

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

MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD ON 13-14 OCTOBER; 5, 18 AND 29 NOVEMBER;
AND 16 DECEMBER 2021

Chair: H.E. Ambassador Dagfinn Sørli

The present document contains the record of the meetings of the Council for TRIPS held on 13-14 October; 5, 18 and 29 November; and 16 December 2021.

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1 NOTIFICATIONS UNDER PROVISIONS OF THE AGREEMENT

1. The Chair invited the Secretariat to update delegations on the notifications under various provisions of the TRIPS Agreement that the Council had received since its last meeting in June, to then offer the floor to delegations wishing to introduce their notifications.

2. The representative of the Secretariat said that the Council had received the following notifications under Article 63.2 of the TRIPS Agreement:

- a. The Republic of Korea had notified a consolidated version of its Customs Act, as well as the corresponding enforcement decree.
- b. The Kingdom of Saudi Arabia had notified a regulation regarding the optional registration of copyright works with the Saudi Authority for Intellectual Property.
- c. Slovenia had notified a decree on the implementation of the EU Regulation concerning customs enforcement of intellectual property rights, and a consolidated Trade Secrets Act transposing EU Directive 2016/943 on the protection of undisclosed know-how and business information into domestic legislation.
- d. Japan had notified a consolidated version of its Patent Act clarifying the scope of protection for trade secrets contained in the investigation report, and a consolidated Trademarks Act that revised the method of calculating compensations for damages.
- e. Viet Nam had notified regulations on certain charges and fees to assist businesses and ensure social security in response to the COVID-19 pandemic.
- f. The United Kingdom had notified a number of separate laws and regulations in the areas of Patents, Trademarks and Designs legislation.
- g. The European Union has notified two Regulations supplementing the rules concerning applications for registration of geographical indications of spirit drinks.

3. Under Article 69, Uruguay had notified its contact point for IP enforcement.

4. The Chair encouraged delegations that had notified a new or revised legislative measure, to inform the Council about the key points of their notification. This had become a well-established practice, followed by many delegations at recent sessions of the Council and provides valuable insight into the notifications provided and promotes awareness and transparency.

5. The representatives of the European Union; the Republic of Korea; the Kingdom of Saudi Arabia; Viet Nam and the United Kingdom took the floor.

6. The Chair noted that notifications to the Council were not keeping up with the actual development of laws and regulations relating to TRIPS. He emphasized that Article 63.2 of the TRIPS Agreement was not a one-off requirement. It was a core element of the TRIPS transparency arrangements, and a central part of the Council's substantive work. It obliged Members to notify any new or amended laws. He urged Members to complete any outstanding initial notifications, and to keep up to date with notifications on subsequent amendments. The same applied to the Checklist of Issues on Enforcement which had been established by the Council as an element of Members' notification obligations. The e-TRIPS platform facility now made it very easy for delegations to fulfil these transparency obligations.

7. The Chair encouraged Members, to notify in particular legislative changes made to implement the special compulsory licensing system to export medicines covered by the new Article 31*bis* of the TRIPS Agreement. More than 50 WTO Members, including most of the world's major exporters of medicines, had adopted implementing legislation that allowed them to use the system as exporters and/or importers. But only 20 Members, including the European Union, had formally notified such measures to the TRIPS Council. The notification of all relevant laws and regulations could assist Members in preparing for the potential use of the system and would also help the Secretariat in its efforts to provide informed technical support to Members in this area.

8. The Chair noted that a more comprehensive picture of how the special compulsory licensing system had been implemented in Members' domestic law could help Members' on-going discussions about how this particular TRIPS flexibility works in practice, and about the causes of any potential delays or hindrances in using the system.

9. The e-TRIPS submission system was available for Members to notify their laws, and to make other required submissions to the TRIPS Council, through the click of a button. The e-TRIPS system not only facilitates the submission of information by Members – it also permits digital access, consultation, and analysis of this information through the e-TRIPS Gateway, an easy-to use interface to search and display information related to the TRIPS Council. The Secretariat is available to respond to any question in that regard.

10. Finally, the Chair recalled that the Secretariat's "Annual Report on Notifications and other Information Flows" had been issued in March 2021, as document [IP/C/W/676](#). The report summarizes submission rates and identifies trends for each of the primary TRIPS transparency mechanisms and will be updated ahead of the first formal meeting TRIPS Council in 2022.

11. The Council took note of the notifications and the statements made.

2 REVIEW OF NATIONAL IMPLEMENTING LEGISLATION

12. The Chair recalled that the Council was preparing for the review of the national implementing legislation of Samoa. As had been agreed at the end of last year, the Council would wait for the notification of Samoa's revised legislation following their 2018 accession to a number of World Intellectual Property Organization (WIPO) treaties,¹ before commencing the review. He proposed that the Secretariat remain in contact with Samoa on the progress of its new legislation; and that the Council revert to the arrangements for Samoa's review at its next meeting. While there were no current reviews pending, he said Members should feel free to revert to any matter raised in past reviews, or to make suggestions regarding further reviews. He would further welcome ideas on how to make best use of this agenda item.

13. The Council took note of the information provided and agreed to schedule the arrangements for the review of Samoa's national implementation legislation as proposed by the Chair.

3 IP MEASURES IN THE CONTEXT OF COVID-19

14. The Chair recalled that this agenda item had been discussed in the Council since its informal open-ended meeting in June 2020 and had been on the Council's agenda at its formal meetings since then. In light of broad support – in principle – for a continuation of these exchanges at the Council's last meetings, the item was on the agenda to facilitate exchange of views on measures undertaken as the pandemic persists.

15. He referred to the compilation "COVID-19: Measures Regarding Trade-Related Intellectual Property Rights" that was available from the WTO website, which contained a non-exhaustive list of IP-related measures taken in the context of COVID-19, compiled by the Secretariat from official sources and verified by the Members concerned. This list was updated continuously, even if the rate at which new measures are brought to the attention of the Secretariat was slowing down. He thanked those Members that had informed the Secretariat of measures that should be included in this list,

¹ Samoa has acceded to the WIPO Madrid Agreement and Protocol in 2018, and to the Patent Cooperation Treaty, the Geneva Act of the Hague Agreement, and the Geneva Act of the Lisbon Agreement in 2019.

as well as any update or information on the expiry – or end of application – of such measures, and encouraged others to do the same.

16. The Chair recalled that in earlier meetings of the Council and at the General Council, a number of Members had asked the Secretariat to provide and compile data on the number of voluntary license agreements regarding COVID-19 vaccine production over time, and on the projected and observed volume of vaccine dose production under these agreements. At the Council's June 2021 meeting, the Secretariat had presented an initial set of data from different sources under this agenda item. The Chair invited the Secretariat to provide an update on the data compilation.

17. The Secretariat took the floor to present document RD/IP/45.

18. The representatives of the European Union; the United States; Switzerland and South Africa took the floor.

19. The Chair thanked the Secretariat. In view of the continued interest on this agenda item, he proposed that the Council agree to revert to the item at its next meeting, so that the exchanges can once again take place, including on the basis of the updated Secretariat document of COVID-19 related IP measures.

20. The Council took note of the statements made and agreed to revert to this item at its next meeting.

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

21. The Chair said that the next three agenda items concerned the Review of the Provisions of Article 27.3(b), the Relationship between the TRIPS Agreement and the Convention on Biological Diversity, and the Protection of Traditional Knowledge and Folklore. Following past practice, he proposed that these three items be addressed together.

22. The Chair recalled that one tool for the review under agenda item 3 was the information provided by Members in response to a list of questions on Article 27.3(b) of the TRIPS Agreement. The "Annual Report on Notifications and other Information Flows" that had been introduced at Council's meeting in March, had illustrated that responses to this checklist had been rather sparse recently. So far, only 28 Members had responded to the list of questions on Article 27.3(b), with the Kingdom of Saudi Arabia being the most recent Member to submit responses. He encouraged delegations to submit responses or update their previous responses, as well as notify any relevant changes in legislation.

23. The Chair recalled that two long-standing procedural issues under these items had also been discussed extensively, on the record, at every regular meeting of the Council for almost ten years now:

- a. First, the suggestion for the Secretariat to update the three factual notes on the Council's discussions on the TRIPS and Convention on Biological Diversity (CBD) and related items; these notes were initially prepared in 2002 and last updated in 2006; and
- b. second, the request to invite the CBD Secretariat to brief the Council on the Nagoya Protocol to the CBD, initially proposed in October 2010.

24. Following suggestions made at the June 2021 meeting, the Chair had raised these questions with delegations again during the preparatory consultations on 6 October. While he had not detected any movement in delegations' positions on these two issues, he had noted a willingness to engage bilaterally on possible solutions in this regard. He encouraged delegations to pursue this option to resolve these differences soon.

25. Members' positions on these issues were well known and already extensively recorded in the Council's minutes. He encouraged delegations to focus on suggesting solutions, when addressing these procedural questions.

26. The representatives of [Brazil](#); [China](#); [Bangladesh](#); [India](#); [Indonesia](#); [Zimbabwe](#); the [Plurinational State of Bolivia](#); [Nigeria](#); [South Africa](#); [Canada](#); the [United States](#); [Japan](#); [Australia](#); and the [United Kingdom](#) took the floor.

27. The Council took note of the statements made and agreed to revert to the issues at its next meeting.

7 ANNUAL REVIEW OF THE SPECIAL COMPULSORY LICENSING SYSTEM (PARAGRAPH 7 OF THE ANNEX TO THE AMENDED TRIPS AGREEMENT AND PARAGRAPH 8 OF THE DECISION ON THE IMPLEMENTATION OF PARAGRAPH 6 OF THE DOHA DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH)

28. The Chair recalled that, in the past, the review had been conducted pursuant to Paragraph 6 of the 2003 Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. Since the entry into force of the Protocol Amending the TRIPS Agreement on 23 January 2017, the review also responded to the requirements that had now been incorporated into the amended TRIPS Agreement.

29. Paragraph 7 of the Annex to the amended TRIPS Agreement and paragraph 8 of the 2003 Waiver Decision required the Council to review the functioning of the System annually, with a view to ensuring its effective operation. They also required the Council to report annually on the System's operation to the General Council. In the case of the Waiver Decision, this review was also deemed to fulfil the requirements of Article IX:4 of the WTO Agreement.

30. The Chair updated Members on the status of acceptances of the TRIPS Protocol. The current period for accepting it ran until 31 December 2021. The amended TRIPS Agreement was binding for 133 WTO Members. In other words, 31 Members were yet to accept the Protocol Amending the TRIPS Agreement. He encouraged those Members to complete their domestic procedures and deposit their instrument of acceptance with the WTO Director-General as soon as possible.

31. When the TRIPS Amendment had entered into force in January 2017, Members had noted that it would be useful to consider how to make this new procurement tool work effectively in practice. He therefore encouraged Members to engage in a constructive discussion which could also build on earlier reviews, as recorded for instance in the Council's Annual Review of 2016 (circulated in document [IP/C/76](#)), as well as the Secretariat's 2016 *Report on Technical Cooperation Activities* (circulated in document [IP/C/W/618](#)).

32. The Chair also noted that during his small-group consultations on the waiver proposal and the proposal from the European Union, a detailed discussion on the TRIPS requirements for using Article 31*bis* of the TRIPS Agreement and the Annex had taken place, including on areas for possible improvement. He added that the topics identified there could also usefully inform Members' discussion.

33. The Chair turned to the Council's report to the General Council. A draft report had been prepared by the Secretariat (circulated in document JOB/IP/48). It was modelled on previous years' reports and contained factual information on the implementation and use of the system. Under the section on the Amendment to the TRIPS Agreement, it also included a list of Members who were yet to accept the Protocol Amending the TRIPS Agreement. As with past reports, an extract from the Council's minutes on this agenda item would be attached to the report in Annex 1 and Appendix 1.

34. The Council also had to decide whether to extend the period for acceptance of the Protocol which currently ran until the end of 2021. Since there were 31 Members that had yet to accept the Protocol, the Chair suggested that the Council once again extend the period for acceptance for another two years – until 31 December 2023. A draft decision for the General Council was included in Annex 2 of the Draft Report.

35. The representatives of Australia; Chile; Brazil; the European Union; Zimbabwe; Namibia; the United States; Switzerland; the United Kingdom; Japan and Argentina took the floor.

36. The Council took note of the statements made.

37. The Council agreed to adopt the draft report and to attach the record of the discussion to it, and to submit, for the General Council's adoption, a decision to extend until 31 December 2023 the period for the acceptance by Members of the Protocol Amending the TRIPS Agreement.

8 NON-VIOLATION AND SITUATION COMPLAINTS

38. The Chair recalled that at its session of 10 December 2019, the General Council had directed the TRIPS Council to continue the examination of the scope and modalities for non-violation and situation complaints, and to make recommendations to the 12th Ministerial Conference (MC12). It had also been agreed that, in the meantime, Members would not initiate such complaints under the TRIPS Agreement.² Since then, this item had been discussed at each formal meeting of the Council, as well as at informal consultations.

39. At the Council meeting in March 2021, his predecessor had shared her impression that a number of common understandings regarding TRIPS non-violation could in fact be harvested from the past discussions among delegations. In an effort to bring movement into this long-standing and stalled debate, she had reiterated her suggestion for the Council to identify such areas of agreement, either through delegations' suggestions, or through proposals by the Chair on the basis of discussion records, in order to help focus the discussion on areas of disagreement. These suggestions had not, however, attracted consensus, and Members had reiterated their known positions regarding the applicability of non-violation and situation complaints in the TRIPS area generally.

40. During the consultations held on 24 March, Members' appetite for engagement had not changed, and there had been no interest in a chair-led process in this regard. Some delegations already had anticipated a political linkage of this item with the E-commerce moratorium at the time of MC12, while others had insisted that the two *moratoria* should be considered on their own merits. In light of this, the Chair had emphasized that, while he was ready to facilitate process, there would be no outcome without Members' engagement.

41. In the most recent consultations held on 6 October, the Chair had also detected no substantive movement in delegations' positions. In those meetings he had shared his impression that, given the short time left before MC12, and the absence of any substantive engagement on scope and modalities in 2021, another extension of the moratorium could not be ruled out. Therefore, in order to assist Members in case they should wish to recommend such a decision to the Ministerial Conference, he had circulated a draft decision text in document JOB/IP/52, based on previous decisions. The text was intended as a basis for delegations' consideration and could be improved upon, amended or just put to the side.

42. The representatives of Brazil; Bangladesh; Chile; Zimbabwe; Egypt; Panama; Indonesia; Switzerland; China; Pakistan; Nigeria; Norway; Canada; the Plurinational State of Bolivia; India; Chinese Taipei; Guatemala; South Africa; the United Kingdom; Argentina; New Zealand; Colombia; Australia; the European Union; the United States; and Ukraine took the floor.

43. The Chair said he had heard support for the draft decision, but no consensus yet. In light of this he suggested to keep this agenda item open with a view to reconvening the meeting as appropriate when delegations were ready to take a decision on this item.

44. At the reconvened meeting on 5 November 2021, the Chair proposed that the Council agree to adopt the recommendation contained in document JOB/IP/52.

45. The Council so agreed.³

² See document WT/L/1080.

³ The Council's decision on "TRIPS Non-Violation and Situation Complaints" was subsequently circulated in document IP/C/91, on 12 November 2021.

46. The representatives of [Sri Lanka](#), [Brazil](#) and [Chile](#) took the floor.

47. The [Chair](#) thanked all delegations for their engagement and cooperation in this matter. He hoped that having adopted this recommendation well ahead of MC12 would send a positive signal to Ministers and would allow the Council to focus on the other agenda items that remained open.

48. The Council [took note](#) of the statements made.

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

49. The [Chair](#) recalled that Article 71.1 of the TRIPS Agreement required the Council to conduct a review of the implementation once every two years. As the initial review in 1999 had not been completed, no other review had subsequently been initiated.

50. During the consultations on 6 October 2021, he had pointed out that the item had been dormant on the Council's agenda, while in other WTO agreements similar general review mandates regularly served as an opportunity to pursue in-depth discussions of particular aspects of implementation, as agreed by Members, often taking place in dedicated thematic sessions.

51. He said, the recent intensive discussions on the role of IP in the pandemic response, and on the practical application of TRIPS flexibilities in different WTO Members, exemplified delegations' keen interest in discussing these and other aspects of TRIPS implementation. Equally intensive engagement on national IP systems could be seen in the context of Trade Policy Reviews, where Members discussed detailed questions of individual approaches to implementation. Other aspects of implementation, such as enforcement, had also been requested as *ad hoc* agenda items in the TRIPS Council in the past. He said that all of this seemed to indicate that there is considerable interest in such discussions among delegations.

52. Considering that the review mandated in Article 71.1 of the TRIPS Agreement seemed to have been intended as a forum for exactly this type of discussion, the [Chair](#) wished to explore whether delegations would be willing to consider resuming this review, which was, in fact, mandated by the text of the treaty. This would give a more structured and inclusive home to these and similar discussions on the Council's agenda and could establish a more permanent discussion culture around examples and experiences from implementing the Agreement.

53. The [Chair](#) suggested other practices in the house, such as the reviews of the Sanitary and Phytosanitary Measures (SPS) or Technical Barriers to Trade (TBT) Agreements, could be taken as examples. Resuming the review of the TRIPS Agreement under this item could mean for Members to identify, and agree on, selected topics relevant to TRIPS implementation, which could then be discussed in dedicated sessions over a two-year period as foreseen in Article 71.1.

54. The [Chair](#) suggested that, if Members could consider resuming the mandated review function, they could hold consultations on the exact process and possible topics for such a review cycle before the next meeting. If Members were able to find a suitable approach and format in such consultations, resuming the review function could then be considered at the Council's next meeting in March 2022.

55. The Council [agreed](#) to revert to the matter at its next meeting.

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

56. The [Chair](#) recalled that Article 24.2 of the TRIPS Agreement required the Council to keep under review the application of the TRIPS provisions on geographical indications. The principal tool used for the review was the Checklist of Questions in documents [IP/C/13](#) and Add.1. Unfortunately, only 37 out of 164 Members had responded to the Checklist so far; and many of these responses are likely to be outdated, being some two decades old. The [Chair](#) said that this did not adequately reflect the fact that GI protection was an active area of legal and policy development at domestic level and in FTAs. The "Annual Report on Notifications and Other Information Flows" circulated by the Secretariat in March 2021 provided a Member-by-Member overview of notifications in this area. He invited delegations to take a look at whether their responses to the GI Checklist might merit updating.

57. The Chair encouraged delegations to provide responses to the Checklist or to update earlier responses. He said that the e-TRIPS Submission System provided an easy and convenient online tool to provide responses to the Checklist and to check the date of the recent submission in that regard.

58. In line with the Council's recommendation made in March 2010, the Chair also invited Members to share information regarding GI chapters in their bilateral agreements.

59. The Council took note of the information provided and agreed to revert to the matter at its next meeting.

11 NINETEENTH ANNUAL REVIEW UNDER PARAGRAPH 2 OF THE DECISION ON THE IMPLEMENTATION OF ARTICLE 66.2 OF THE TRIPS AGREEMENT

60. The Chair turned to the Council's 19th annual review of developed country Members' reports on their implementation of Article 66.2 of the TRIPS Agreement. Under a Council decision of February 2003, developed country Members are to submit annual reports on actions taken or planned in pursuance of their commitments under Article 66.2 of the TRIPS Agreement. New detailed reports are required every third year, and updates in the intervening years.

61. He recalled that in June 2021, the Council had requested developed country Members to submit their seventh set of new detailed reports in time for the present meeting, and the Secretariat had since circulated a reminder.⁴ He also noted that the LDCs had submitted a proposal of a template for the submission of reports on commitments of developed countries under Article 66.2.

62. He noted that the Council had received new reports from Switzerland, Japan, Australia, the United Kingdom, the United States, Canada, and the European Union. Since the circulation of the revised draft agenda Norway had also submitted its report. This documentation was being circulated under the new dedicated document series with the symbol [IP/C/R/TTI/\[Member\]/](#) – where "R" stands for "Reports" and "TTI" stands for "Technology Transfer Incentives".

63. He said that paragraph 2 of the Council's Decision on the Implementation of Article 66.2 states that the annual review should provide Members with an opportunity to pose questions in relation to the information submitted and request additional information; discuss the effectiveness of the incentives provided in promoting and encouraging technology transfer to least developed country Members in order to enable them to create a sound and viable technological base; and consider any points relating to the operation of the reporting procedure established by the Decision.

64. Some of the information by developed country Members had been received only very recently, and most of it was, so far, available only in its original language. He therefore intended for Members to have an opportunity to make further comments at the next meeting of the Council. This would give Members a chance to study the information recently circulated and any additional information subsequently received.

65. The Chair announced that the Secretariat was planning to hold the Article 66.2 Workshop in March 2022. In light of the changing situation, the dates of the workshop had not yet been fixed, but would be communicated as soon as they were finalized. This would allow LDCs sufficient time to absorb the information provided by developed countries in their reports and also to ensure that these reports are available in the official languages of the WTO. It would further be an opportunity to discuss the LDC Groups' proposal for a template for reporting on commitments under this Article. He indicated that the Workshop would comprise two days of workshop sessions, and a reporting and review segment within the first TRIPS Council meeting of 2022.

66. He reported that in preparation of the next annual Workshop, the Secretariat had circulated an Article 66.2 survey questionnaire to LDC Members, acceding governments, and observers on 27 September 2021. The relevant delegations were invited to answer questions on current areas of needs and priority for technological development, projects that are relevant to these areas of technology transfer, and their general experience with projects reported under the Article 66.2 implementation and review process. The survey was an optional tool to assist with preparations for

⁴ WTO/AIR/IP/37 of 15 June 2021.

the annual workshop and aimed at facilitating and informing practical dialogue and coordination. The deadline to submit answers to this survey questionnaire was Friday, 29 October 2021.

67. The representatives of the United Kingdom; the European Union; Canada; Australia; Norway; the United States; Switzerland; Bangladesh, on behalf of the LDC Group; China; India; and Japan took the floor.

68. The Chair suggested that Members be given an opportunity to continue considering the information provided at our next meeting.

69. The Council took note of the statements made and agreed to revert to the matter at its next meeting.

12 TECHNICAL COOPERATION AND CAPACITY BUILDING

70. The Chair recalled that in June 2021, the Council had agreed to hold the annual review of technical cooperation at the present meeting.

71. Developed country Members had been requested to update information on their technical and financial cooperation activities relevant to the implementation of the TRIPS Agreement. Other Members who also made available technical cooperation were encouraged to share information on these activities. The Secretariat had issued an Airgram on 15 June 2021 reminding developed country Members of this request. Intergovernmental organizations observers to the Council and the WTO Secretariat had also been invited to provide information.

72. The Council had received information from the following developed country Members: Switzerland, Japan, Australia, the United Kingdom, the United States, Canada, and the European Union. Since the circulation of the revised draft agenda Norway has also submitted information in this regard. These reports are being circulated under the new dedicated document series with the symbol [IP/C/R/TC/\[Member\]/](#) – where "R" stands for "Reports" and "TC" stands for "Technical Cooperation".

73. Intergovernmental organizations had also submitted updated information: the Gulf Cooperation Council (GCC), the World Health Organization (WHO), and the World Intellectual Property Organization (WIPO). Since the circulation of the revised draft agenda, the United Nations Conference on Trade and Development (UNCTAD) had also submitted information in this regard. Their reports were being circulated in the same document series [IP/C/R/TC/\[IGO observer\]/](#).

74. The report of the WTO Secretariat on technical cooperation activities in the TRIPS area was available in document [IP/C/R/TC/WTO-OMC/2](#).

75. The representatives of Norway; Canada; Australia; the European Union; Switzerland; Bangladesh, on behalf of the LDC Group; the United Kingdom; the United States; Japan; the WTO Secretariat; the Gulf Cooperation Council (GCC); the World Intellectual Property Organization (WIPO); and the World Health Organization (WHO) took the floor.

76. The Chair noted that most of the valuable information provided by Members and IGO observers had been received only very recently. He would provide delegations an opportunity at the next regular meeting to make further comments on the information submitted.

77. The Council took note of the statements made and agreed to revert to the matter at its next meeting.

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

78. The Chair said that the "Proposal for A Waiver from Certain Provisions of The TRIPS Agreement for the Prevention, Containment and Treatment of COVID-19" had been circulated in document [IP/C/W/669](#) at the request of India and South Africa on 2 October 2020. It had since been co- sponsored by the delegations of the Plurinational State of Bolivia; Kenya; Eswatini; Mozambique; Pakistan; the Bolivarian Republic of Venezuela; Mongolia; Zimbabwe; Egypt; the African Group; the

LDC Group; the Maldives; Fiji; Namibia; Vanuatu; Indonesia and Jordan. A revised proposal had been circulated by the co-sponsors on 21 May 2021 in document [IP/C/W/669/Rev.1](#), which had since been co-sponsored by the delegation of Malaysia.

79. He recalled that, since the formal meeting of the TRIPS Council on 8-9 June 2021, there had been an intensive schedule of dedicated meetings to discuss this and related proposals in various formats. This involved a series of small-group consultations with delegations and group coordinators, five informal open-ended meetings for the purposes of transparency and inclusiveness, and two additional formal meetings of the Council to adopt successive status reports to the General Council. In its most recent oral status report to the General Council on 4 October, Members had concluded that: "[...] the TRIPS Council has not yet completed its consideration of the revised waiver request. The TRIPS Council will therefore continue its consideration of the revised waiver request, including through small-group consultations and informal open-ended meetings, and report back to the General Council as stipulated in Article IX:3 of the Marrakesh Agreement. In addition, the TRIPS Council will also continue in the same manner its consideration of the other related proposals by Members".

80. At the informal open-ended meeting of the Council on 14 September 2021, delegations had expressed their willingness to continue discussing specific aspects of the proposals in small-group meetings. He had therefore suggested to hold one small-group meeting in each of the next two weeks, and then reunite for an informal open-ended meeting of the TRIPS Council for the sake of openness, transparency, and inclusiveness, and to provide an opportunity to take stock and discuss how to advance further in light of that experience.

81. The Chair informed the Council that the two small-group consultations were held on 23 and 29 September. At the first meeting, which was dedicated to discussing 'scope' and 'implementation', delegations had engaged constructively in the questions underlying the waiver proposal and discussed the practical differences between TRIPS flexibilities and the waiver approach at the national level. On that occasion he had also heard delegations expressing their willingness to explore areas of common interest. One particular aspect of the discussion had touched on the existing TRIPS flexibilities and the concern voiced by the co-sponsors of the revised waiver proposal, that the use of such flexibilities was cumbersome. Thus, the second small-group consultation had aimed to examine one of the TRIPS flexibilities cited in the discussions, namely the requirements for using compulsory licensing in Articles 31, 31*bis* and the Annex of the TRIPS Agreement; and to relate any assessment of the practical impact of these requirements to the two proposals before the Council.⁵ Delegations had detailed exchanges on individual sub-paragraphs of Article 31 and 31*bis* of the TRIPS Agreement, and their impact on the practical use of compulsory licensing. In general, deliberations had taken place in a constructive atmosphere and it seemed that some of these detailed discussions could be pursued further. Some delegations had also voiced their frustration with the lack of progress, while a number of delegations had urged Members to focus on practical areas where consensus could be feasible in the short term.

82. At the informal open-ended meeting of 4 October 2021, the co-sponsors of the revised waiver proposal had once again indicated their flexibility towards considering the proposal by the European Union as a complementary approach, but they had emphasized that, in their view, a TRIPS waiver was a central and necessary element in the WTO's response to the pandemic. They had urged Members to end the binary view of the two proposals as alternatives.

83. Other Members, while welcoming the increased engagement in the small-group consultations, had remained unconvinced that a waiver would be an appropriate or effective tool to scale up production or ensure equitable distribution of vaccine doses around the world. These delegations had highlighted the broader Trade and Health initiative as the right tool to address the supply chain bottlenecks that the pandemic response was facing. Some had urged convergence on the basis of the proposal by the European Union aimed at clarifying, or improving the functioning of, existing TRIPS flexibilities.

84. While it had been clear that discussions had not bridged the persisting disagreement on the fundamental approaches underlying the different proposals, he noted that all delegations remained willing to continue discussion on the proposals in the various meeting formats.

⁵ IP/C/W/669/Rev.1 and IP/C/W/681

85. The Chair stressed the importance of bilateral engagement between delegations in order to explore common ground and find possible landing zones, which Members could agree upon to conclude these discussions in the TRIPS Council. He said the world was expecting the Council to find a resolution of these discussions soon, and this could only happen if delegations could find agreement amongst themselves. He encouraged delegations to intensify their bilateral contacts and indicated his availability to facilitate engagement in a smaller group, keeping in mind that any outcomes from engagement between individual Members regarding the conclusion of the discussions should feed back into the Council and through it into the broader MC12 discussions. He sincerely hoped that engagement between delegations could still lead to something the Council could agree on, be that in the shape of a recommendation of the TRIPS Council as foreseen under Article IX:3 of the Marrakesh Agreement, or be it through some other consensus decision representing a conclusion of this process.

86. The representatives of the United Kingdom; South Africa; Pakistan; Bangladesh; the Plurinational State of Bolivia; Chile; Cuba; Nigeria, the Bolivarian Republic of Venezuela; Egypt; Indonesia; the Kingdom of Saudi Arabia; India; the European Union; Korea; Singapore; Turkey; Japan; China; Switzerland; Norway; New Zealand; the United States; Namibia; Colombia; Australia; Brazil; and Mozambique took the floor.

87. The Chair said that, with respect to the suggestion to move the current TRIPS discussion into the process on trade and health issues Ambassador Walker was facilitating under the aegis of the Chair of the General Council at this time, it seemed clear to him that any conclusions on how different WTO disciplines should respond to the pandemic would all have to be part of the MC12 outcome document, and that IP was clearly expected to be part of that, in some form or other. Considering the attention and bandwidth that the Council's discussion had occupied over the last year, he was not concerned that the waiver request would somehow be forgotten in any prospective MC12 ministerial declaration.

88. In terms of procedure, he said it was for Members to decide whether they would want to terminate the waiver discussions in the TRIPS Council at that time to continue them in Ambassador Walker's process together with the equally complex trade-related considerations discussed there, or whether they would prefer to continue focused efforts to find a consensus conclusion on the IP-related discussions in the TRIPS context, which could then be introduced into an overall MC12 outcome document, together with any outcome resulting from Ambassador Walker's process.

89. While procedural considerations should not stand in the way if consensus among Members emerges, the Chair recalled that it was the TRIPS Council's obligation to come up with a recommendation, so that the procedure foreseen under the waiver provisions of the Marrakech Agreement could be properly concluded.

90. In light of the discussion, it seemed that the Council was not yet ready to agree on a recommendation, but that there remained a willingness to continue discussions and exploring possible common ground. The Chair proposed to keep the agenda item open, and thus permit delegations to further explore common ground and possible compromise solutions to this discussion. If there emerged an indication that Members were in a position to reach consensus, he would reconvene the Council to see whether an agreement could be reached on how to conclude these discussions before the Ministerial Conference, in a timely manner.

91. The Council took note of the statements made and agreed to keep the agenda item open.

92. During the reconvened meeting on 18 November, the Chair recalled that, as discussed at an informal open-ended meeting on 15 November, he had circulated draft language for an oral status report to the General Council on the same day in document JOB/IP/53, with an invitation to Members to comment by 16 November 2021. An agenda item for this status report had also been placed on the agenda of the General Council meeting scheduled for 22-23 November in the usual fashion. Since no comments had been received on the draft language, delegations had been informed on 17 November that the Chair would propose the text as circulated for adoption on 18 November. The language for the oral status report to the General Council which had been circulated in document JOB/IP/53 read as follows:

"At the meeting of the TRIPS Council on 15-16 October 2020, India and South Africa introduced document [IP/C/W/669](#), requesting a waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19, which had been circulated on 2 October 2020 and has since been co-sponsored by the delegations of Kenya, Eswatini, Mozambique, Pakistan, the Plurinational State of Bolivia; Bolivarian Republic of Venezuela; Mongolia; Zimbabwe; Egypt; the African Group; the LDC Group; the Maldives; Fiji; Namibia; Vanuatu; Indonesia and Jordan.

Since the introduction of the document, discussions took place in various formal and informal TRIPS Council meetings. Delegations exchanged views, asked questions, sought clarifications and provided replies, clarifications, and information, including through documents [IP/C/W/670](#), [IP/C/W/671](#), [IP/C/W/672](#), [IP/C/W/673](#) and [IP/C/W/674](#), on the waiver request.

On 21 May 2021 the co-sponsors issued a revised proposal which was circulated in document [IP/C/W/669/Rev.1](#). The revised waiver request was presented at an informal open-ended meeting of the Council on 31 May, and introduced at its formal meeting on 8-9 June 2021. It has since been co-sponsored by Malaysia. On 29 September 2021, the co-sponsors circulated a summary of their interventions in document [IP/C/W/684](#).

Since the last oral status report delivered on 7 October 2021, discussions continued in small-group consultations, at a formal meeting of 13-14 October, at informal open-ended meetings on 5 and 15 November, and at an informal and resumed formal meeting on 18 November 2021.

In the course of discussions on the revised waiver proposal, delegations held focused discussions on the topics of 'scope', both from the perspective of products and of IP rights, on 'duration', 'implementation' and on protection of undisclosed information. Delegations engaged positively and their detailed substantive exchanges helped clarify various aspects and nuances of positions. While delegations remain committed to the common goal of providing timely and secure access to high-quality, safe, efficacious and affordable vaccines and medicines for all, disagreement persists on the fundamental question of whether a waiver is the appropriate and most effective way to address the shortage and inequitable distribution of and access to vaccines and other COVID-19 related products.

In addition, a proposal for a draft General Council declaration on the TRIPS Agreement and Public Health in the circumstances of a pandemic, issued by the European Union and circulated in document [IP/C/W/681](#), has also been discussed in meetings since its circulation on 21 June 2021. Delegations exchanged views, asked questions, sought clarifications and provided replies, clarifications, and information. Disagreement persists on the fundamental question of whether this proposal is the appropriate and most effective way to address the shortage and inequitable distribution of and access to vaccines and other COVID-19 related products.

This means that the TRIPS Council has not yet completed its consideration of the revised waiver request. The TRIPS Council will therefore continue its consideration of the revised waiver request, including through small-group consultations and informal open-ended meetings, and report back to the 12th Ministerial Conference as stipulated in Article IX:3 of the Marrakesh Agreement.

In addition, the TRIPS Council will also continue in the same manner its consideration of the other related proposals by Members."

93. The Chair proposed that the Council formally adopt the status report as a factual reflection of discussions on the TRIPS Waiver request.

94. The Council so agreed.

95. The Chair thanked delegations for their cooperation. He would deliver this report to the General Council, on 22-23 November, as agreed.

96. The representatives of India; the European Union; South Africa; Indonesia; Switzerland; the United Kingdom; and the United States took the floor.

97. The Chair said that, in line with the report that had been adopted, it was therefore understood that the agenda items 13 and 14 on the Council's agenda continued to remain open in order to permit more time for bilateral engagement, with a view to resuming – at short notice if necessary – the meeting, when there were indications that Members might be ready to reach an agreement.

98. For the next resumption of the Council's meeting, meeting room facilities were available for a formal resumption for Monday, 29 November 2021. This did not exclude the possibility of an earlier resumption at short notice should the circumstances require this.

99. The Chair encouraged delegations to remain seriously engaged, flexible and focused on an outcome, which remained within reach. The role of IP in the context of the pandemic had become the centre of attention in the run-up to this Ministerial Conference and a pragmatic and tangible outcome of these discussions would be a strong and positive signal to the Ministerial Conference and the global community as a whole. He would reach out to delegations to ensure that every opportunity to find possible landing zones ahead of MC12 would be used.

100. The Council took note of the statements made.

101. At the reconvened meeting on 29 November, the Chair suggested to take up agenda items 13 and 14 together, as most delegations were making one single statement covering both agenda items. He recalled that at the resumed meeting on 18 November, the Council had adopted an oral status report to the General Council, which he had delivered on 22 November 2021. This report had concluded that "the TRIPS Council will therefore continue its consideration of the revised waiver request, including through small-group consultations and informal open-ended meetings, and report back to the 12th Ministerial Conference as stipulated in Article IX:3 of the Marrakesh Agreement. In addition, the TRIPS Council will also continue in the same manner its consideration of the other related proposals by Members."

102. Since then, the Chair had held consultations with individual and groups of delegations, as well as a small-group consultation on 25 November. He had also circulated a draft report to the Ministerial Conference in document JOB/IP/54. However, in light of the indefinite postponement of the 12th Ministerial Conference, announced on 26 November 2021, the draft report was no longer proposed for adoption.

103. At the informal meeting that had preceded the this reconvened formal meeting, delegations had exchanged views on whether and how they wished to approach work on these items. He had shared his view that, although the much-awaited ministerial engagement on the important question of the role of IP in the pandemic had now been delayed, the Council could not afford to lose the momentum that had been gathering in the discussions among delegations during the previous week. From delegations' interventions in that meeting it was his sense that there was unanimous support for keeping the momentum of the discussions and continuing to engage on these matters, to try and harvest any outcome that may still be possible under the changed circumstances.

104. The representatives of South Africa; the European Union; India; the United Kingdom; Vanuatu; Indonesia; Chad, on behalf of the LDC Group; the Plurinational State of Bolivia; Pakistan; Brazil; Maldives; Switzerland; and Tanzania, on behalf of the African Group, took the floor.

105. The Chair said that he would consult with delegations to help facilitate continued engagement, and with a view to finding consensus on a substantive solution. He suggested that the agenda items remain open, with a view to resuming the meeting, at short notice, if necessary, when there are indications that Members might be closer to agreement on how to conclude these items. He noted that the next options for reconvening the Council's meeting were 10 and 16 December.

106. The Council so agreed.

107. The Chair thanked delegations for their engagement on this complex and highly politicized issue. He knew that all delegations shared the common goal of providing timely and secure access to high-quality, safe, efficacious and affordable vaccines and medicines for all, and all were working

hard to narrow their differences on how this common goal could be achieved. He said he had heard the shared view that IP should not be a barrier to access to medicines, and that governments should be able to permit manufacturers that were able and ready to produce COVID-19 vaccines to start producing without worrying about a patent.

108. While the Chair regretted that the Council had not been able to reach consensus on a substantive recommendation to the 12th Ministerial Conference the previous week, he remained convinced that a pragmatic compromise solution was within reach, if the political will could be mustered. Although the Council must now continue its work without the political input from ministers, he recalled that a practical, tangible WTO response to the pandemic was needed, now more than ever. As the pandemic continued to challenge the world's sense of stability, it was important that the WTO reached agreement on meaningful responses to these challenges. He urged delegations to remain fully engaged with a sense of urgency, and with the objective to find a pragmatic consensus-based outcome. This is not the moment to let up, but rather – to quote Lord Tennyson – "to strive, to seek, to find, and not to yield."

109. At the reconvened meeting on 16 December, the Chair suggested to once again take up agenda items 13 and 14 together, as most delegations were making one single statement covering both agenda items. He reported that he had held consultations with a group of co-sponsors, and with a group of 'non-proponents', respectively, on 8 and 14 December. These separate meetings had not indicated any further engagement between these groups at delegation level since mid-November, nor had they revealed any movement in positions. The co-sponsors had re-iterated their calls for the urgent commencement of text-based negotiations on the basis of the revised waiver proposal document [IP/C/W/669/Rev.1](#), while other delegations had seen no promise in any textual engagement as long as fundamental disagreements persisted on the merits of different approaches.

110. The Chair also indicated he had kept in touch with the Director General and DDG Gonzales with regard to their political contacts with Members. He invited delegations to share their views on recent developments and on next steps the Council should take in these matters.

111. The representatives of Argentina; South Africa; Mozambique; the European Union; Colombia; Pakistan; Brazil; Australia; Tanzania, on behalf of the African Group; the Plurinational State of Bolivia; Nigeria; China; the United States; New Zealand; Norway; Switzerland; Indonesia; India; and the United Kingdom took the floor.

112. The Chair said that what he had heard confirmed the impression he had gathered in the consultations with the two groups he had described earlier. On the one hand, there was the co-sponsors' insistence that textual engagement should be commenced based on the entirety of their proposal. On the other hand, there remained significant scepticism and outright opposition vis-à-vis the waiver approach among a number of delegations, who were therefore reluctant to engage on the basis of a text with whose underlying premise they disagree.

113. He recalled that, during the first small-group consultations in June, the text of the revised waiver had, in fact, been put on the screen with a view to discussing it – but the differences described above, and a certain lack of trust among delegations, meant that serious line-by-line engagement on that text had simply not been possible among delegations. Despite this, delegations had managed to have quite a number of meetings on substance and on additional proposals – and this was reflected in the reports to the General Council.

114. During the summer, the Chair said, it had been very much hoped that bilateral engagements among delegations would overcome these obstacles and lead to a situation where constructive engagement in the Council could be based on a pragmatic focus on common ground, but despite some encouraging signs along the way, this had ultimately not been the case. It was his impression, that these obstacles unfortunately still remained in place, and he was not able to detect any convergence towards a common ground for textual engagement that was any more promising than what had been attempted earlier in the year. To be precise, he said, he did not mean agreement on a text, but on a basis for engagement.

115. He said that, in the last few weeks leading up to the planned ministerial conference, it had been clear that Members were preparing for engagement at the political level at the conference. While it had been rightly pointed that the waiver was not formally part of the designated outcome

of MC12 and could be addressed at the level of the TRIPS Council and the General Council, it had been clear to everybody, given the timing, that Members wanted those issues to be discussed at the conference. This was also reflected in the draft report that the Council was ready to adopt at the meeting on 29 November. In light of the postponement of MC12, Members had instead expressed their willingness and intention to intensify their engagement with each other. The TRIPS Council therefore had decided to stay in session, meaning that the Council could be reconvened at short notice.

116. The Chair said that, in the Heads of Delegations meeting held on 2 December he had shared with Members his personal assessment that another type of engagement was needed between members than what had been witnessed for some time. His first suggestion had been that delegations should focus more on what united them than on what divided them, referring also to the common objectives shared by Members.

117. His second suggestion had been that political engagement and input was needed to be able to change the current dynamic, input that had been anticipated from the ministerial conference. He had therefore urged members, in particular those who have taken a leading role in the discussions on these matters, to engage with each other, across the aisle, with a sense of urgency, not only here in Geneva, but also, and most importantly, at the political level. He was therefore encouraged by what he had heard from some members regarding such political engagement taking place now.

118. Against this background, the Chair believed that the best course of action for the immediate future was to let the on-going high-level engagement continue and mature. If a common approach to the discussions on these items could be developed among these Members, he said, this could hopefully contribute to unlocking the situation in the Council and allow all Members to take a step forward towards developing a consensus outcome. He had also taken note of Members underlining the need for transparency and inclusiveness, while welcoming engagement among a few Members. He said that it went without saying that any achievement among a small group of Members would have to be brought to the larger membership. He reiterated his belief that a practical, tangible WTO response to the pandemic is needed, now more than ever. If members focus on that, he also believed it was within reach.

119. In light of this, the Chair proposed that the Council once again keep the agenda items open, with a view to resuming the meeting – at short notice, if necessary – when there are indications that Members might be closer to a common understanding on how to proceed towards a possible landing zone and ultimately a consensus-based solution. In the meantime, he would remain in touch with delegations to keep abreast of any developments and would make practical arrangements to be able to resume whenever there were any new developments or a need to inform Members of the current state of play.

120. The Council so agreed.

14 DRAFT GENERAL COUNCIL DECLARATION ON THE TRIPS AGREEMENT AND PUBLIC HEALTH IN THE CIRCUMSTANCES OF A PANDEMIC

121. The Chair recalled that on 4 June 2021, the Council had received a communication from the European Union on "Urgent Trade Policy Responses to the COVID-19 Crisis: Intellectual Property".(document [IP/C/W/680](#)), which had been followed on 18 June 2021 by a "Draft General Council Declaration on the TRIPS Agreement and Public Health in the Circumstances of a Pandemic".(document [IP/C/W/681](#)).

122. The European Union had introduced its proposed declaration during an informal meeting held on 24 June 2021. The proposal had also been discussed during informal meetings held on 30 June and 6 and 14 July, and at a formal meeting on 20 July. It had since been discussed at every meeting dedicated to discussing the revised TRIPS waiver proposal under the previous agenda item. As part of the TRIPS Council's status reports to the General Council on the revised waiver request on 27 July and on 4 October, Members had reported that the TRIPS Council would also continue its consideration of the EU's proposal.

123. The representatives of the United Kingdom; Pakistan; Cuba; Republic of Korea; Singapore; Turkey; China; Switzerland; Norway; Brazil; Mozambique; India; and the European Union took the floor.

124. The Chair thanked the delegations for their interventions. Noting that the consideration of the present item was closely linked to the previous one, he suggested to also suspend the conclusion of this agenda item, so that it could be taken up together with the waiver discussion, when the Council resumed these items.

125. The Council took note of the statements made and agreed to keep the agenda item open.

126. At the reconvened meeting of 18 November, the report to the General Council was adopted and the Chair said that, it was therefore understood that the agenda items 13 and 14 on the Council's agenda continued to remain open in order to permit more time for bilateral engagement, with a view to resuming – at short notice if necessary – the meeting, when there were indications that Members might be ready to reach an agreement. [see paragraphs 93-99]

127. At the reconvened meeting of 29 November, the Chair proposed to take agenda items 13 and 14 together, as delegations had been making a single statement. [see paragraphs 100-107]

128. At the reconvened meeting of 16 December, the Chair proposed to take agenda items 13 and 14 together, as delegations had been making a single statement. [see paragraphs 108-119]

15 INFORMATION REQUEST UNDER ARTICLE 63.3 – REQUEST BY THE EUROPEAN UNION

129. The Chair said the present item has been put on the agenda at the request of the European Union. On 4 June 2021, the Council had received a communication from the European Union to China, entitled "Request for Information Pursuant to Article 63.3 of the TRIPS Agreement", regarding recent judicial decisions and regulations relating to patents (IP/C/W/682). On 7 September 2021, the Council had received a communication from China entitled "Response to the European Union's Request for Information Pursuant to Article 63.3 of the TRIPS Agreement" (IP/C/W/683).

130. The representatives of the European Union; China; and the United States took the floor.

131. The Council took note of the statements made.

16 INTELLECTUAL PROPERTY AND INNOVATION: WOMEN AND INTELLECTUAL PROPERTY

132. The Chair said that the item had been put on the agenda at the request of Australia, the European Union, Japan, Switzerland, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, the United Kingdom, and the United States of America. These delegations had also submitted a communication to allow Members to prepare for today's discussion (document IP/C/W/685). Since the circulation of the revised draft agenda, the delegation of Chile had been added to the co-sponsors of this item and the corresponding submission.

133. The representatives of the United States; the European Union; Chile; the United Kingdom; Chinese Taipei; Japan; Australia; Canada; Singapore; Switzerland; Panama; South Africa; China; and WIPO took the floor.

134. The Council took note of the statements made under this item.

17 INFORMATION ON RELEVANT DEVELOPMENTS ELSEWHERE IN THE WTO

135. The Chair recalled that the purpose of this agenda item was to keep Members posted of developments in other WTO bodies which are relevant to TRIPS matters, so no discussion was required. He invited the Secretariat to provide the regular briefing on IP-related issues considered in the context of individual Members' trade policy reviews, and in the Director-General's Monitoring Report.

136. The representative of the Secretariat took the floor.

137. The Council took note of the information provided.

18 OBSERVER STATUS FOR INTERNATIONAL INTERGOVERNMENTAL ORGANISATIONS

138. The Chair said that there continued to be 14 pending requests for observer status in the TRIPS Council by intergovernmental organizations. The updated list was available⁶ and the information provided by these organizations on their respective work and the reasons for their interest in observer status was on the Members' website.⁷

139. The representatives of Bangladesh; the United States; South Africa; China; Indonesia; and the Bolivarian Republic of Venezuela took the floor.

140. The Council took note of the statements made and agreed to revert to the matter at its next meeting.

141. The Chair recalled that, at its meeting in November 2012, the Council had agreed to grant ad hoc observer status on a meeting-to-meeting basis to the European Free Trade Association (EFTA). Since then, this invitation had been renewed at each meeting. The Chair suggested to invite again the EFTA to attend the Council's next formal meeting on an ad hoc basis.

142. The Council so agreed.

19 ANNUAL REPORT

143. The Chair said that the draft Annual Report of the Council had been circulated in document JOB/IP/49 and still needed to be updated in order to reflect the discussions at the present meeting. He asked if any delegation would have any comments on the draft at this point. He suggested that the Council agrees that the Secretariat be requested to update the draft to reflect the discussions at this meeting. The draft delegations would have one week to comment on the updated parts of the draft report.

144. The Council so agreed.

20 OTHER BUSINESS

145. The Chair proposed to hold the TRIPS Council on the following dates in 2022:

- 9-10 March 2022
- 8-9 June 2022
- 12-13 October 2022.⁸

146. The Council so agreed.

⁶ IP/C/W/52/Rev.14

⁷ Available at https://www.wto.org/english/tratop_e/trips_e/xtrips_e/igo_observer_e.htm.

⁸ These dates have been coordinated with WIPO.