

541. We would like to thank other Members and the Secretariat team for their commitments, for being flexible, and for working with the LDC Group and the entire membership to extend this just adopted waiver.

14.38 Afghanistan

542. We would like to associate ourselves with the statement made by Chad. Meanwhile, I and my delegation would like to express our gratitude to you Chair, to the LDC Group coordinator, and the Bangladesh delegation as the LDC's focal point on the matter for tireless efforts put. I would also like to thank all Members for their engagement with good faith, their support, and flexibility regarding the LDC Group's submission on the extension of the TRIPS transition period under Article 66.1. Despite alterations made to the initial proposal of the LDC Group due to considerations by some Members, we are glad to see the adoption of this particular exemption period. We believe that this will provide LDCs with the opportunity to take the required measures for the implementation of the TRIPS Agreement, especially in the context of the challenges posed by the pandemic.

543. Finally, in continuation of all Member's good faith and understanding of the restrictions faced by the LDCs, we would like to urge all Members to consider recommending the LDC's request to grant a transition period after graduation to the General Council.

14.39 Malawi

544. We would like to thank our Group coordinator, Bangladesh, and other Members of our constituency who have spoken before me. This proposal is very important and very vital for the survival of our Members. We also appreciate all the efforts from you and your predecessor and the Secretariat to achieve this milestone. For so long there has been talk of value addition and diversification of our products and services. However, this continues to be a challenge to our Group, as the desert remains on the margins of development.

545. As noted, with the recent pandemic, it has been reported that the ultra-high net worth individuals, usually defined as those having invested in assets of more than USD 30 million, grew by more than 24% worldwide in 2020, the fastest rate of increase since 2003, due to pandemic-induced demand and social distancing accelerating digital businesses.

546. In LDCs, the same social distancing is difficult to implement, and disruption to a normal way of life has led to further erosion in the little capital accumulated before the pandemic. Infrastructure challenges that were already there have increased, thereby increasing the burden on the already weak structures to develop a technological base that can feed the new demand by global citizens. We have noted that while graduates from our grouping are now competing in the global economy, they cannot produce and trade competitively in technological products. Our delegation therefore appreciates this outcome and commends all partners and hopes that the support will be implemented easily so that our plight should be as history in the global economy as LDCs.

547. Therefore, this extension is very important for our Group, as we are already in industry 5.0. Even though 4.0 has already passed, most of our Members have not benefited. We thank you, Chair, and all of our partners.

14.40 United States of America

548. The United States is pleased that Members were able to work together constructively to reach consensus on this important outcome for the LDC Members. We would like to note our appreciation for the work carried out by the Chair and the delegations of Chad and Bangladesh who led this effort for the LDC Group and were instrumental in bringing our discussions to closure. Successful outcomes are too uncommon in the WTO, and we are pleased to join consensus today to adopt the multilateral outcome.

14.41 Japan

549. First of all, Japan would like to express its appreciation for the outstanding guidance and leadership provided by the Chair, Ambassador H.E. Mr. Dagfinn Sørli, and your predecessor,

H.E. Ambassador Xolelwa MLUMBI-PETER. Japan supports the decision on the extension of the transition period for the LDC Members.

550. This delegation believes that IP rights are conducive to promoting economic development, since the promotion of IP rights makes it possible for more investments to be made in research and development activities, which lead to promoting innovation. From this perspective, Japan hopes that the extended transition period helps the LDC Members to improve their level of technological development, and also encourages the LDC Members to work toward the implementation of the TRIPS Agreement.

14.42 Switzerland

551. Switzerland welcomes and supports the decision regarding a further extension of the transitional period for LDCs, which is in line with Article 66.1 of the TRIPS Agreement. We would like to thank you, Chair, for your excellent leadership through the consultation process, and likewise we would like to thank the Secretariat for its valuable assistance, which helped in facilitating a consensus amongst Members. This prolongation of 13 years will provide LDCs more time to put in place a TRIPS-compatible IP framework, which responds to their specific needs. We encourage LDCs to continue their efforts to create a sound and viable technological base conducive to sustainable development and to pursue their integration in the global trade community.

14.43 Togo

552. First of all, I would like to commend you once again on the manner in which you have led our work to its successful conclusion. Paragraph 2 of the preamble to the Marrakech Agreement Establishing the World Trade Organization recognizes the need for a positive effort to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development.

553. However, LDCs, despite their multiple efforts, are still confronted with serious difficulties of all kinds which impede their progress towards development. Furthermore, several studies conducted by international organizations have revealed that the COVID-19 pandemic has had more devastating effects on the economies of LDCs due to the various constraints that they face.

554. It is, therefore, to take account of these multiple constraints, that flexibilities, such as those provided for in Article 66.1 of the TRIPS Agreement, have been envisaged, in order to enable our countries to develop viable technology bases which will make it possible to reap the full benefits of the application of the Agreement. The consensus that we have reached clearly demonstrates that, at the WTO, if the will exists, we are able to achieve mutually beneficial outcomes for all. This result further reinforces the relevance of an organization such as the WTO, in the pursuit of the well-being of populations.

555. Before I conclude, allow me to thank all the Members that have demonstrated flexibility by accepting, through this extension, to assist LDCs in their efforts to graduate from their current status, with a view to reaching a level of development that enables their populations to live decently.

14.44 Canada

556. Canada welcomes the TRIPS Council's agreement on a way forward on this important matter, and reiterates its support for the further extension of the transition period under Article 66.1 of the TRIPS Agreement.

557. As set out in Article 66.1, Canada takes note of the special needs and requirements of LDC Members, their economic, financial, and administrative constraints, and their need for flexibility to create a viable technological base, and the need for an extension of the LDC transition period in this regard.

558. Canada encourages LDC Members to avail of this extension to progressively develop a balanced IP framework that meets the multilateral standards established under TRIPS, including by making use of the TRIPS Agreement's flexibilities.

559. Canada also encourages such Members to leverage the technical assistance opportunities provided by the WTO and other international organizations, as appropriate, in order to promote enhanced integration in the international rules-based trading system and to support economic and social development in accordance with local priorities.

560. Canada looks forward to further engagement with LDC Members on related topics in this Council, including through our implementation and reporting on incentives to promote and encourage technology transfer to LDCs under TRIPS Article 66.2, as well as the annual workshop convened by the WTO Secretariat on this matter.

561. Canada would also like to acknowledge the ability of the TRIPS Council to constructively find consensus-based solutions to important issues such as this one, and looks forward to similar engagement on other issues under consideration in this Council.

14.45 China

562. China attaches great importance to the LDCs' concerns. Recognizing the economic, financial and administrative constraints and deficiencies the LDCs face in implementing the TRIPS Agreement, especially the severe impacts and challenges that the COVID-19 pandemic has brought to LDC Members, China supports the decision that a LDC Member shall not apply the relevant provisions of TRIPS Agreement until 1 July 2034.

563. As regard to the extension of the transition period for a graduated LDC Member, China supports the request from LDC Members for submitting it to the General Council for further discussion. China believes that in the General Council's discussion on document WT/GC/807, the holistic support measures for the smooth transition of LDCs, including the application of the transition period for TRIPS, should be discussed in a comprehensive and constructive manner.

14.46 Mauritius

564. Mauritius would like to join other Members in commending you for your chairmanship and a positive outcome for the LDC TRIPS waiver. We appreciate all the consensual efforts from Members put in this respect, with assistance from the WTO Secretariat. Mauritius, as coordinator of the African Group, has always supported an extension of the LDC TRIPS waiver until graduation. This shall assist LDCs by providing flexibility and policy space for their sustainable development, including technology transfer. In this respect we welcome the consensual text with the 13 years extension. Mauritius and the African Group join the consensual text on extension and we continue to request the Council to ensure the implementation of Article 66.2 of the TRIPS Agreement.

14.47 European Union

565. Chair, I would like to first of all thank you for the great and unwavering efforts you showed on Friday and throughout the negotiating process. The same goes also to the Secretariat, and in particular to Wolf for his engagement over the last couple of months and weeks, so that we were able to agree to a solution that is acceptable to everybody. My personal thanks to Deva and Talha of the LDC Group, who showed the necessary flexibility so that an outcome could ultimately be reached.

566. Given the importance of flexibility, legal certainty and policy space for LDC needs, especially in the time of the pandemic, we agree that another extension of the transitional period for the implementation of the TRIPS Agreement is fully justified, and the agreed duration constitutes a reasonable compromise in that regard. Some LDC Members have already taken steps towards implementation of the TRIPS Agreement. We do hope that these and all other LDC Members will make use of this long transitional period to implement a reasonable IP framework so as to speed up the process of gradually integrating LDC Members, as Members of the multilateral trading system, in the international IP system on the basis of the minimum requirements provided in the TRIPS Agreement. Indeed, IP is, in our view, a catalyst and enabler of innovation and sustainable development. It also helps attract technology transfer and foreign investment.

567. As regards the second part of the LDC request, namely the request for an additional period of 12 years exemption calculated from the date an LDC Member graduates from the LDC category, the

European Union believes, and we have said it on many occasions before, that such a request falls outside of the scope of Article 66.1 of the TRIPS Agreement. We very much welcome the decision of the LDC Group to discuss this issue in a general and overarching manner in the General Council on the basis of the communication on smooth transition in favour of countries graduating from the LDC category submitted by the mission of Chad on behalf of the LDC Group on 17 November 2020 to the General Council, which is now under discussion in the General Council. This is where, in our view, this discussion belongs.

14.48 Korea, Republic of

568. Korea welcomes and supports the decision on the extension of the transition period for LDC Members. Korea also would like to thank the Chair for the excellent leadership demonstrated throughout this consultation process. Korea recognizes that COVID-19 has had devastating impacts on LDCs, which are already in socially and economically vulnerable situations. Korea is of the view that the flexibility the WTO Members showed today will contribute to create a viable technological base for LDC Members which will be needed to implement the TRIPS Agreement when the time comes.

14.49 India

569. Let me begin by thanking and congratulating you and all the Members for their tireless efforts in order to reach this decision. India has unequivocally supported this request by the LDC Group. We welcome the draft decision for the extension of the transition period under Article 66.1 of the TRIPS Agreement. It is important to highlight that the LDCs have been the worst hit by the pandemic and it has disproportionately impacted their economies. Therefore, they need more time to address the extensive development, technological and health challenges facing them. India reiterates its support for a reasonable period to be granted as a transition period for ensuring a smooth transition for graduating LDCs. In this regard, we urge Members to engage constructively and consider this proposal favourably for an expeditious outcome.

14.50 Myanmar

570. Myanmar aligns itself with the statements made by Chad on behalf of LDCs and Bangladesh as the focal point. Myanmar welcomes the draft decision of the TRIPS Council (JOB/IP/46) granting LDCs an extension period under Article 66.1 until 1 July 2034.

571. Myanmar appreciates Members' flexibility in recognizing LDCs' specific needs with pragmatism and would like to congratulate the Chair, facilitating Members, LDCs and other Members who contributed to this outcome. COVID-19 and its devastating consequences have caused continued short-term and long-term capacity constraints not only for LDCs but also for graduating LDCs developing a viable technological base. In this regard, we are delighted to note the Council's recognition of the possibility of granting additional flexibility for graduated LDCs as requested in document IP/C/W/668.

572. Therefore, in accordance with United Nations General Assembly resolutions 59/209 of 20 December 2004 and 67/221 of 21 December 2012, my delegation would like to request the Council to consider and make strong recommendations to the General Council for granting an exemption of a reasonable duration to graduating LDCs for a smooth transition in integrating into global trade.

14.51 Mozambique

573. We welcome and thank you and the WTO Secretariat for having organized this meeting, it being one more opportunity to continue discussions on this so important issue to our countries. Our intervention is aligned to the ones presented by Chad and Bangladesh, as well as by Tanzania, as coordinator of LDCs, focal point, and the African Group.

574. The delegation of Mozambique welcomes the draft decision in JOB/IP/46. We would also like to thank all those who positively engaged with LDCs, aiming at finding a positive landing zone, and thus contributed towards safeguarding the fulfilment of the period before the deadline. We thank

them all for this progress. We fully recognize the flexibilities shown in the negotiation to help the TRIPS Council make a decision before the current expiry date.

575. My delegation is of the idea and fully supports that TRIPS provision related implementation challenges of LDCs after graduation, an integral part of the LDC Group's submission, be addressed in this Council. However, should Members still prefer that this aspect be sent to the General Council, while preparing to participate at the General Council, we continue to appeal for putting into practice the desire to "leave no one behind". Approval of the remaining request is of the utmost importance to us, and we thank WTO Members in advance for the expected flexibility.

576. We would like to conclude without reiterating the request put forth by the coordinator and the previous speakers, who favour the TRIPS Council making a strong recommendation to the General Council to positively consider granting the LDCs a transition period for a reasonable duration, exempting implementing the TRIPS Agreement as a country graduates from its LDC status to ensure a smooth transition. We reiterate our gratitude to you Chair, as well as to all WTO Members, and stress our extensive gratitude to the Ambassador of South Africa, H.E. Ambassador Xolelwa Mlumbi-Peter, former Chair of the TRIPS Council.

14.52 South Africa

577. Thank you, Chair, for your tireless efforts in helping us to reach this consensus. South Africa maintains its support for the LDC extension. Article 66.1 of the TRIPS Agreement recognizes the special needs and requirements of LDCs. It states that, "The Council for TRIPS shall, upon duly motivated request by a least-developed country Member, accord extensions of this period." The text is obligatory – in other words, once requested by LDCs, the TRIPS Council shall grant the request.

578. This delegation has been in support of the LDC proposal, as entailed in IP/C/W/668, based on the vast challenges facing LDCs, recognition that their developmental challenges continue post-graduation, the need for predictability and the need for an outcome that truly promotes development. An extension period beyond graduation is not an unusual mechanism and many examples exist in various contexts. For example, the UN Report of 2021¹³ dealing with the impact of COVID-19 on LDCs reveals that, "the European Union currently continues to grant duty-free quota-free market access for three years after graduation, while countries such as Australia and Canada often provide even longer periods."

579. Technology acquisition and absorption is a critical feature of industrialization and economic development. Hence, a key objective of the transition period is to allow LDCs space to develop a viable technological base. This is supported by Article 15(1)(b) of the International Convention on Economic, Social and Cultural Rights (ICESCR) which unequivocally provides that the right to the benefits of scientific progress and its applications must be enjoyed by all without discrimination.

580. Document IP/C/W/668 submitted by Chad on behalf of LDCs aptly observes that the high degree of vulnerability from which the LDCs suffer, both to economic and climate shocks, has caused significant setbacks to progress towards sustainable development and the attainment of the Sustainable Development Goals (SDGs). In addition to pre-existing challenges, LDCs have been severely impacted by the COVID-19 pandemic. The pandemic is expected to slow down or even reverse some of the gains made in the realization of the SDGs, as indicated in the Sustainable Development Goals Report 2020. According to a UN Study, "The COVID-19 pandemic not only threatens to throw LDCs back many years in achieving SDGs on poverty, hunger, health and education, but it also exacerbates inequalities, further jeopardizing the achievement of SDG5 on gender equality and women's empowerment, as well as SDG10 on reducing inequalities."

581. As a result, the efforts of LDCs at building a viable technological base and reaching a level of development that would allow them to fully benefit from the IP system as envisaged in Article 7 of the TRIPS Agreement have been curtailed. Article 66.1 of the TRIPS Agreement enjoins this forum to extend the LDC waiver upon duly motivated request by an LDC Member. In our view, document IP/C/W/668 clearly constitutes such a duly motivated request. In addition, the LDC Group has shown

¹³ See the UN Committee for Development 'Comprehensive Study on the Impact of COVID-19 on the LDC Category' (April 2021), pp. 21 et seq.
https://www.un.org/development/desa/dpad/wpcontent/uploads/sites/45/publication/CDP_Comprehensive_Stu dy_2021-1.pdf

a great degree of flexibility in revising the duration of the proposed extension to 1 July 2034 as indicated in document JOB/IP/46.

582. Aside from the TRIPS Agreement placing a positive obligation on this forum to extend the waiver in the current circumstances, South Africa is of the view that it is plainly the right thing to do. If we cannot deliver concrete outcomes that work in the interests of LDCs, it will undermine the credibility of this institution. The COVID-19 pandemic calls for a developmental approach to issues, especially those impacting the most vulnerable Members. We therefore support the current transition period extension and request and call upon all Members to engage constructively on the issue of LDC graduation within the context of the General Council.

14.53 Australia

583. Thank you, Chair, for convening this meeting and for your stewardship on this issue. Australia also thanks the LDC Group and those delegations that participated most intensively in the negotiations on this issue, for the considerable flexibility they have shown in agreeing to this compromise outcome.

584. Australia is conscious of the unique challenges facing LDCs, which, in many cases, have been exacerbated by the pandemic. It is for this reason that we are supportive of an extension to the LDC transition period and are pleased that Members have managed to secure this agreement just in the nick of time ahead of the deadline. We also look forward to continuing discussions on the proposal regarding flexibility for graduating LDCs.

14.54 Central African Republic

585. I am speaking on behalf of His Excellency, Leopold Ismaël Samba, Ambassador of the Central African Republic, to congratulate you on the management of this process, which has resulted in the decision to extend the LDC waiver. This decision demonstrates the specific attention afforded by WTO Members to the challenges faced by LDCs regarding the implementation of TRIPS.

586. The Central African Republic endorses the statements delivered by the African Group and the LDC Group. It wishes to thank all the countries that contributed to the development and adoption of this decision, which comes just hours before the expiry of the current waiver. The Central African Republic expresses the hope that a suitable framework will be found to provide graduating LDCs with the opportunity to mitigate the impact of their graduation.

14.55 Egypt

587. Egypt aligns itself with the statement delivered by the delegation of Tanzania on behalf of the African Group. We welcome the extension of the transition period for the LDCs under Article 66.1 of the TRIPS Agreement and we join others in thanking you, Chair, for your able leadership of this process to a good outcome.

14.56 Pakistan

588. Pakistan supports the decision to grant the LDCs a reasonable extension of the transition period under Article 66.1 of the TRIPS Agreement. We believe that the LDCs, given their specific challenges, require this policy space to better integrate themselves into the system and to counter the current and future difficulties arising from the pandemic and its aftermath. We thank you, Chair, for your work and appreciate the collective efforts of the membership to expedite the adoption of this position.

14.57 Chad on behalf of the LDC Group

589. I simply wanted to reassure all Members who have made statements. Following your announcement of the adoption, we would like to reassure them with regard to our engagement, commitment and flexibility, and with regard to the fact that we are fully ready to continue to discuss with you and with all Members. We would like to thank developed country Members, developing countries and the countries in our Group. Together, I believe that the outcome that we have achieved

this afternoon is the fruit of our collective work. And I would like to hope that this sentiment can be carried forward in the other negotiations that await us among our family here at the WTO.

15 INFORMATION ON RELEVANT DEVELOPMENTS ELSEWHERE IN THE WTO

15.1 WTO Secretariat

590. As in previous occasions and for Members' information, the Secretariat will provide a brief update of the issues related to intellectual property policy that have come up in the most recent Trade Policy Reviews.

591. Since the previous TRIPS Council Meeting in March, the following five Trade Policy Reviews have taken place: Mongolia; Qatar; Tonga; Viet Nam; and the Kyrgyz Republic. During these reviews, delegations engaged in the discussions and sought further details on:

- The implementation of the TRIPS Agreement;
- Institutional arrangements for the administration and enforcement of intellectual property;
- Copyright and related-rights regimes;
- Trademark regimes;
- Protection of geographical indications;
- Patent regimes;
- Protection of new plant varieties;
- Enforcement, online and at the border;
- International cooperation;
- Programmes to raise awareness on the importance of the protection of intellectual property;
- Bilateral cooperation agreements between intellectual property offices;
- Measures taken in response to the COVID-19 pandemic; and
- Accession to, and implementation of, WIPO instruments.

592. The Secretariat has also contributed to the mid-year G20 and WTO-wide Director-General's Monitoring Reports that are to be circulated in the coming weeks. Continuing with the current practice, the mid-year monitoring reports also include a sub-section on the specific IP-related measures to facilitate the development and dissemination of COVID-19-related health technologies, as well as measures aimed at relaxing procedural requirements and extending deadlines for administrative matters. The table containing these measures is regularly updated and available on the WTO website, as indicated under agenda item 3.

16 OBSERVER STATUS FOR INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

593. No statements were made under this agenda item.

17 OTHER BUSINESS

594. No statements were made under this agenda item.
