



Council for Trade in Services

REPORT OF THE MEETING HELD ON 4 DECEMBER 2020

NOTE BY THE SECRETARIAT¹

The Council for Trade in Services held a meeting on 4 December 2020, chaired by Ambassador Tan (Singapore). The agenda was contained in document WTO/AIR/CTS/25.

The agenda was adopted.

The Chairman recalled that, as announced in the communication on organizational and technical arrangements for the meeting he had circulated on 23 November, delegations were meeting in virtual mode. He trusted that delegations attending virtually were, by then, all familiar with the main technical aspects of remote participation.

For the benefit of the interpreters and, ultimately, of all Members, he urged delegates to speak at a reasonable, moderate pace and, if possible, to provide the interpreters with an advance copy of any written statements they intended to deliver, to help ensure that interventions were properly conveyed and understood when translated in the other two official languages.

1 ITEM A: ANNUAL REPORTS OF THE SUBSIDIARY BODIES TO THE COUNCIL FOR TRADE IN SERVICES

1.1. The Chairman recalled that, in accordance with WTO reporting procedures, the Council for Trade in Services was to consider the Annual Reports of its subsidiary bodies. Accordingly, he drew Members' attention to the Annual Reports of, respectively, the Committee on Trade in Financial Services (S/FIN/35), the Committee on Specific Commitments (S/CSC/26), the Working Party on Domestic Regulation (S/WPDR/24) and the Working Party on GATS Rules (S/WPGR/31).

1.2. He suggested that the Council take note of the four Reports, on the understanding that they would be annexed to the CTS Annual Report and form an integral part of it.

1.3. It was so agreed.

2 ITEM B: ANNUAL REPORT OF THE COUNCIL FOR TRADE IN SERVICES TO THE GENERAL COUNCIL

2.1. The Chairman recalled that, in accordance with WTO reporting procedures, the Council for Trade in Services was required to report each year to the General Council on its activities as well as those in its subsidiary bodies. Therefore, he drew Members' attention to the draft Annual Report of the Council for Trade in Services on its activities in 2020, contained in document S/C/W/384, which had been circulated to delegations on 13 November.

2.2. The Report was factual and self-explanatory, covering the period from the 2019 Report up until the Council's last meeting in October, and providing a snapshot of the Council's activities. However, it contained one small error, with regard to the document symbol for the Article V:7 notification by China and Hong Kong, China. That symbol was currently indicated as "S/C/N/264/Corr.1" but should instead have been "S/C/N/264/Add.11/Corr.1" because the Corrigendum concerned only Addendum 11 of the notification. Therefore, he suggested that the Council adopt the 2020 Annual Report with

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

that error concerning the notification symbol rectified. Also, as he had mentioned under the previous item, the Annual Reports of the subsidiary bodies would be annexed to the Report for submission to the General Council.

2.3. He proposed that the Council adopt the draft 2020 Annual Report to the General Council contained in document S/C/W/384, as amended.

2.4. It was so agreed.

3 ITEM C: NOTIFICATIONS PURSUANT TO ARTICLES III:3 AND V:7 OF THE GATS

3.1. With regard to the notifications made pursuant to GATS Article III:3 (Transparency), the Chairman drew the Council's attention to the communications received from Mauritius, in document S/C/N/1022, and Brazil, in document S/C/N/1023. He suggested that the Council take note of the notifications.

3.2. It was so agreed.

3.3. Concerning the notifications made pursuant to Article V:7 (Economic Integration), the Chairman drew the Council's attention to the communication received from Canada, Mexico and the United States (in document S/C/N/4/Add.1). He suggested that the Council take note of the notification.

3.4. It was so agreed.

4 ITEM D: OPERATIONALIZATION OF THE LDC SERVICES WAIVER

4.1. The Chairman recalled that, at the Council's October meeting, the LDC Group had put forward some ideas to advance the discussions on the operationalisation of the Waiver. First, LDCs had informed Members that they would organize a webinar on the impact of COVID-19 on LDC services trade. That event had been held just a couple of days earlier, and he understood that it had been very informative.

4.2. Second, the Group had sought the Secretariat's assistance to update the information on LDC services trade initially prepared for the Dedicated Session of 2019.

4.3. Finally, the Group had proposed that the Council organize a virtual workshop, in the second quarter of 2021, that would bring together LDC service suppliers and consumers of LDC services in preference-granting Members. Members had been generally open to discussing the LDC Group's idea but, given the novelty of the suggestion, many delegations had called for the Group to provide further details, in writing.

4.4. On 16 November, the LDC Group had circulated the communication titled "Proposal to organize a CTS webinar", contained in document JOB/SERV/CTS/1. The communication outlined the Group's proposal for the workshop. As the LDCs had also requested that he hold consultations on their initiative, on 25 November he had convened an informal meeting, for Members to engage in a constructive exchange of views on the LDC proposal.

4.5. At that meeting, there had been broad support for the LDC Group's suggestion to organize a virtual workshop. On the specifics of the event, however, clarifications had been sought on some of the issues mentioned in the LDC communication. A number of Members had also put forward suggestions for topics that they felt the event could usefully address. At the end of the meeting, the LDC Group had indicated that, in order to provide greater specificity, it would prepare an outline of the programme it was envisaging that would also incorporate some of the suggestions made.

4.6. Just a day earlier, the Group had circulated its proposed elements for the webinar, in document JOB/SERV/CTS/2.

4.7. The representative of Uganda, speaking on behalf of the LDC Group, said that earlier that week, on 2 December, the LDC Group, assisted by the Secretariat Trade in Services Division, had held a webinar on "COVID-19, trade measures and LDC services trade: state of play, challenges, solutions,

and opportunities". The Group thanked the team of the Services Division, for the excellent service and assistance in making the event a success, and all Members that participated in the webinar.

4.8. The panellists at the webinar emanated from different spheres. The WTO Secretariat's Ms. Barbara D'Andrea; Mr. Lino Criel Icila and Ms. Farhana A Rahman, LDC Group representatives from, respectively, Uganda's logistics sector and Bangladesh's software industry; Ms. Prachi Agarwal and Mr. Mulenga Chonzi from academia; Mr. Quan Zhao from the International Trade Centre; and Ms. Zoritsa Uresovic, UNWTO Special Representative to the United Nations in Geneva and New York, all made excellent and highly informative presentations on a number of important topics.

4.9. Ms. D'Andrea's presentation provided a picture of the state of play, including the latest data on LDC services trade, with a focus on the impact of COVID-19. It also explained the importance of export diversification. Mr. Icila and Ms. Rahman shared the experience of LDC services suppliers in terms of the impact of the COVID-19 measures that had been taken by many governments, including effects like the breakdown of global supply chains due to great disruptions on inbound/outbound logistics in all transport modes. They also highlighted notable opportunities, including the establishment of hubs of wireless, remotely engaged commerce, technology-driven and robust communication firms. The panellists from academia, Ms. Prachi and Mr. Mulenga, shared useful insights about the impact of COVID-19 on SMEs and on LDCs generally, as well as lessons learnt from the International Trade Centre interventions on the ground, with examples from tourism and digital companies. Ms. Urosevic provided an overview of the impact of COVID-19 on the tourism sector, which was one of the most critical sectors for many LDCs and, finally, Mr. Quan shared, among other things, valuable insights on the road to recovery.

4.10. There were many valuable takeaways from the webinar, but one thing was and remained very clear, namely that LDCs were not doing well at all. Indeed, while global services trade had fallen by 30% in the second quarter of 2020, LDC services exports were estimated to have dropped by up to 60 to 65%. Tourism alone had fallen by 81% and transport services by 31%. The only notable upside had been for computer services exports, which, thanks to accelerated digitalisation, were up 4%.

4.11. Indeed, as some of the panellists had pointed out, the road to recovery would require digital solutions. Yet, even in that respect, LDCs still faced numerous challenges, which they had previously illustrated to Members. These included, to mention but a few, limited access to credit cards as a critical tool for online payments, the high incidence of unbanked consumers, limited experience with online payments and generally inadequate online payments facilities. It was indeed for that reason that the LDCs continued to see significant value in the discussions under 1998 e-commerce Work Programme.

4.12. Turning to the LDC Group's proposals contained in document JOB/SERV/CTS/1, titled "Proposal to Organize a CTS Webinar", and in document JOB/SERV/CTS/2 circulated to Members prior to that meeting, the Group wished to thank the Chairman for the informal meeting that he had convened on 25 November. LDCs had initially reached out to all notifying Members and were very grateful to all those that had responded, seeking further clarifications and offering new valuable ideas both at the bilateral level and at the informal CTS meeting.

4.13. Document JOB/SERV/CTS/2, titled "Elements for a CTS Webinar" built on the first LDC submission. It provided a programme outline and greater detail on elements for the webinar, to enable Members to have a clearer picture of the kind of event that the Group was foreseeing, particularly in terms of the role Members could play and the overall topics that could be discussed.

4.14. LDCs' services trade continued to account for less than 1% of global services trade: for a total of more than 36 countries, business as usual simply could not do. It was for that reason that the LDC Group welcomed and continued to look to the Waiver Nairobi Decision in document WT/L/982, on "Implementation of Preferential Treatment in Favour of Services and Services Suppliers of Least Developed Countries and Increasing LDC Participation in Services Trade". In the Group's view, in order for the Waiver to achieve a meaningful impact as intended by Members, it was critical that new ways of engaging were at the very least attempted by all Members at that moment, while the Waiver still run.

4.15. In 2019, the CTS had initiated the process for the review of operation of notified preferences, in pursuance of the mandate contained in the aforementioned Nairobi Ministerial Decision. It had

held a dedicated session for that purpose, which had consisted of two events. The workshop that had constituted the first part of the session had brought together LDC service suppliers, representatives from international organisations as well as Members' development agencies, who had all shared information about programmes and strategies in place as well as best practices and lessons learnt to enhance LDCs' export performance. LDC services exporters had shared success stories and challenges that needed to be addressed. That was the conversation the Group sought to take forward with its proposal in JOB/SERV/CTS/1.

4.16. As mentioned in paragraph 2.1. of its proposal, the Group believed that continued efforts to orient LDCs suppliers, as well as consumers in notifying Members, about the existence and benefits of the preferences was critical for promoting notified preferences and for getting the most out of the Waiver. It was one thing to have preferences notified and it was quite another for LDC service suppliers and potential consumers in notifying Members to be aware and meaningfully utilise those preferences. It was certainly impossible to do so if they were not made aware of the existence of those preferences.

4.17. Indeed, in the past the LDC Group had engaged with its Members about the Waiver. The demarche to raise awareness in LDC capitals had been developed by the LDC Group in Geneva. The Group also recognised that orientation and awareness raising were not a one-time event or a one-way street. Notifying Members were LDC partners and their initiative was well appreciated by the Group. LDCs wished to ensure the realization of those efforts with their services suppliers.

4.18. Furthermore, Members could appreciate that while many in Geneva might be able to work out what the notified preferences meant and what was required of LDC services suppliers to benefit from those preferences, that was not the case on the ground in the different LDCs, for the actual services suppliers. It was for that reason that the Group also sought to have Members share efforts undertaken to enable LDC services suppliers to understand the requirements of the preferences, and how to use them to their benefit.

4.19. In paragraphs 2.2. and 2.3. of JOB/SERV/CTS/1, the Group envisaged taking a look at the data. It was for this reason that in paragraph 2.1. of JOB/SERV/CTS/2 they had listed some of the details they would find useful, including the latest statistical updates on LDCs' exports broken down, to the extent possible, by sector and bilateral partner, taking into consideration also the latest available data at the time of the event about the impact of COVID-19, especially focusing on the sectors in the preferences.

4.20. In paragraph 2.2 of JOB/SERV/CTS/2, the Group envisaged the sharing of experiences between exporters and importers of LDC services. The Group would like Members to hear from LDC service suppliers about their experiences with business opportunities that they had taken advantage of and about accessing other markets, including what had been easy and what obstacles they had met. In addition, experiences could be possibly shared about how LDC suppliers had overcome those obstacles or how they thought such obstacles could be overcome. Tied to that, case examples of successful LDC exporters would also be helpful because the picture was not all bad.

4.21. The Group also envisaged hearing from businesses in notifying Members that imported services from LDCs. The Waiver was a rare and grand opportunity for LDCs to go a step further from what they were accustomed to doing. The Group believed that there was great value to be gained from hearing the experiences of the users of LDC services, if for no other reason than to hear about why LDC services were not a preferred choice by business consumers in notifying Members. Where they are, the lessons to be learnt for other LDC service exporters was very valuable.

4.22. LDCs knew that notifying Members had access to their trade associations, and the latter included businesses with partners in LDCs that supplied services to their regional operations or at home. For example, Amazon, Microsoft, and major companies in Europe outsourced to LDCs. The Group encouraged Members to do a little homework to make the webinar in 2021 an opportunity to learn more about how LDCs were coming together in the business world, rather than apart.

4.23. Such exchanges would go a long way in helping to know, first, if indeed the Waiver preferences were being utilised and, secondly, how to truly meaningfully promote them, having learnt what was working well and what was not. The LDC Group realized that there might not be an exact relationship with the preferences, but it could certainly gain valuable information about what was happening on

the ground where markets were accessed and where interest in LDC services existed in notifying Members.

4.24. In Paragraph 2.3, and as LDCs had heard from their engagements with Members, the Group envisaged a session to share information on government support and initiatives to assist LDC services suppliers, including domestic policies, technical assistance and capacity building measures targeted at orienting LDC services suppliers to the notified preferences, as well as initiatives by governments to support LDC services suppliers in taking advantage of export opportunities. Members would agree that that information had been helpful during previous sessions and updates in that regard would be equally useful.

4.25. Finally, as indicated in paragraph 2.4, in the last session the Group envisaged a reflection on the lessons learnt and on how to move forward to take LDCs' share of global services trade well beyond 1%.

4.26. The LDC Group once again looked forward to hearing from Members at that meeting, and to continued engagement with all Members to reach agreement on modalities for a successful event in April 2021. The LDC Group also wished once more to thank all notifying Members for their genuine and continued engagement on the Waiver, especially regarding the review of the operation of notified preferences. It also took that opportunity once again to request Members in a position to do, who had not yet done so, to notify preferences which had commercial value, and which promoted economic benefits to LDCs pursuant to paragraph 1.2. of the Nairobi Ministerial Decision.

4.27. The Chairman thanked the LDC Group for its update on the webinar that it had held earlier that week. It was noteworthy that LDC services exports had been disproportionately affected by COVID-19, particularly in the tourism and transport sectors. He thanked Uganda for introducing the Group's latest communication, providing elements for a CTS webinar on that important issue, and expressed the view that there was quite a compelling case for Members to support the LDCs' proposal.

4.28. The representative of Bangladesh echoed the statement made by Uganda on behalf of the LDC Group and thanked the Council for keeping that item on its agenda. LDCs were grateful to all notifying Members for their granting of preferences to LDCs.

4.29. Because of the COVID-19 pandemic, LDCs were in an extremely difficult situation. The progress towards sustainable development they had achieved until then had started a reverse journey. With severe job losses, increasing poverty and aggravating public health situations, LDCs were facing severe challenges, and the services sector was no exception.

4.30. Bangladesh supported the idea of holding CTS webinar in April 2021 as proposed in JOB/SERV/CTS/1. As stated, the objective of the event was clear, namely to better orient LDC service suppliers and consumers in notifying Members about the existence of the Waiver preferences and to obtain first-hand information and interaction among those actors.

4.31. Bangladesh also welcomed any further initiative by the Secretariat on updating LDCs' services trade data on a quarterly basis, to better inform Members on LDC trade by sector and mode of supply.

4.32. The representative of Japan expressed his appreciation to Uganda and the LDC Group for tabling their proposal in writing. His delegation was flexible on the proposal to organise a webinar in 2021.

4.33. Japan was one of the Members that had notified preferences under the Waiver, and in order to facilitate the increasing participation of LDCs in trade in services, it was important to recognize the challenges and restrictions facing LDC Members.

4.34. From that perspective, his delegation had appreciated the dedicated session and the workshop held in 2019. Moreover, the webinar on "COVID-19, Trade Measures and Services Trade" that had just been held that week had also been very useful and informative and had illustrated the challenges and opportunities facing LDCs in the time of the COVID-19 crisis.

4.35. On the LDC proposal in JOB/SERV/CTS/2, his delegation appreciated the new communication on the elements for a CTS webinar, which clarified the intention of the webinar, reflecting comments that Members had shared at the informal CTS meeting.

4.36. In summary, Japan was open to the organization of the proposed webinar and would continue to engage with Members on the event.

4.37. The representative of Turkey thanked the LDC Group for its written proposal and expressed her delegation's full support for the suggestion to hold a CTS seminar in April 2021. Her delegation had found the programme outline extremely beneficial and was examining it carefully in order to identify areas where Turkey could contribute to the webinar content. Turkey hoped that the webinar could assist in promoting the implementation of the preferences notified under the Waiver.

4.38. The representative of India said that her delegation attached the utmost importance to the meaningful implementation of the preferences granted under the LDC services Waiver by all preference granting Members, with the ultimate objective of increasing the LDCs' share in global exports of services.

4.39. India was committed to making concrete contributions to the effective implementation of the Waiver. In that regard, as already stated during the informal meeting, India fully supported the request by the LDC Group, as contained in the communication JOB/SERV/CTS/1, for a CTS webinar to facilitate implementation of preferences notified under the Waiver.

4.40. India also thanked the LDC Group for the programme outline in document JOB/SERV/CTS/2, which would allow Members to prepare adequately so that the webinar could lead to fruitful outcomes.

4.41. The representative of China said that, as a developing Member, China had always firmly supported the better integration of LDC Members into the multilateral trading system and attached great importance to the LDC services Waiver. In 2015, within its capacity, China had notified the WTO of the preferential treatment granted to services and service suppliers of LDCs under the Waiver. Since then, China had actively implemented those preferential measures and provided strong support to LDCs in such areas as tourism-related infrastructure construction, services trade capacity building, and construction of medical, educational, sports and cultural facilities.

4.42. China welcomed the LDC proposal to hold a webinar on the implementation of the Waiver in April 2021, so that Members could better understand the practical difficulties faced by LDCs and provide capacity building and technical assistance to them in a more targeted manner. With the aim of helping LDCs promote their economic development through participation in the multilateral trading system, China would continue to engage and would like to encourage Members to exchange their relevant experiences and practices in the Council's future discussions.

4.43. The representative of Singapore expressed her delegation's support for the LDC proposal and appreciation to the LDC Group for considering further the comments that had been shared by Members at the informal Council meeting. Singapore remained very open to discussing with the LDCs. As a notifying Member, Singapore supported the idea of helping LDCs better understand some of the issues involved and provide further information sharing and capability building.

4.44. The representative of Canada congratulated the LDC Group on the webinar on "COVID-19, trade measures and LDC services trade", which Canada had attended and found informative.

4.45. Canada thanked the LDCs for their contributions and engagement during the informal CTS meeting, and for their proposal to organize a CTS webinar. Canada also welcomed the informal communication. That continued work underlined the importance of trade in services for LDCs' economic growth and ways to further the integration of LDCs in the multilateral trading system.

4.46. Canada could support a CTS webinar that built on the successful October 2019 Dedicated Session, which had offered valuable insights into the state of LDC services trade. Her delegation highlighted the importance of continuing to facilitate the exchange of information, particularly as it related to the experiences of LDC service suppliers and to where key opportunities and challenges, including challenges related to COVID-19, existed for those suppliers.

4.47. As had been heard at the October 2019 Dedicated Session, LDC trade remained primarily a regional activity. Canada was keenly interested in hearing more from LDCs, to inform how to construct programming related to services and contemplate ways to better enable services trade with and between LDCs more broadly. Therefore, hearing from successful LDCs exporters would be valuable. Canada also remained engaged in learning more about concrete obstacles faced by LDCs seeking to use the Waiver preferences.

4.48. The representative reiterated the importance of LDC-specific and sector-specific data, as it could help to inform potential programming. Canada acknowledged that that data gap figured into broader data gaps across services trade. Her delegation continued to encourage work on that issue, as well as with relevant international organizations as appropriate.

4.49. Her delegation was pleased to see a number of its comments being integrated in the LDC proposal in document JOB/SERV/CTS/2. While it was important for Members to consider ways to facilitate services trade for LDCs, Canada also acknowledged LDCs' interest in further market access opportunities and said that Members that had not yet notified preferences should be encouraged to do so.

4.50. The representative of the European Union thanked the LDC Group for their proposal to hold a webinar on the operationalisation of the LDC services Waiver. The EU had appreciated the opportunity to discuss the proposal further at the informal CTS meeting held the previous week and also wished to thank the LDC Group for their communication in JOB/SERV/CTS/2, which provided further clarification on the objectives and envisaged structure of the proposed webinar.

4.51. The EU attached great importance in assisting LDCs to strengthen their services economies and services trade. The Waiver was a very important instrument in that respect, in addition to the development and capacity-building programmes.

4.52. The EU had found the exchange of views on that topic at the CTS seminar of October 2019 fruitful and could agree with the LDC Group that a webinar in 2021 could be a good opportunity to continue discussions on the operationalisation of the Waiver and on LDC services trade.

4.53. Her delegation would need to consult a bit further the proposed outline. However, generally, the EU thought that the proposed outline for the event was a good starting point. From the proposed outline the EU understood that the objective of the event was rather broad, and it was generally supportive of having a broad objective. The EU also appreciated that the LDC Group had taken into account its suggestions communicated at the informal CTS meeting and bilaterally.

4.54. The representative congratulated the LDCs for the successful webinar held earlier that week, and thanked Uganda for highlighting the main elements that had been discussed at that event.

4.55. The representative of Australia thanked Uganda and the LDC Group for the new communication and the further explanations provided at that meeting. She was very grateful for the efforts of Uganda and the LDC Group in taking on board some of her delegation's feedback, discussed bilaterally and at the informal meeting the previous week, particularly Australia's interest in hearing from LDCs on any challenges they faced in taking up the preferences, to facilitate a comprehensive discussion of those issues, as well as hearing about the latest data developments.

4.56. Her delegation was still considering the specifics of the communication in Capital and how it could participate, but Australia was very supportive of continuing those kinds of discussions and discussing further with Uganda and the LDC Group.

4.57. The representative of Brazil thanked the LDC Group for their written communication and Uganda for the presentation provided at that meeting. His delegation had noted and appreciated that the programme outline reflected the discussions that had been held at the informal meeting and had taken into account many of the elements proposed by Members. Brazil supported the initiatives and the outline; his delegation was analysing the document carefully and would be ready to engage in the discussions and look at a possible participation in the webinar.

4.58. The representative of South Africa thanked the Group for the insightful webinar held earlier that week and supported the LDC proposal circulated for that meeting. Her delegation was of the

view that monitoring and evaluation were critical to check meaningful implementation of the preferences granted under the Waiver, with a view to effectively tracing the impact of the Waiver with respect to increasing LDCs' share in global services trade.

4.59. Building on what Uganda had highlighted, South Africa proposed discussing the introduction of an on-line, WTO-hosted portal for LDC service suppliers and importers of such services, so that they could record bottlenecks or challenges in activating the preferences granted. The portal could facilitate the real-time collection of sector and mode-specific data and could also give preference-granting Members the opportunity to look into ways to address issues recorded therein.

4.60. The representative of the Republic of Korea appreciated Uganda's comprehensive explanations. As a notifying Member, Korea believed that the proposed workshop would help shed light on the significance of nurturing capacity in the poorest countries, LDCs in that case, for them to fully enjoy the benefits of the preferences granted under the Waiver. Korea wished to continue to engage with the LDC Group and other notifying Members to make the webinar most useful.

4.61. By way of initial reaction, his delegation was generally content with what the LDC Group had proposed in the programme outline in JOB/SERV/CTS/2 and intended to review it further to make a greater contribution to enrich its substance, especially in consideration of the recovery from the COVID-19 pandemic.

4.62. The representative of the United States thanked the LDCs for their communication and the new draft agenda for a CTS webinar on the Waiver in 2021. The United States was still reviewing the proposal. While his delegation did not, in principle, oppose webinars to help inform Members on various issues and exchange information, it had not fully reviewed the proposed agenda yet and therefore was not in a position to support the webinar agenda as presented until it had had a chance to see if the concerns it had with the initial proposal had been adequately addressed. That day's explanation by the LDC Group had been very helpful and his delegation would reflect on those inputs, but the United States had some concerns and wished to see if those had been resolved.

4.63. The United States was open to learning more about the challenges LDC service suppliers were having in expanding their service offerings, both from a domestic regulatory perspective, given that domestic reform helped build services markets, as well as challenges facing LDC services exporters. Were those challenges a result of the pandemic, or something more systemic, such as regional barriers, or restrictive domestic policies that hindered exporters? LDCs had mentioned digitization; were restrictive practices in that area restraining the opportunities for LDC service suppliers? Any future webinar might possibly build upon the information shared at the LDC webinar held earlier that week.

4.64. The draft agenda mentioned the examination of data, and more data and analysis that helped Members deal with the issue constructively would certainly be opportune. His delegation would particularly welcome more information from those notifying Members where LDCs had used preferences about what their experiences had been. Had the use of preferences been a benefit to LDC services suppliers? The United States would wish to hear about those experiences.

4.65. In sum, his delegation still needed to examine the agenda before it could move forward concretely with the webinar but in principle his delegation did not oppose webinars as long as the discussion added value for all Members to understand that important issue. The United States looked forward to working with the LDCs and interested delegations in developing a programme for a possible webinar in 2021 that added value to the discussion of that topic.

4.66. The representative of Uganda, speaking on behalf of the LDC Group, thanked once again all Members for their support for the proposed 2021 webinar. LDCs valued their partnership with all Members in taking LDC services trade performance forward and were very encouraged by the support expressed at that meeting. She especially thanked all the Members that had put forward additional ideas that could be included in the webinar. As had been mentioned earlier, LDCs saw the Waiver as a great way to move forward and were ready to engage in various ways to make the most of it. LDCs remained available to speak more with notifying Members on any specifics of the role they could play in the webinar and offer any further clarifications as well as ideas for making the event foreseen for April 2021 a great success.

4.67. The Chairman expressed his appreciation to all delegations who had taken the floor to share their comments and views, which had been very useful. He noted that there was broad support for the LDC Group's proposal to organize a webinar that would allow for a dialogue, and an exchange of views and experiences, between LDC service exporters and importers in notifying Members.

4.68. The LDC proposal in JOB/SERV/CTS/2 contained four key elements. First, trade data, which provided the information and essential foundation for the discussions. Second, experience sharing, by exporters and importers, which would bring together key stakeholders, including, importantly, businesses. The third element, which took on board the inputs from several Members, was to get the perspective from the LDC service suppliers. Fourth, lessons learnt and next steps.

4.69. The LDC proposal addressed and incorporated most of the comments and elements put forward by delegations during the informal meeting and in bilateral consultations. Members had found the outline very useful in providing greater clarity about the objective and scope of workshop, and some delegations had also made additional comments.

4.70. He was of the view that there was sufficient basis to ask the Secretariat to try its hand at preparing a draft programme for the workshop, which would be circulated for Members' consideration. The draft would be drawn up on the basis of the LDC outline in JOB/CTS/SERV/2, as well as the views shared by Members at that meeting, and would provide greater clarity to all Members. Once the outline had been circulated, delegations would be able to offer any further comments and views. He suggested that Members agree to that course of action, and that the Council take note of the statements made.

4.71. It was so agreed.

5 ITEM E: WORK PROGRAMME ON ELECTRONIC COMMERCE

5.1. The Chairman recalled that, at its previous meeting, the Council had continued its deliberations of the joint communication from a group of Members titled 'Exploratory discussions on supporting digital capability of business and consumers', circulated as document JOB/SERV/296/Rev.3, and which had first been addressed by the Council at its July meeting. A revision of the communication, Revision 4, had been issued to add Korea as a co-sponsor.

5.2. He indicated that the communication had generated significant interest and discussion. Many Members had provided answers to the questions posed in the document, with several delegations presenting detailed information and follow-up accounts of the initiatives they had undertaken to support digital capability of business and consumers. Other Members had also shared their own experiences in the e-commerce ecosystem, and China had provided information on its efforts to promote the development of the e-payment sector. Members had emphasised that the role of e-commerce in fostering economic growth and development would continue to expand, while also acknowledging its benefits. A few Members had affirmed that the Work Programme discussions had mainly centred on the gains of e-commerce and had not sufficiently addressed the significant challenges that it posed.

5.3. Against this background, the material that had been shared in the Council's most recent discussions had offered a useful contribution to help Members' reflections and understanding of e-commerce. Members had also provided valuable information about the various measures that they had taken to enhance digital capabilities, both to reap the opportunities and tackle the challenges that e-commerce presented.

5.4. The Chairman was of the view that it would be a pity to leave the wealth of information that had been provided by Members scattered in the records of the meetings. Compiling such material in a more structured manner would enhance transparency of the various initiatives that had been taken in the e-commerce sphere and would represent a useful follow-up to the Council's most recent discussions on this important subject.

5.5. As such, the Chair suggested that Members request the Secretariat to collate the information and materials that had been shared during the deliberations and to compile them into a stand-alone document. The document could become a living text, updated as additional relevant information was made available to the Council. In addition, Members might identify pertinent materials that they

had shared at earlier meetings to be included in such a compilation. The Chair looked forward to hearing Members' views and reactions to the suggestion. He opened the floor to any delegation wishing to revert to the communication, as well as to Members wishing to speak to the sub-item on "exchange of information and experiences", or to the Work Programme more broadly.

5.6. The co-sponsors who took the floor thanked Korea for co-sponsoring the communication.

5.7. The representative of Mexico shared her delegation's experience with the programme 'Mujer Exporta MX', which had been recently launched and consisted of business rounds for Mexican businesswomen and training courses to help them export by electronic means to the North American region under the recent agreement signed between Mexico, the United States and Canada (USMCA). The project aimed to promote business opportunities in the region and the establishment of contacts with businesswomen from Canada and the United States. Importing companies had to be registered in the United States or Canada and have a website to offer products.

5.8. The programme was managed by the Ministry of Economy of Mexico, the Mexican Institute for Women, the Ministry of Culture, the Ministry of Finance and Public Credit, in collaboration with the Inter-American Development Bank and ConnectAmericas. A website called MIPYMES.MX - DIGITAL TRAINING had also been created by the Ministry of Economy, where resources had been made available to help micro, small and medium-sized enterprises (MSMEs) strengthen and increase their participation in domestic and foreign markets, including through e-commerce. In addition, workshops had been held for the empowerment and digital literacy of women. The website also disseminated information on the use of fintech tools for electronic payments in cooperation with Banco de Mexico; cooperation programmes with other governments; the existence of financing funds for MSMEs (such as in the context of the Pacific Alliance); as well as on support, credits and measures undertaken by the government to alleviate some of the adverse economic effects of COVID-19. Mexico looked forward to continuing sharing information on these issues in the context of e-commerce and its evolution as a result of the COVID-19 pandemic.

5.9. Regarding the proposal by the Chairman for a compilation of information shared by Members under the Work Programme, Mexico was of the view that the proposal was very relevant, as the compilation would facilitate access to the valuable information contained in the minutes of the meetings. Mexico also considered that such a tool could be enriched with information provided by Members at future meetings, classifying such information, in order to help delegations, including in Capital, to visualize the rich exchange taking place on this matter at the Council.

5.10. The representative of the Republic of Korea stated that his delegation was pleased to co-sponsor the communication in document JOB/SERV/296/Rev.4 and to have the opportunity to share with Members information on its experiences and policy tools. In the era of COVID-19 and post-COVID-19, business enterprises and consumers depended on digital transactions more than ever. Well-prepared companies with digital competitiveness savoured more opportunities to effectively approach consumers. At the same time, consumers with digital capabilities were able to survive the pandemic as they could more easily acquire essential goods and services, as well as secure their jobs through remote work and other similar modes of work. In Korea, the mobile distribution rate was very high, the IT infrastructure was well established, and delivery services were highly developed. In those circumstances, Korean consumers were able to effectively procure essential goods, such as food products, and non-essential goods, such as daily commodities and electronic products, without any physical contact.

5.11. In terms of share in online shopping in all retail sales, Korea had one of the highest in the world. The proportion of online shopping was around 22% before the pandemic. That ratio had skyrocketed to around 28% in February and March 2020. In the second quarter of 2020, it had relatively stabilized to around 26%, which was still much higher than before the pandemic. Overall, online shopping had greatly contributed to the daily lives of Korean people. And this contactless way of shopping was part of the reasons why Korea had had a relative low rate of COVID-19. As a result, a well-functioning e-commerce had acted as a preventive measure against COVID-19 and, at the same time, had led to a resilient economy.

5.12. In this pandemic, the bottom line was how business enterprises, especially MSMEs, were well-equipped with digital capabilities for their daily business activities and how consumers, especially the elderly, acquired digital literacy for their daily lives. The Korean government had in fact upgraded

its digital literacy facilitation program in 2020. In that regard, Korea had started a new programme named the 'Digital Education Laboratory' in September. In that programme, local governments utilized the available space within their community centres and hired instructors to teach digital literacy to all citizens.

5.13. The Korean government had announced in July a 5-year national development strategy, so-called 'K-New Deal' aimed at stimulating the economy on the macro-level and upgrading business competitiveness on the micro-level. The strategy comprised three components: the Digital New Deal, the Green New Deal, and strengthening the social safety net. There were numerous programmes in the Digital New Deal, but at that juncture his delegation would focus on two of them. The first programme was the 'MSMEs remote work facilitation program'. The method of remote work was inevitably becoming a kind of business standard. The programme focused on giving MSMEs more opportunity to carry out their regular tasks, as they were able to receive voucher-based consulting services related to virtual communications, working from home, cyber security, etc. The annual ceiling amount was USD 40,000 per company and the number of companies expected to receive that service was 160,000 in 2021.

5.14. The second programme was the 'Online business support program for small business', covering also small non-corporations and micro and small corporations. As small businesses experienced difficulties in marketing, especially online marketing, the Korean government had been providing programmes to support them penetrating private and public online platforms. His delegation had initiated a programme for supporting small businesses to enter private online platforms several years earlier. In addition, Korea had started a new programme for adding the broadcasting function onto the existing public e-commerce platform, which was a sort of 'live commerce'.

5.15. The representative of [Brazil](#) reiterated his delegation's appreciation for Australia's leadership as co-sponsor of the communication, which offered an opportunity for all Members to share their experiences in fostering digital inclusion and the development of the digital economy. At the previous meeting, Brazil had shared information on its domestic and regional initiatives in the fields of digital payment systems and interoperability, as well as on the mutual recognition of electronic signatures. At that juncture, his delegation would focus on a related issue, that of digital government, a matter that was considered crucial for building digital capabilities and promoting a better business environment through a more efficient, less bureaucratic and paperless relationship between the government, companies and citizens.

5.16. The incorporation of ICTs in Brazilian public agencies and their use for the provision of digitized public services had been established by the Brazilian Digital Government Strategy (2020-2022). Its main objective was to make all public services available on digital channels by 2022 at the federal, state and municipal levels. The Strategy was intended to complement, and not to replace, the provision of face-to-face public services, which continued to be offered to citizens who did not have access to the internet.

5.17. Brazil had the 4th largest connected population in the world, although it occupied an intermediate position (44th) in the United Nations ranking in the provision of electronic public services by digital governments. Therefore, there was room for improvement and a remarkable growth had taken place in the context of the COVID-19 pandemic, the Government having digitized 345 types of services, with an average of three new services every two days since March 2020. In that regard, the 'Gov.br' portal had been an important initiative aimed at unifying the federal government's digital channels. The portal gathered in one place services for the citizens and businesses and information on the performance of all areas of government. The Government's websites were being integrated to make the 'gov.br' portal the single entrance to the institutional pages of the federal administration, offering citizens and businesses a direct and quick channel of relationship with federal agencies. In January 2019, there were 918 out of a total of 3,700 public services that could be accessed by citizens over the internet. At that time, 60% of the 3,700 federal government services were digital. This would also be an important platform for access to and use of open government data.

5.18. The estimated savings from digitizing public services were more than R\$ 2 billion (around USD 400 million) per year. Most of this, or more than R\$ 1.5 billion (around USD 300 million) corresponded to cost reductions for citizens and business, who could access services in a full digital manner. For the Government, the savings were approximately R\$ 531 million (USD 100 million), with the reduction of expenses regarding staff, electricity, water and paper. Furthermore, it was

estimated that digital services were 97% cheaper, as all the processing and analysis of orders was no longer done by staff.

5.19. Other advances in connectivity had been noted at the municipal level. According to the results of the ICT Electronic Government 2020 Survey carried out by the Regional Centre for Studies on the Development of the Information Society (Cetic.br), the proportion of city halls connected via optical fibre and with up to 10,000 inhabitants had gone from 32% in 2017 to 63% in 2019. Among municipalities between 10,000 and 100,000 inhabitants, the number had risen from 52% to 79%. Likewise, there had been advances in the provision of electronic services among municipalities with a website, such as issuing of electronic invoices and bills (from 51% to 69%), filling or sending forms via the website (from 55% to 61%) and issuing tax invoices or other fees (from 38% to 53%).

5.20. Brazil would share information regarding some domestic e-government initiatives related to trade, such as the ongoing work of establishing paperless customs procedures, in the future. At the regional level, Brazil was working with its Mercosur partners on the digital interoperability of customs procedures, which would further facilitate trade within the region. Brazil remained available to share further information with interested Members. His delegation also looked forward to hearing from other Members on how the digitalization of government services could help to mitigate the economic challenge and social impacts presented by the COVID-19 pandemic.

5.21. Finally, Brazil welcomed the suggestion put forward by the Chairman for a compilation of domestic and regional experiences aimed at supporting digital capabilities, which could further facilitate the participation and sharing of experiences from developing countries under that agenda item.

5.22. The representative of Singapore stated that her delegation considered that a very constructive exchange on Members' domestic measures, experiences and cooperation initiatives had been taking place under that agenda item. The next step would be for Members to consider how they could use the wealth of information shared at the meetings in a useful and productive manner.

5.23. First, as it was envisaged that the discussions would continue, Singapore encouraged Members to continue their engagement, sharing information under the Work Programme. Second, very valuable information had been provided over the years and it would be good to contextualize and present such information in a structured manner. Information exchange and discussions on e-commerce had been going on for decades in the WTO and the amount of information was massive. Given the pace of digital developments, Members should ensure that the discussions were maintained up to date, taking into consideration digital and policy developments from all around the world. While Members might have some differences in perspectives, it would be important to look ahead in order to plan the future meetings of the Council.

5.24. To that end, her delegation could explore the idea of organizing the information in a structured and focused manner, bearing in mind that all information had already been made available online, for example through governments websites, covering a wide spectrum of topics. Therefore, it would be worth exploring how to start such an exercise in a focused and specific way, for instance, by starting with the most recent information submitted in 2020 given the richness of the discussions. Singapore looked forward to further discussing the proposal with other Members.

5.25. The representative of Chile thanked the co-sponsors of the communication for the significant contribution that it was making to the discussions in the Council, especially in the current circumstances. In recent years, there had been a significant and sustained growth in online commerce, which had accelerated as a result of the COVID-19 pandemic in a rapid and unexpected way. This had posed a series of challenges for goods and services providers, especially for MSMEs.

5.26. In that context, Chile considered the exchange of information on national programmes to increase digital capacity a very useful and timely cooperation initiative. Since the first question in the communication had already been adequately answered by other delegations, at that juncture, Chile wished to make a contribution based on the second question in the document, related to national programmes, policies or practices that had been implemented to increase digital capability and reduce the digital divide, including different types of assistance provided to MSMEs.

5.27. The e-commerce support programme 'ExportaDigital' developed by the Chilean export promotion agency, ProChile, aimed to facilitate Chilean exports of goods and services through the use and development of digital channels, be it an autonomous online store or with a presence in electronic markets. ExportaDigital provided practical and relevant information for exporting MSMEs, for example, on how to create a virtual store, which platforms were the most suitable, how to attract customers to a store, what digital payment methods were used in the most important markets, and how to address logistics. Likewise, ExportaDigital presented testimonies of successful cases, with practical recommendations from the perspective of entrepreneurs, and invited MSMEs to learn more about the operation of the online channel, so that they could search and select the most relevant electronic markets for their products and services, design and execute commercial promotion and sales actions in those markets. This information was presented through simple and accessible means, such as guides and tutorials available on the initiative's website www.prochile.gob.cl/exportadigital.

5.28. The representative of India thanked the proponents of the communication and stated that the COVID-19 pandemic had disrupted the normal life of citizens and services globally. The Indian Information Technology (IT) landscape had not been left untouched by that global phenomenon. During that period, IT had evolved as a major tool for the government, businesses and consumers.

5.29. As part of the Digital India programme, the Government had been making use of digital solutions and digital delivery of services for G2C, G2B, G2G and G2E services, thereby facilitating good governance through better efficiency and transparency in governance. Some of the challenges faced by India in the digital delivery of services included the digital divide, particularly in rural, remote, and hilly areas; the language divide, as more than 90% of the content in digital space remained in English, while a large percentage of the population conversed in their native language; sustainability of funds in e-governance projects; and cyber security risks. As to the opportunities in the digital space, India was a data-rich country and a huge growing market along with millions of youth available as Science, Technology, Engineering and Mathematics (STEM) skilled workforce every year. India was also the largest democracy presenting an open society and a business-friendly government.

5.30. With respect to the second question posed in the communication on initiatives taken by Members to address the challenges, India had been undertaking initiatives like 'BharatNet' and Fibre to the home (FTTH), which aimed to address the digital divide by making broadband available and accessible to every Indian citizen. The 'National Digital Communications Policy' (NDCP), notified by the Government of India in 2018, had been a significant step towards providing communications infrastructure support to the entire Indian population with its varying demographic profiles. The policy was aimed at facilitating India's effective participation in the global digital economy by ensuring provision of universal broadband connectivity to all uncovered areas and expanding the Internet of Things (IoT) ecosystem. Through the 'Future Skill Programme', India was facilitating the skill development of professionals on emerging technologies. To bridge the language divide, the National Language Translation Mission was being implemented with an aim to provide language translation facilities in 22 Indian regional languages.

5.31. As the COVID-19 pandemic had broken out, India had developed a specialised Bluetooth-enabled contact tracing mobile App, Aarogya Setu, for helping augment the efforts of limiting the spread of pandemic by mapping the likely hotspots and dissemination of relevant information about COVID-19. The application had more than 164 million users as of November 2020, which was more than any other Contact Tracing application in the world. Several other applications, such as PM Dashboard for COVID-19 Status/Updates, COVID-19 Volunteers Database of MSMEs, Special Surveillance System (S3) for tracking COVID-19 patients, had been developed and implemented to facilitate the efforts in tackling the COVID-19 situation. Another useful mobile application, KisanRath, had been developed to facilitate smooth transportation of agricultural produce during lockdown.

5.32. India had implemented 'Government e-Marketplace portal' to facilitate e-commerce in the Government for public procurement of goods and services. In that regard, MSMEs had handled 57% of total orders by value handled at that portal. India's Unified Payments Interface (UPI) powered multiple bank accounts into a single mobile application, merging several banking features, seamless fund routing and merchant payments into one umbrella. UPI had recently surpassed 2 billion transactions in a month, which had been a major step towards enabling the delivery of digital services and financial inclusion of all entities. Bharat Quick Response (QR) allowed customers to make payments using their smartphones by scanning QR codes at merchants' location. MSMEs,

especially the brick and mortar shops, had been able to accept digital payments using those low-cost acceptance infrastructures. The payment history of those transactions was also helpful for businesses in accessing credit or loans.

5.33. Her delegation considered it useful for Members to share their national experiences and, therefore, the Work Programme should remain an important feature of the work of the Council. India urged the Membership to examine the issues mandated under the Work Programme instead of prematurely jumping to rulemaking. India believed that negotiations on rules and disciplines on e-commerce would be very premature at that stage, especially given the highly asymmetrical nature of the existing global e-commerce space.

5.34. Regarding the e-commerce Moratorium, India reiterated its long-standing view that the Moratorium adversely impacted developing countries not just from the revenue point of view, but also in terms of negatively impacting developing countries' efforts towards their digital industrialisation. India looked forward to a meaningful and comprehensive discussion on the twelve issues mentioned under the Work Programme.

5.35. The representative of Australia thanked all delegations who had shared information on their policies and programmes at that juncture. Regarding the proposal made by the Chairman on a compilation, Australia considered that such a compilation could be a useful product and, therefore, it was open to consider the proposal, particularly if the compilation would cover information already provided under that agenda item. To evaluate the proposal further, Australia sought further information about the process, for instance, on how the product would be compiled and whether it would be presented to Members and, if so, how such a process would be conducted. Her delegation would appreciate further clarification on those issues before the proposal could be taken forward.

5.36. The representative of China thanked again the co-sponsors of the communication and stated that it was supportive of the discussions under that agenda item. At the meeting of the Council in October, China had shared experiences in promoting the development of the e-payment sector. At the same time, China had noted the concerns of Nigeria, Malaysia and other Members about the issue of the digital divide. For China, pragmatic and inclusive cooperation among Members was important and necessary, as it could help MSMEs cope with obstacles in the development of e-commerce. In recent years, China had actively carried out South-South cooperation in electronic commerce and had provided assistance, within its capacity, to other developing Members and LDCs, including in the construction of network infrastructure, establishing the e-commerce platforms in rural areas, and capacity-building. China encouraged Members to continue the information-exchange stimulated by the communication, and hoped that, through more in-depth discussions, Members could deepen their understanding on e-commerce-related services and find out what the WTO could do to overcome challenges and seize opportunities.

5.37. The representative of Canada thanked all Members that had taken the floor for sharing their domestic experiences and encouraged other delegations to do so. As to the proposal for a compilation put forward by the Chairman, while exploring it, Canada would appreciate further clarification on some aspects. Like Australia, Canada would be interested in knowing how the information would be compiled, presented in the document, and how it would be disseminated. Canada also sought further clarification on whether Members would have an opportunity to review their own inputs before a draft was circulated to Members. Likewise, Canada wished to know whether the document would be part of any initiative or process. More information would be useful to allow Canada to consider the proposal.

5.38. Finally, Canada did not agree with the statement made concerning the development of new rules on e-commerce. The JSI negotiations on e-commerce were open, inclusive and transparent, and any interested Members could join the initiative. Canada also wished to point out the increased number of developing Members participating in the e-commerce JSI.

5.39. The representative of the United States stated that his delegation was a strong supporter of the Work Programme and the sharing of experiences, indicating also that Members had exchanged useful information at that juncture. On the proposal by the Chairman to compile information, at that juncture, the United States was not supportive of such an exercise, as it considered that such information was not hard to find given that it was contained in the reports of the meetings. The United States did not see value in repackaging such information, which could be taken out of context

and would institutionalize something that was not part of the Work Programme. The United States agreed with points made on the JSI on e-commerce, which was on-going, and strongly opposed the notion that the Moratorium had a negative impact on development. In the view of the United States, it was the opposite.

5.40. The representative of South Africa indicated that, to facilitate and improve digital capability in Africa, it was important to prioritise the data divide in order to enhance the continent's capability to leverage the commercial value of such data. That, in turn, would help to diversify growth and integrate the digital economy in Africa.

5.41. Members needed to cooperate better under international agreements to further national policy frameworks and achieve the interoperability of payment systems, which were key to facilitate transactions in the digital economy. In addition, it would be important to work on facilitating digital investment, increase the level of technology transfer, develop essential digital infrastructure and reduce the cost of data.

5.42. South Africa had observed that, since 1998, there had been no meaningful progress on addressing the relationship between electronic commerce and development in a focused and comprehensive manner with a view to effecting positive changes to the intractable development problems across the developing world. South Africa requested the co-sponsors to elaborate on measures and actions they had undertaken concerning their obligations under Article VIII:1 and VIII:2 of the GATS.

5.43. With some Members opting to advance rules on electronic transmissions under the JSI on e-commerce, it was time to accept that the Moratorium on customs duties on electronic transmissions had been unravelled by this, with the issue of an extension becoming defunct in the view of South Africa.

5.44. To conclude, her delegation considered that future discussions could benefit from the following technical inputs: sector specific e-commerce Notes prepared by the Secretariat capturing the evolving nature of e-commerce activities across all services sectors and modes; and a compilation of on-going or emerging business practices by e-commerce services suppliers that, as stipulated in Article IX of the GATS, might restrain competition and, thereby, restrict trade in services for developing countries.

5.45. The representative of Hong Kong, China said that his delegation welcomed Korea as one of the co-sponsors and also welcomed the information shared by Members across the different spectrum of developing and developed Members. Hong Kong, China found that information sharing was very informative and useful and they encouraged more developing countries to join and share their experiences, as well as the challenges facing them in handling the digital capabilities of MSMEs.

5.46. Regarding the proposal by the Chairman on a compilation of information based on Members' inputs, his delegation was considering it with an open mind. As other Members, his delegation would appreciate more clarity on the actual process and scope of the information to be compiled. For instance, he asked whether the compilation would focus on information shared in the Council or would also include information available elsewhere, such as the WTO webpage providing information on COVID-19 and world trade. Members had also shared information on different measures in the context of the pandemic, with some Members also providing information in the context of the trade monitoring process, in which his delegation had participated actively. Hong Kong, China sought further clarification on whether those sources of information would also be considered, to avoid duplication of efforts and streamlining processes. Hong Kong, China was open minded to consider the proposal and looked forward to engaging in the process.

5.47. The representative of the European Union indicated that her delegation appreciated the on-going exchange of information on Members' policies, instruments and programmes aimed at strengthening digital capabilities and addressing the digital divide. The European Union had contributed to that exchange of information with some project and programme examples back in July, and suggested to share additional information, for example bilaterally, if Members were interested in having further details on the examples provided by the European Union. Her delegations would be happy to continue that exchange.

5.48. With respect to the suggestion made by the Chairman to compile the information provided by Members in the previous few months, the European Union would be happy to consider such an idea further. Like other Members, the European Union would appreciate having further information on the envisaged timeline, objective and other details of such an exercise.

5.49. On the WTO Moratorium on customs duties on electronic transmissions, the European Union wished to reiterate its strong support for a permanent Moratorium. Her delegation considered that there was clear evidence about the far-reaching benefits the Moratorium had for business and consumers across the economy and different Members. The European Union also considered that global rules on digital trade were long overdue and appreciated the progress made under the JSI, which was transparent and open to all Members.

5.50. The representative of Botswana, speaking on behalf of the African Group, wished to recall the intervention made by the Group at the CTS meeting held in July. The Group continued to support the idea of having focused exploratory discussions under the Work Programme and thanked those Members that had shared their experiences. It remained critical to extend the scope of the discussions in order to comprehensively address the development interests of developing countries in order to ensure digital inclusion and not leave anyone behind.

5.51. As to the challenges faced by developing countries, while COVID-19 had multiplied the use of e-commerce both in developed and developing countries, it was necessary to examine the development impact of e-commerce, particularly on developing countries' exports and associated growth and development.

5.52. The COVID-19 crisis had also exposed the digital divide: about half of the world's population did not have access to the internet, about 25% of the population in developing countries had access to the internet compared to 87% in developed countries, while only 1 out of 5 persons in LDCs were connected to the internet. As a result, countries that were well connected had been able to continue many of their economic operations online during the pandemic, while those that were not hyperconnected were not able to provide basic information on combating COVID-19 where this was most needed. Regarding the global digital divide, it was more pronounced in terms of existing digital infrastructure, data processing skills, and digital technologies. The capacity to store and process data was an important aspect in a digital-driven economy.

5.53. The 1998 Work Programme emphasized the need to examine the challenges of developing countries and to enhance their participation in e-commerce, particularly as exporters of electronically delivered products, including by improving access to infrastructure and transfer of technology. Lack of digital infrastructure and skills put at risk the export competitive of MSMEs in developing and LDC Members. Those Members could benefit from a study on the effects of e-commerce on trade and economic prospects of developing countries, including of MSMEs, and the need to maximize the benefits accruing to them.

5.54. Limited digital technologies and capacity to assess the incomes earned by digital platforms within the boundaries of developing countries, particularly where there was no permanent establishment, had led to huge fiscal losses for developing countries, and there was a study by UNCTAD in that regard.

5.55. After looking at the challenges, it became evident that the gains of e-commerce would not be automatic for developing countries and strategic intervention at the national and international level would be needed. Policy and fiscal space would be required by the developing world to revive their economy, declining trade competitiveness and falling exports. In that regard, digital technology transfers could play a critical role in bridging the digital divide and rebuilding the export competitiveness of developing countries.

5.56. The African Group thanked the Chairman for his proposal and joined other delegations in thinking that it might be a useful initiative. The Group also considered that Members would benefit from further information on the proposal in order to allow them to properly consider the suggestion and how it would help Members to continue reinvigorating the 1998 Work Programme.

5.57. The representative of Switzerland expressed thanks for the suggestion to compile information shared on enhancing digital capabilities, which would be studied with interest. Regarding the

Moratorium, Switzerland echoed the interventions made, particularly by the European Union and the United States. His delegation believed that the Moratorium did not negatively affect WTO Members and that, on the contrary, it provided an important framework condition, which had enabled the growth of e-commerce.

5.58. The representative of Saudi Arabia thanked the co-sponsors of the communication and for the initiative to share experiences and information on the challenges and opportunities of digital trade, as well as on enhancing digital capability in trade in general, especially given the recent experience under the pandemic. For Saudi Arabia, it was important to share information on experiences and measures, as well as challenges. It was also important to consider the digital divide faced by developing countries, business, women and youth, and to help them integrate into the global digital economy.

5.59. Her delegation would cooperate and share its experiences with other Members in the future, particularly regarding the measures shared by G-20 members in the 2020 Summit on digital solutions and challenges, which evidenced that there was a lot to do in that area. In the context of the meetings of the G-20 Working Group on Trade and Investment, a compilation of short-term and long-term measures, which included digital solutions and challenges, had been prepared. As to the Chairman's suggestion, Saudi Arabia would study it in Capital and report back at a later stage.

5.60. The representative of Peru thanked all delegations that had shared their experiences in facilitating and promoting e-commerce. Peru preliminarily agreed with some delegations in considering that the proposal put forward by the Chairman, to compile the information provided by Members, was interesting, as it could allow to continue learning about good practices and facilitate easy access to such information. He also noted that there seemed to be some reluctance on the part of some delegations. Therefore, Peru kindly requested the Chairman to continue exploring appropriate and acceptable parameters for all Members, which could be shared for consideration. Peru stood ready to assist the Chairman towards that goal.

5.61. The representative of Australia said that, regarding the question put forward by one delegation on how the co-sponsors of the communication complied with their obligations under Article VIII:1 and VIII:2 of the GATS, the co-sponsors considered that they were in compliance with those obligations. The co-sponsors sought further clarification from the delegation concerned in order to understand the relevance of those obligations in any case, and particularly, in the context of the current discussion. The representative of UNCTAD informed delegations that it had released a few new studies related to e-commerce and COVID-19 in the previous few months. In October, UNCTAD had presented the results of a survey of consumers in nine countries to see how their online shopping behaviour had changed due to the pandemic. The survey covered Brazil, China, Germany, Italy, the Republic of Korea, the Russian Federation, South Africa, Switzerland and Turkey. The survey had found that about half of all respondents had done more e-commerce during the crisis, with particular increases related to food, hygiene products and pharmaceuticals. Emerging economies had seen greater increases than more mature economies in which e-commerce levels were already quite high.

5.62. In November, UNCTAD had released the results of a second survey, this time of e-commerce businesses in 23 developing countries, mainly LDCs. While 58% of businesses selling their own products or services online had recorded a drop in monthly revenue, about 64% of third-party marketplaces had seen a spike in sales. The study had also reported a notable increase in digital financial services as consumers tried to limit exposure to the virus while paying for food, medicine, health and hygiene products and other goods. The study had highlighted the range of challenges e-commerce businesses had faced during the pandemic, which included, notably, disrupted supply chains, logistical problems arising from restrictions on the movement of people, and high broadband costs. UNCTAD was preparing a report, together with the UN Regional Commissions, on a broader assessment of the impact of COVID-19 on e-commerce in the context of the "eTrade for all" initiative, which was expected to be released in January 2021.

5.63. The representative of UNCTAD also wished to inform Members about some relevant meetings, such as the fourth session of the 'Intergovernmental Group of Experts on E-commerce and the Digital Economy'. The meeting, which had been held in hybrid format in October, had focused on the topic of 'Digital platforms and value creation in developing countries: Implications for national and international policies'. At that occasion, UNCTAD had shared the revised version of the Manual for the Production of Statistics on the Digital Economy, which would be a valuable resource for countries

wishing to measure, for example, e-commerce and trade in ICT services and trade in digitally delivered services. UNCTAD hoped to be able to organize the second session of the Working Group on Measuring E-commerce and the Digital Economy in the second quarter of 2021.

5.64. Regarding statistics, he wished to draw Members' attention to the fact that UNCTAD had published data on trade in digitally deliverable services for the period 2005-2019. He noted that, globally, the share of digitally deliverable services in global exports of services had risen from 45% to 52% during that period. In developed countries, the share was 58%, while in LDCs it was 17%.

5.65. Finally, on capacity-building related to e-commerce, he noted that UNCTAD continued receiving a growing number of requests for assistance. Until then, UNCTAD had completed 27 eTrade Readiness Assessments, mainly for LDCs, but also for some non-LDCs. The day before the meeting, UNCTAD had officially launched the assessment of Iraq. More attention was being placed on the implementation of recommendations contained in the assessments. He wished to take the opportunity to thank both beneficiary countries for their trust and development partners, especially Germany and the Netherlands, whose funding was essential to be able to respond to the growing demand for assistance.

5.66. The COVID-19 pandemic had further accentuated the need for the development community to help bridge the digital divide to ensure that digitalization could bring inclusive development rather than widening inequalities. Against that background, he was pleased to report that a growing number of donors were recognising the importance of the digital dimension in their development assistance programmes. The "eTrade for all" initiative, of which both WTO and the Enhanced Integrated Framework (EIF) were founding members, represented in that context a valuable resource that could be further leveraged moving forward. The "eTrade for all" platform also contained a dedicated part related to resources of relevance to COVID-19 and e-commerce.

5.67. The Chairman thanked the representative of UNCTAD for the update. Thereafter, he thanked all delegations who had provided their views and suggestions on his proposal for a compilation of information related to digital capabilities shared by Members under the e-commerce Work Programme. The underlying objective of his proposal was simple and straightforward, namely, to bring together the wealth of information on concrete and practical initiatives that had already been shared by Members, presenting it in an organized and structured manner in order to facilitate access by Members. He noted that going through the individual reports of the meetings to retrieve such information would be time-consuming for most delegations. Therefore, the purpose of his suggestion was to enable easy access to that information by the Membership, thereby enhancing its utility. The idea was not to propose something that was redundant.

5.68. As some Members had sought clarifications, particularly on how the compilation would be assembled and presented, he would circulate a concept note providing further information about his proposal. He invited Members to share their ideas on the process, including on the structure of the compilation. In the end, it would be up to WTO Members to decide whether they wished to move forward with his proposal. The Chairman also thanked those delegations who had intervened at that meeting to share information and experiences on their e-commerce activities.

5.69. He then recalled that, pursuant to the General Council Decision on the Work Programme adopted in December 2019 (document WT/L/1079), Members had agreed to reinvigorate the work under the Work Programme, based on the existing mandate. Since the beginning of 2020, the Chairman of the General Council had provided Members with an overview of developments under the Work Programme, including in the various bodies entrusted with such work, as part of his regular reports on the implementation of the Ministerial outcomes. However, the Council for Trade in Services had not reported directly to the General Council on its work under the Work Programme since December 2019. He also noted that the Council for Trade in Goods had recently agreed that its Chairman would produce a report on this issue for the meeting of the General Council to be held on 16-17 December.

5.70. He stated that it would be also his intention to report once again to the General Council at its upcoming meeting. In line with past practice, he would be producing, under his own responsibility, a Chairman's Report of the discussions the Council had had under the Work Programme since the last report was issued in December 2019. The report would be purely factual, reflecting the essence

of Members' deliberations in July, October, and at that meeting. He took it that that was acceptable to all Members.

5.71. It was so agreed.

5.72. The Chairman suggested that the Council take note of the statements made and said that the Council would revert to that item at its next meeting.

5.73. It was so agreed.

6 ITEM F: UPDATE OF THE SECRETARIAT BACKGROUND NOTE ON MODE 4 – REQUESTED BY INDIA

6.1. The Chairman indicated that that item had been added to the agenda of the Council at the request of the delegation of India.

6.2. The representative of India said that, as had been emphasized by her delegation on several previous occasions, India reiterated its request for the update of the Secretariat Background Notes on all four modes of supply and also supported further Secretariat work on inter-modal linkages, as requested by one delegation.

6.3. As India had clarified before, while her delegation welcomed the US proposal on the issue of inter-modal linkages, that should not substitute the request to update the separate modal Background Notes by the Secretariat.

6.4. In earlier CTS meetings, India had also identified the potential areas of the mode 4 Secretariat Note of 2009 that could be updated. Those were merely some suggestions. India looked forward to engaging with other interested Members on their views and suggestions on its proposal to update all the modal Secretariat Background Notes. India once again requested Members to positively consider its proposal, which was inclusive and comprehensive. Her delegation believed that it would be a very useful exercise for trade in services.

6.5. The representative of the United States said that his delegation's position on that issue had not changed. The United States did not support updating the Secretariat Background Note on mode 4, as that exercise would not add much value. His delegation had suggested a possible look at the interlinkages between the modes of supply. The United States would remain open to something along those lines but not to separate modal updates.

6.6. The representative of Bangladesh said that his delegation supported the proposal by India and strongly encouraged that the Secretariat should update the Background Notes on all services modes to better understand the current situation and commitments by Members. His delegation also endorsed the suggestion on the preparation of a separate Note by the Secretariat on the interlinkages among the modes of supply.

6.7. The representative of Uganda, speaking on behalf of the LDC Group, said that the Group reiterated its strong support for the request by India to update the modal Background Notes. The Group agreed with the delegation of India that that would be a very useful exercise. In updating that Note, the LDC Group would urge the Secretariat to include specific information on priorities of LDC suppliers, including mode 4 measures identified by the LDC Group in its quest to operationalize the LDC Waiver and notifications with mode 4 entries, as well as limitations.

6.8. The representative of South Africa said that her delegation would like to strongly support India's proposal for the 2009 Note on mode 4 and other modal Notes to be updated, especially considering that the information contained therein was outdated. That could form part of a broader technical support initiative with respect to trade in services. Her delegation also urged the United States, who had objected to that proposal in terms of not providing any value added, to reconsider its position because it made no sense to have a Note on the interlinkages without an updated Note on the different modes.

6.9. The representative of the Bolivarian Republic of Venezuela said that his delegation reiterated its support for the proposal made by India.

6.10. The Chairman suggested that the Council take note of the statements made.

6.11. It was so agreed.

7 ITEM G: CYBERSECURITY MEASURES OF CHINA AND VIET NAM – REQUESTED BY JAPAN AND THE UNITED STATES

7.1. The Chairman indicated that the item had been added to the agenda of the Council at the request of the delegations of Japan and the United States.

7.2. The representative of Japan said that, regarding the "Draft of Personal Information Protection Law of the People's Republic of China" that the Chinese Government had sought public comments on, the Japanese Government had submitted its comments to the Chinese Government in November.

7.3. For example, the regulations that the draft Law stipulated included the safety assessment and certification standards (Article 38), domestic storage obligations for data (Article 40), applicable standards for regulatory measures (Articles 42, 43), the obligation to designate a Personal Information Protection Officer (Article 51), and the obligation to designate a professional organization and a representative in China for personal information processors outside of China (Article 52).

7.4. Those regulations, depending on their interpretation and implementation, could result in excessive data distribution restrictions being placed on foreign operators. Japan also noted the possibility that they violated the obligation of National Treatment under Article XVII of the GATS and requested that the examination criteria be fair and clear to prevent foreign businesses from receiving disadvantageous treatment while ensuring the transparency of implementation.

7.5. Japan appreciated China's efforts to seek public comments from various stakeholders in view of transparency. Japan expected that the requests and concerns expressed in its Government's comments would be properly considered and taken into account in the enactment process going forward. Japan also called on China to continue to listen widely, through public comments, to voices from home and abroad on the detailed regulations to be made concerning China's cybersecurity measures.

7.6. In addition, Japan continued to have the concerns it had repeatedly raised at the CTS on the other related Chinese laws and regulations on cybersecurity. His delegation would not repeat its concerns in detail at that meeting, but Japan continued to pay close attention to those laws and regulations and expected China to ensure consistency with the GATS.

7.7. With regard to Viet Nam's measures, Japan recognized that the Government of Viet Nam was still deliberating the draft Decree relating to the Law on Cybersecurity. Japan asked Viet Nam to take Japan's comments fully into consideration. Japan requested that Viet Nam continue to ensure transparency and take into account the inputs of all stakeholders before finalizing the Decree and related laws and regulations.

7.8. The representative of the United States noted Japan's intervention regarding China's draft Personal Information Protection Law. His delegation shared a number of the concerns that Japan had raised in regard to the draft Law.

7.9. For over two years, the United States had raised concerns in the Council that various Chinese draft and final measures, including in connection with China's Cybersecurity Law and its National Security Law, might restrict cross border data flows and required localization of data.

7.10. On 21 October 2020, China's National People's Congress had published a draft Personal Information Protection Law for public comments, with comments due by 19 November 2020. The United States recognized that it was important that China developed a legal framework to improve and strengthen the protection of personal information. Robust privacy protections were an important complement to a thriving digital economy.

7.11. However, the United States noted its general concern that some aspects of the draft Law might overlap with more general provisions found in China's Cybersecurity Law or other legal

measures or guidance provided by certain Chinese regulators. That might pose challenges for companies seeking to comply with the draft Law.

7.12. In addition, the United States had significant concerns regarding certain aspects of the substance of the draft Law that could significantly impact the ability of companies to transfer personal information across borders. In particular, Article 40, in connection with Article 39 of the draft Law, would impose a data localization requirement on operators of critical information infrastructure and personal information processors that processed personal information whose volume had reached a certain threshold. Those entities would be subject to a "security assessment" before being able to transfer any personal information out of China. The United States had repeatedly raised its concerns about Chinese measures and policies that proposed those types of security assessments on data transfers.

7.13. The United States noted that cross-border transfers of personal information should not and need not undermine the privacy and security standards that China decided to adopt. However, imposing unduly restrictive requirements on data transfers, simply because they were cross-border, unfairly disadvantaged foreign suppliers, and did not enhance protections for personal information.

7.14. Depending on how China was to identify the companies and applicable thresholds of personal information captured under Article 40, a very large number of companies could conceivably be subject to a case-by-case approval in order to transfer abroad any personal information at all. The quantity of information that an information processor would seek to transfer was unrelated to the information processor's ability to ensure the security of that information.

7.15. The United States also did not believe that Article 40 of the draft Law should apply to processing activities outside China for purposes of supplying services to persons in China from a foreign territory. China had made GATS commitments for the supply of services into China from the territories of other WTO Members in many sectors (i.e. mode 1 commitments). Cross-border services suppliers seeking to supply services consistent with China's GATS commitments should not be required to establish a commercial presence in China as a condition to supply those services as was implicit in Article 40. The United States urged China to remove Article 40 from the draft Law.

7.16. There were ways in which cross-border transfer of information could be done in a less trade-restrictive manner including the possible use of certification by professional organizations. The Law could be clear on that point. Another way China could ensure a less trade-restrictive effect of that measure was to grant formal status in its Law, as Japan did, to APEC Cross-Border Privacy Rules as a legitimate transfer mechanism.

7.17. The United States also noted that Article 52 of the draft Law would require that data processors outside of China established an office or appointed a representative in China. The draft Law, in its current form, did not provide further definition of what would constitute an "office" or a "representative". As indicated before, the United States noted that cross-border services suppliers seeking to supply services consistent with China's GATS commitments should not be required to establish a commercial presence in China as a condition to supply those services. Therefore, the United States urged China to consider those comments as it reviewed the draft Law and its measures.

7.18. With respect to Viet Nam, the United States remained concerned about Viet Nam's proposed data localization and local presence requirements in its draft Cybersecurity Decree. As his delegation had noted in the previous Council meeting, those requirements would affect an expansive array of services which were foundational to the digital economy and were frequently provided on a cross-border basis. The draft Decree would also impose even stricter data localization requirements on Vietnamese firms, threatening their ability to use cloud-based services supplied from abroad.

7.19. US and other foreign companies should be able to supply such services to Vietnamese firms on a cross-border basis, without being subjected to the additional burden of installing redundant computing facilities in the territory of Viet Nam, consistent with Viet Nam's GATS commitments.

7.20. The United States would welcome any update Viet Nam could provide regarding the status of that draft Decree.

7.21. The representative of the European Union recalled, as noted in previous CTS meetings, that her delegation was concerned about the implementation of the Cybersecurity Law of China. In her delegation's view, the scope of the requirements remained unclear and the European Union continued to be concerned that key terms had not been specified in sufficient detail. For example, the "Cyberspace Administration of China's Cross-Border Data Transfer Measures" continued to raise concerns about the broad scope of those regulations regarding what was considered as critical information infrastructure and which kinds of cross-border data transfers were affected. A definition of critical information appeared to cover many commercial activities and whole sectors that had no bearing on national security.

7.22. Moreover, her delegation noted that the implementing measures of the Cybersecurity Law were still not in place. That created significant uncertainty for economic operators. The European Union would therefore welcome an update from China on when those implementing measures would be adopted.

7.23. Furthermore, as regarded the draft Data Security Law, the European Union noted with concern that the draft Law seemed to have an excessively broad scope of application, covering "data activities" within China but also beyond the territorial mainland of China, that might harm China's national security or public interest. Because of the data localization and assessment requirements, foreign companies operating in China could find themselves in a less competitive situation compared to domestic operators.

7.24. The draft Law seemed to give the power to local authorities to identify their own important data. That could lead to a lack of harmonization of the term, making it impossible for companies to comply when conducting cross-border data transfers. As per her delegation's comments during the consultations conducted, the European Union would welcome a common definition set at the central level with clear boundaries identifying which data were considered "important". Or, at the very least, that the list defining "important data" be only released at the central level by the relevant industry department, and not by local authorities.

7.25. Finally, as regards the draft Personal Information Protection Law, her delegation did have concerns and had conveyed them to the Chinese Government in response to the consultations organised earlier that month.

7.26. When it came to the Vietnamese Cybersecurity Law, the European Union shared other Members' concerns and reiterated its remarks about the potential economic impact and the compatibility of that Law with Viet Nam's commitments under the WTO. The European Union would encourage Viet Nam to develop and implement the Cybersecurity Law and implementing measures in full respect of WTO principles, such as non-discrimination and proportionality, and to take into consideration available international standards and practices.

7.27. The representative of Australia said that, like Japan and others, her delegation appreciated China's efforts to consult with interested parties on its draft measures relating to cybersecurity, including, most recently, on China's draft Personal Information Protection Law, on which Australia provided a written submission of views in November 2020.

7.28. Her delegation was concerned that some provisions of the Personal Information Protection Law had the potential to create inconsistencies with WTO rules. Australia noted that any measure or countermeasure taken under the Law should only be applied consistently with China's WTO obligations.

7.29. Australia continued to urge China to take into account the concerns of business and Members in the implementation of those measures and development of future measures. Her delegation looked forward to continuing to work closely with China on draft measures related to cybersecurity.

7.30. Her delegation appreciated Viet Nam's engagement on its cybersecurity measures. As Australia had raised in previous CTS meetings, like other Members, Australia remained concerned with several concepts in Viet Nam's Cybersecurity Law and urged Viet Nam to ensure that its legislative measures aligned with WTO obligations. Australia looked forward to continuing to work with Viet Nam on that Law and related measures.

7.31. The representative of Canada said that her delegation joined previous interventions highlighting specific concerns following the release of drafts or measures relating to cybersecurity. As several Members, Canada had participated in the recent comment period on the draft Privacy Legislation. Canada hoped that the comments submitted would be taken into consideration. Canada would continue to monitor the development and implementation of that measure and was confident that the Chinese Government would ensure compliance with its WTO obligations.

7.32. Regarding the agenda item on Viet Nam's cybersecurity measures, Canada echoed previous interventions and reiterated its concerns.

7.33. Canada remained interested in obtaining any updates on China's and Viet Nam's cybersecurity measures in the Council for Trade in Services.

7.34. The representative of China thanked Members who had intervened for sharing their views on cybersecurity-related issues. China took note of those remarks and other observations. As reiterated in previous meetings, Members were facing the common challenges of safeguarding cybersecurity and data security around the world.

7.35. There was a global consensus that one needed to safeguard personal information, cybersecurity, and data security when regulating cyberspace. On the basis of such consensus, in recent years, China's series of legislative initiatives, such as the Cybersecurity Law, the Data Security Law as well as the Personal Information Protection Law, as mentioned in Members' interventions, were all taken with the purpose to address various problems of cybersecurity and data security, as well as to respond to the needs of the development of the digital economy.

7.36. In the legislative drafting process, China had comprehensively referred to the existing international rules and legislative experiences of other Members, strictly followed the transparency requirements, and comprehensively solicited public opinions. China always attached great importance to Members' concerns and continuously welcomed constructive opinions from all interested stakeholders.

7.37. Regarding the Cybersecurity Law, China had provided comprehensive and detailed responses and clarifications on specific issues in previous CTS meetings. China would not repeat them at that meeting.

7.38. Regarding the Data Security Law, currently, the Law was still in the process of legislation. As one of the important legislations on data management, it regulated data activities and emphasized the promotion of lawful, reasonable, and effective use of data on the basis of ensuring data security. In practice, Members carried out data categorization and classification with the purpose of refining data security and governance. The provisions of the draft Data Security Law had taken references to some Members' data protection practices and standards.

7.39. Meanwhile, in response to the national security risks in the data field, China had made regulations to conduct national security reviews of significant issues and activities that affected or might affect national security, which was an internationally recognized practice and fully WTO consistent. For the next step, China would continue to formulate and improve supporting measures to clarify the scope of the data security review as well as the procedures of the review.

7.40. On personal information protection, China recognized the importance of the economic and social benefits from protecting personal information as well as the contribution that it made to enhancing consumer confidence in electronic commerce. Regarding the concerns from Japan, the United States, and other Members about the Personal Information Protection Law, that was the first time it had heard those statements in the CTS. The representative said that she had taken note of the statements and would like to provide them to her competent authority in the Capital for further consideration.

7.41. The representative of Viet Nam thanked Japan, the United States, the European Union, Australia, and Canada for sharing their concerns and expressing their continued interest in Viet Nam's legislative drafting process for the Decree to implement certain articles of the Cybersecurity Law. As already explained in the October CTS meeting and previous CTS meetings,

Viet Nam's process for the Decree had been transparent, with an open mind and all stakeholder's comments had been reviewed for the continuing internal consideration.

7.42. The Chairman suggested that the Council take note of the statements made.

7.43. It was so agreed.

8 ITEM H: 5G-RELATED MEASURES OF AUSTRALIA – REQUESTED BY CHINA

8.1. The Chairman indicated that the item had been added to the agenda of the Council at the request of the delegation of China.

8.2. The representative of China recalled that his delegation had expressed its concerns on Australia's 5G-related restrictions at previous CTG and CTS meetings. At the October CTS meeting, China had asked Australia to provide clarification on several specific concerns, as Australia had only provided some general remarks rather than detailed responses. Thus, his delegation would like to continue raising questions to seek further clarification from Australia.

8.3. First, could Australia please explain what legislations provided the legal basis for the prohibition against Chinese equipment and service suppliers?

8.4. Second, could Australia please explain how its measures could be consistent with WTO rules and its GATS commitments, especially the commitments on telecommunication services? For example, how could its measures be in line with GATS Article II (MFN treatment), Article VI (Domestic Regulation), Article XVI (Market Access), and Article XVII (National Treatment), as well as paragraph 5 of the GATS Annex on Telecommunications and paragraphs 2 and 5 of the Telecommunications Reference Paper?

8.5. Third, China noticed that Australia's Telecommunications and Other Legislation Amendment Act 2017 had not come into force when the prohibitions took place. Therefore, China would like to know, what were the legal basis and the criteria for the prohibitive measures back at that time? How could those measures be in line with WTO obligations of transparency and domestic regulation?

8.6. Since the outbreak of COVID-19, Information and Communication Technology (ICT) had played a critical role in ensuring the operation of businesses and the society at large and had been essential in promoting global cooperation in countering the unprecedented challenge. China called on Members to work together to improve the construction, operation, and service of 5G and other information infrastructure so as to promote economic recovery and development.

8.7. China strongly opposed any Member using state power to suppress companies from other Members that legally operated in the host country. China had always required enterprises operating overseas to comply with domestic laws and regulations. China urged Australia to respect WTO rules and its GATS commitments, and to stop its discriminative measures, so as to create a better environment for enterprises doing business in Australia. China reserved its right to take further actions in the future.

8.8. The representative of Australia noted China's latest statement at the October CTS meeting in relation to Australia's 5G Security Guidance. That was the third occasion that China had raised that issue in the CTS, having first raised it elsewhere in the WTO in late 2018. Australia had engaged constructively and in good faith with China to explain in detail the rationale for its position, including in relation to the protection of Australia's national security.

8.9. Australia recognised that 5G networks would enable a new wave of innovation across the economy. Like other countries, Australia was committed to safeguarding its critical national infrastructure, including in the telecommunications sector.

8.10. In 2016, following extensive public consultations, the Australian Government had introduced to the Parliament of Australia a Bill called the Telecommunications and Other Legislation Amendment Bill 2016. The Bill introduced a regulatory framework to strengthen the security of Australia's telecommunications networks. The Bill was passed by the Parliament of Australia on

15 September 2017; it received Royal Assent on 18 September 2017; and entered into force on 18 September 2018, following a 12-month implementation period.

8.11. The key element of the telecommunications security framework was a security obligation for carriers and carriage service providers to do their best to protect telecommunications networks and facilities from unauthorised interference or unauthorised access.

8.12. To ensure predictability and stability, during the 12-month implementation period for the new telecommunications security framework, the Australian Government had publicly issued 5G Security Guidance, on 23 August 2018. That 5G Security Guidance was provided on the basis of careful, objective, and extensive review, and allowed a clear understanding of how the legal obligations under the new telecommunications security framework applied to 5G networks. Australia wished to emphasise that the obligations under that telecommunications security framework were imposed on carriers and carriage service providers, and not on equipment vendors.

8.13. As had now been underscored on multiple occasions, Australia's position on 5G networks was country-agnostic, transparent, risk-based, non-discriminatory, and fully WTO consistent. Australia continued to welcome foreign business involvement in the market, which was essential for the efficient and effective operation of Australia's telecommunications sector.

8.14. Finally, Australia noted the keen interest from many other WTO Members on the issue of 5G security as demonstrated by the participation of over 120 states at the recently held Second Prague 5G Security Conference.

8.15. The Chairman suggested that the Council take note of the statements made.

8.16. It was so agreed.

9 ITEM I: RUSSIAN FEDERATION FOREIGN-LICENSED FIXED SATELLITE OPERATORS MARKET ACCESS (DECISION OF THE SCRF NO. 17-42-07, DATED 4 JULY 2017) – REQUESTED BY THE UNITED STATES

9.1. The Chairman indicated that the item had been added to the agenda of the Council at the request of the delegation of the United States.

9.2. The representative of the United States recalled that his delegation had placed that item on the agenda, as in previous CTS meetings, given that there had been reports of the Russian Federation granting preferential access to Russian satellite systems in discrimination against foreign satellite firms.

9.3. His delegation had heard the responses from the Russian Federation, and they had claimed that there was no discrimination, or they had not heard of any. Therefore, his delegation was looking for confirmation from the Russian Federation that foreign satellite firms were not disadvantaged by any rules that would grant a preference for use of Russian satellite systems over those foreign systems. If the United States were able to receive that confirmation, it would be able to remove that item from future agendas. However, his delegation would reserve the right to keep coming back to that issue if it could not get confirmation that foreign satellite providers were not disadvantaged in the Russian market.

9.4. The representative of the European Union reiterated her delegation's concerns regarding the licensing procedures of the Russian Federation for the provision of fixed satellite services. First, the European Union sought clarifications regarding a simplified licensing procedure for fixed satellite services companies that were part of a list published by the Government. Her delegation asked the Russian Federation to clarify which criteria were used to include, or not, companies in that list.

9.5. Secondly, Law 17-42-07 of 2017 required companies operating in Russia and wishing to rent capacity for connectivity from a foreign satellite operator to provide the Russian State Commission for Radio Frequencies with a document stating that Russian satellite owners did not have enough capacity themselves.

9.6. The European Union considered that to be a discriminatory requirement against foreign satellite providers, who were prevented from gathering customers for their services on equal grounds as their Russian competitors. There were some instances brought to her delegation's attention when businesses operating in Russia had expressed their interest to use the capacity of foreign-owned satellite operators but had had to turn to Russian operators instead, in line with the requirements of the Law. The measure had resulted, and continued to result, in significant financial losses for foreign licensed fixed satellite operators.

9.7. The European Union noted that the Russian Federation's GATS schedule contained specific liberalisation commitments on fixed satellite services and that it did not contain reservations reflecting the kind of practice that seemed to be imposed by Law 17-42-07. The European Union therefore sought clarification from the Russian Federation on how it viewed the requirement of that Law against its GATS commitments.

9.8. In the CTS meeting of 2 October, the Russian Federation had referred to internal consultations with relevant authorities and business operators regarding potential practical difficulties that Members might face in relation to the implementation of Law 17-42-07. The European Union would appreciate an update on the findings of that consultation.

9.9. Finally, the European Union would welcome further bilateral discussions on that issue.

9.10. The representative of Canada thanked the United States for maintaining that agenda item. Her delegation wished to take that opportunity to reiterate its concerns and to refer to the statement made at the previous CTS meeting. Canada was looking forward to hearing from Russia on the questions her delegation had submitted bilaterally and would be interested in Russia's answer to the United States' question on whether or not foreign operators would be discriminated by that new measure.

9.11. The representative of the Russian Federation said that her delegation disagreed that the measure at issue was inconsistent with Russia's obligations under the WTO Agreement and, in particular, with its specific commitments under the GATS. At the same time, the Russian Federation noted that it did not possess information about the denials of access to radio frequency spectrum for foreign satellites.

9.12. The Chairman suggested that the Council take note of the statements made.

9.13. It was so agreed.

10 ITEM J: RUSSIAN FEDERATION SOFTWARE PRE-INSTALLATION MANDATE (FEDERAL LAW DATED 2 DECEMBER 2019 NO. 425-FZ "ON AMENDING ARTICLE 4 OF THE LAW OF THE RUSSIAN FEDERATION 'ON PROTECTION OF CONSUMER RIGHTS'") – REQUESTED BY THE UNITED STATES

10.1. The Chairman indicated that the item had been added to the agenda of the Council at the request of the delegation of the United States.

10.2. The representative of the United States recalled that, in both the July and October meetings, his delegation had raised concerns about Russia's software pre-installation mandate created by Federal Law No. 425-FZ. Concerns about that mandate had been raised previously in other WTO bodies.

10.3. In fact, following the July meeting, the United States had provided written questions to the Russian Federation regarding that mandate, and had yet to receive answers. His delegation was still interested in Russia's explanation as to how the requirement that certain Russian software be pre-installed in certain "technical devices" complied with Russia's services commitments.

10.4. In fact, his delegation's concerns about Russia's methods for developing and applying that mandate had only increased. The United States appreciated that different parts of the Russian Government had had discussions with industry representatives, but confusion continued to reign on how the mandate was to be implemented.

10.5. In addition, the United States appreciated that according to Regulation No. 1867, dated 18 November 2020, only three categories of software must be pre-installed, and the software might be pre-installed by the manufacturer, distributor, or reseller. However, the implementation deadline remained 1 January 2021 - less than 30 days away - and the list of software to be pre-installed had not been finalized.

10.6. New, and greater, concerns had arisen around draft legislation being considered in the Duma that expanded further the Russian Government's effort to limit choice and dictate market conditions. The latest amendment would require companies to install both a local search engine and a local browser as the default functionality.

10.7. The existing Law 425-FZ was bad enough, but at least it left some choice to the consumer. Those new amendments accelerated a dangerous trend of the Russian Government eliminating consumer choice and dictating what browser and search engine the consumer must use. Could the delegate from the Russian Federation describe what efforts, if any, the Russian Government was taking to address those concerns in the Duma?

10.8. The United States looked forward to written answers to their questions from the Russian Federation, explaining, among other things, how it would implement that mandate consistent with its WTO services commitments.

10.9. Furthermore, the United States urged the Russian Federation to assure Members that it would postpone or delay the implementation of any mandate until its obligations and parameters were clear to industry participants and with sufficient lead times to assure compliance.

10.10. The representative of the European Union shared the concerns expressed by the United States on the Russian Federation's software pre-installation mandate. As previously requested, the European Union would appreciate more information from the Russian Federation on the type of equipment that would be covered and on the list of Russian software that must be pre-installed.

10.11. Moreover, the European Union would welcome clarifications on how the obligation to pre-install certain Russian software would comply with the National Treatment commitments that the Russian Federation had made in computer and related services and in telecommunications services.

10.12. The representative of Canada said that, as indicated at the July and October CTS meetings, her delegation was concerned about the Russian Federation's software pre-installation mandate. Canada would like to echo concerns expressed by the United States and the European Union.

10.13. Based on the information available, Canada was concerned that those requirements might not be consistent with Russia's GATS National Treatment commitments, such as on electronic mail, as the requirement might modify the conditions of competition in favour of Russian digital service providers. Canada was of the view that that would be problematic for foreign firms seeking to enter the Russian market and could negatively impact trade.

10.14. As indicated previously, Canada would also appreciate receiving more information on the next steps, including the timeframe for relevant implementing regulations, as ensuring timely access to information would be essential to companies impacted by those measures.

10.15. The representative of Japan recalled that, as pointed out at the October meeting of the Council, Japan had a general concern about Russia's software pre-installation mandate. Depending on the specific details of the relevant regulations and the manner in which they were administered, the mandate might hamper the entry of foreign companies into the Russian market and, therefore, be inconsistent with the principle of non-discrimination.

10.16. The representative of the Russian Federation disagreed that the measure at issue was inconsistent with Russia's obligations under the WTO Agreement and, in particular, its specific commitments under the GATS. As her delegation had explained on numerous occasions, the draft measure and its adoption, in the form of the resolution of the Government of the Russian Federation of 18 November 2020 no. 1867, did not set out any restrictions in respect of installation and pre-installation of software of foreign origin.

10.17. Moreover, said resolution did not contain any requirements on the removal of installed software of foreign origin, in case it had been pre-installed by the producer or seller of the relevant product. Said resolution of the Government provided for three options for the technically complex goods to comply with the pre-installation requirement. Irrespectively of the option chosen, the software to be pre-installed was easily removed by the consumer.

10.18. Moreover, if the pre-installment of particular software was technically not possible, for instance due to incompatibility of the software and the technically complex goods on which it should be pre-installed, the producer of that device was exempted from the obligation to pre-install the software.

10.19. The Russian Federation was still expecting answers from the relevant delegations to the questions it had posed earlier in order to clarify the concerns of those delegations in respect of the measure at issue.

10.20. The Chairman suggested that the Council take note of the statements made.

10.21. It was so agreed.

11 ITEM K: MEASURES OF THE UNITED STATES RESTRICTING TRADE IN SERVICES – REQUESTED BY CHINA

11.1. The Chairman indicated that the item had been added to the agenda of the Council at the request of the delegation of China.

11.2. The representative of China recalled that his delegation had expressed concerns about a series of trade-restrictive measures taken by the United States on TikTok and WeChat at the previous CTS meeting, while the US delegate had only made a general statement without providing detailed feedback to China's specific concerns. Therefore, China wanted to take that opportunity to ask the United States to provide further clarifications on the following questions.

11.3. First, could the United States please explain what specific evidence was available to substantiate the cited national security threats from TikTok and WeChat?

11.4. Second, could the United States explain how its authorities treated like services and services providers of any other Member? Could the United States please explain how its measures were in line with relevant WTO rules and its GATS commitments, including GATS Article II (MFN treatment), Article VI (Domestic Regulation), Article XVI (Market Access), and Article XVII (National Treatment)?

11.5. Third, China noted that, in a preliminary injunction ruling, the US judge had considered that Executive Order 13942 and the Commerce Department's prohibitions likely exceeded the lawful bounds prescribed by the IEEPA, and that, absent injunctive relief, ByteDance and TikTok Inc. would suffer "irreparable harm". His delegation would like to know what the United States' view was on that.

11.6. China had always asked Chinese enterprises operating overseas to comply with local laws and regulations. However, the US measures had seriously affected the business operations and investment activities of the above two enterprises in the United States, violated the legitimate rights and interests of the enterprises concerned, disrupted the normal market order, and undermined the confidence of international investors in the business environment of the United States. China urged the United States to immediately stop its wrong practices and earnestly safeguard fair and transparent international rules and order. China reserved the right to take corresponding measures in the future.

11.7. The representative of the United States thanked China for raising that issue. His delegation had responded back in October and its position remained exactly the same, that the actions taken by the United States cited by China's intervention on those particular matters served to protect the US national interest. After conducting a thorough review, the United States had determined that the mobile applications of the Chinese companies at issue posed a specific, identified national security risk. The actions taken by the United States were designed to mitigate those national security risks.

11.8. The Chairman suggested that the Council take note of the statements made.

11.9. It was so agreed.

12 ITEM L: MEASURES OF INDIA RESTRICTING TRADE IN SERVICES – REQUESTED BY CHINA

12.1. The Chairman indicated that the item had been added to the agenda of the Council at the request of the delegation of China.

12.2. The representative of China recalled that, at the last CTS meeting, his delegation had expressed its concerns on India's restrictive measures on trade in services, including investment restrictions and the ban on apps. However, India had not provided detailed responses to China's questions.

12.3. Since the previous meeting, China had noted that the Indian Ministry of Electronics and Information Technology had issued another announcement, on 24 November 2020, banning the use of 43 apps which were developed and operated by Chinese companies in India. The Indian measures were obviously inconsistent with WTO rules and India's GATS commitments. Therefore, China would like to raise its concern again and ask India to provide detailed clarifications on the following questions.

12.4. First, India's restrictive measures on investment and apps were highly discriminatory and had not been administered in a reasonable, objective, and impartial manner. Those measures were running in the opposite direction of trade liberalization and facilitation and violated India's obligations under GATS Article II (MFN Treatment) and Article VI (Domestic Regulation).

12.5. Second, the Indian measures banning Chinese apps prevented the supply of services through mode 1 and mode 3, of services on which that India had made specific commitments, including computer-related, telecommunication and audio-visual services, thus violating GATS Article XVI (Market Access) and Article XVII (National Treatment).

12.6. Third, considering that the Indian measures would significantly affect trade in services, India should notify them to the CTS pursuant to GATS Article III (Transparency). Therefore, China would like to ask India to share its plan of future notification of those measures.

12.7. China strongly opposed the Indian Government's repeated abuse of national security measures and the adoption of highly restrictive measures that affected Chinese service suppliers and services. China urged India to stop the inconsistent practices immediately and reserved the right to take further actions in the future.

12.8. The representative of India said that her delegation was fully committed to upholding its WTO obligations. As stated during its intervention at the last meeting of the CTS, India firmly believed that its two measures, on which China had raised concerns, were wholly consistent with India's commitments at the WTO.

12.9. With respect to the concern expressed by China regarding the review of India's FDI policy, her delegation clarified that India continued to permit and welcome FDI from all Members of WTO, including the Member raising the concern. India had one of the world's most open regimes for FDI. It was strange that the Member raising the concern itself imposed substantial restrictions on foreign investments.

12.10. On the second specific measure, relating to the mobile applications, a transparent process with necessary checks and balances and safeguards, as specified in India's Information Technology Rules of 2009, had been followed while blocking those applications. All those app suppliers had been informed about the blocking order issued by the Government of India, indicating the reasons and grounds for blocking. Those app suppliers had also been given the opportunity to be heard by submitting their comments and clarification to a detailed questionnaire sent by the Indian Ministry of Electronics and Information Technology.

12.11. India valued and was committed to protecting the democratic rights of its citizens, including access to goods and services, while reserving the right to take measures to ensure the protection of privacy, data security, and national security. India's track record in transparency, upholding the principles of the multilateral trading system and leading initiatives for inclusive trade in services was well-known. It was expected that the other Member who had raised the issue should first reflect on its track record on transparency and allowing open trade in services.

12.12. The representative concluded by reiterating that India's measures were fully compliant with its obligations under the GATS. In case any Member had any issues, India was always open for a constructive dialogue.

12.13. The Chairman suggested that the Council take note of the statements made.

12.14. It was so agreed.

13 ITEM M: VAT EXEMPTION AND CERTAIN TAX REDUCTIONS FOR RUSSIAN SOFTWARE AND IT COMPANIES UNDER FEDERAL LAW NO. 265-FZ – REQUESTED BY THE UNITED STATES

13.1. The Chairman indicated that the item had been added to the agenda of the Council at the request of the delegation of the United States.

13.2. The representative of the United States said that the new item that his delegation had placed on the agenda had a significant, potential impact on service suppliers. The United States understood that the Russian Federation had recently made amendments to its tax code (Federal Law No. 265-FZ, dated 2 August 2020) that would provide certain tax benefits to domestic suppliers of IT services and domestic software products as of January 2021.

13.3. Under those amendments, royalties paid on foreign software products would be subject to VAT, but royalties on registered Russian software products would not. The United States understood that one of the criteria for registration of a software product as Russian was that its intellectual property was owned by a Russian national or a majority Russian-owned company.

13.4. Additionally, under those amendments, a wide array of accredited Russian IT and software services suppliers would be subject to reduced rates of corporate income tax and lower social insurance contributions, as compared to non-accredited suppliers of those same services. Again, the United States understood that the criteria for being considered an "accredited Russian" firm included that the firm was established under Russian law, the firm was majority Russian-owned, and the intellectual property was owned by a Russian national or a majority Russian-owned company.

13.5. The United States would welcome any further information that Russia could provide on those measures. In particular, his delegation had heard that Russia was considering extending the VAT exemption to royalties paid on all software, regardless of nationality.

13.6. In light of Russia's National Treatment commitments in computer and related services, and Russia's National Treatment commitments in distribution services with respect to software products, could Russia please explain how those measures were consistent with its GATS National Treatment obligations?

13.7. The representative of the Russian Federation noted that its measures were consistent and legitimate measures of state support of Russian software producers and could not be considered not to be in compliance with Russia's obligations under the WTO Agreement. Those measures were not applied across the sector but only granted to certain developers of specific importance for that sector. The Russian Federation also noted that the taxation measures did not affect the degree of IPR protection. The legislation of Russia provided complete protection of copyright in the field of civil and criminal law in compliance with the provisions of the TRIPS Agreement.

13.8. The Chairman suggested that the Council take note of the statements made.

13.9. It was so agreed.

14 ITEM N: OTHER BUSINESS

14.1. No issue was raised under this agenda item.

14.2. The meeting was adjourned.
