



Committee on Specific Commitments

REPORT OF THE MEETING HELD ON 10 MARCH 2022

NOTE BY THE SECRETARIAT¹

The Committee on Specific Commitments (CSC) held a meeting on 10 March 2022 chaired by Mr. Thomas Nauta from the Netherlands.

The Chair mentioned that he would address the issue of the appointment of the Chairperson of the Committee under Other Business.

The agenda for the meeting, contained in document WTO/AIR/CSC/17, was adopted as modified.

Before moving on to the substance of the meeting, he drew Delegations' attention to the hybrid mode meeting format. He thanked all for their patience and efforts in following the arrangements and for their understanding on the requirements and limitations imposed by the situation.

The representative of Ukraine informed delegations that it was already 15 days that the Russian Federation continued to commit a blatant act of aggression against Ukraine. Its unprovoked and unjustified military invasion and attack of the sovereignty and territorial integrity of Ukraine was a brutal violation of the principles of international law as well as the purpose of the principle of this Organization. He thanked the Members who spoke up at different meetings within the WTO and stood along with Ukraine in countering Russian military invasion. He hoped that other WTO Members would consider the possibility of imposing further trade-related restrictive measures against the aggressor state, as it was stated in the communication of Ukraine addressed to the Chair of the General Council and WTO Members. Ukraine, being devoted to core principles of the WTO as well as to the multilateral trading system in general, was convinced that the military aggression of one WTO Member towards another WTO Member was putting the trading system in an unprecedented situation that could not allow to conduct business as usual. Ignoring current circumstances was to turn a blind eye on the suffering of people, the struggle of civil society and entrepreneurs, and the rights and interests in general.

The representative of the Russian Federation raised a point of order. She noted that the comments of some delegations, including the previous speaker, did not fall within the competence of the WTO. The issues that they had raised were not part of the mandate of the Committee on Specific Commitments and were not relevant to the agenda. She asked the Chair to confirm that the Committee was following the agenda as reflected in the document WTO/AIR/CSC/17 circulated on 28 February 2022 and that was agreed by all the Members at the beginning of the meeting.

The Chair confirmed that the agenda which had just been adopted was still valid.

The delegate of the Russian Federation asked the Chairman to moderate the discussion in a strong accordance with the agenda and take into account the procedures of the working bodies of this organization. She then asked all participants to follow the agenda.

The Chair took note of the comment made by the Russian Federation.

The representative of the United Kingdom thought that these discussions were relevant to the work of the Committee and to all Committees of the WTO. Russia's assault on Ukraine was an unprovoked and premeditated attack against the sovereign democratic state and a fellow member of this

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.

Organization. The UK and its international partners stood united in condemning the Russian government's reprehensible actions which were an agreed violation of international law and the UN Charter. As a permanent Member of the UN Security Council, Russia had a particular responsibility to uphold international business security. Instead, it was violating the borders of another country and its actions were causing widespread suffering. The Russian government had shown that it was never serious about engaging in diplomacy and it deliberately worked to mislead the world in order to mask the carefully planned aggression. Russia must urgently de-escalate and withdraw its troops and be held accountable and stop undermining democracy, global stability, and international law.

The representative of the United States thanked Ukraine for its statement and reiterated its strong support for Ukraine during this unimaginably difficult time. He paid tribute to the heroism of the Ukrainian people, their armed forces, and their leaders. He also expressed his appreciation to the many Members around the globe that were taking action in cooperation and coordination with the United States, adding that their important work together would continue. The United States condemned Russia's premeditated and unprovoked attack on Ukraine, and the United States equally condemned Belarus' regime for aiding Russia's war of aggression. President Putin's premeditated war had brought catastrophic loss of life and human suffering. Russia was solely responsible for this death and destruction, and the world must hold Russia accountable. He added that Russia's actions constituted a clear violation of Article 2(4) of the United Nations Charter, which stated that all member states shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state. He called upon Russia to immediately cease its use of force against Ukraine and refrain from any further unlawful threat or use of force against any UN member state. He reminded that the United States was united with its allies and partners in its commitment to ensure the Russian government pay a severe economic and diplomatic price for its further invasion of Ukraine. He reminded that work at the WTO focused on trade, but this organization could not be neutral toward the struggle at hand. The WTO was predicated on certain values, among these that a fair and just international order was one built on rules, not power, on reciprocity, not predation, and on transparency, not perfidy. The actions of Russia were incompatible with the rules-based system the world had built and worked to improve.

The representative of Norway condemned in the strongest possible terms the unprecedented military aggression of the Russian Federation against Ukraine. She expressed Norway's concern for the severe destruction and human suffering this illegal act of aggression was causing. By its unprovoked, unjustified, and premeditated military actions, the Russian Federation was grossly violating international law, the core principles on which the international rule-based order was built and the fundamental principles of the UN charter that had prevailed since the second World War. It was an attack towards what the UN, WTO, and Geneva as a capital of multilateralism, stood for. She concluded by expressing Norway's full solidarity with Ukraine and the Ukrainian people.

The representative of New Zealand strongly condemned Russia's unjustifiable and unprovoked invasion of Ukraine. Russia's action had breached international law and the sovereignty and territorial integrity of a neighbouring state. New Zealand strongly supported Ukraine in opposing the Russian assault. The attacks were causing widespread humanitarian consequences and resulting in the senseless deaths of innocent people. New Zealand supported collective action by the international community to impose costs on Russia and on those in Russia who bore responsibility.

The representative of Japan was very much concerned with the situation in Ukraine. The invasion of Ukraine by Russia was an attempt to unilaterally challenge the status quo by force. It was an act that undermined the very foundation of the international order. It constituted the infringement of one of WTO Members' sovereign right and territorial integrity, and a clear violation of international law. It was totally unacceptable, and Japan condemned it in the strongest terms and joined the international community and stood alongside with Ukraine and its people.

The representative of Australia joined others in thanking Ukraine for its statement and noting that the issues it had raised were wholly relevant to the substance of this meeting and this organisation's work. Australia condemned Russia's unprovoked and unjustified attack on Ukraine in the strongest possible terms. Russia's actions breached international law, the UN Charter and the sovereignty and territorial integrity of a neighbouring state. Australia strongly supported Ukraine in opposing Russia's hostilities and called on Russia to withdraw its forces from Ukrainian territory and seek a diplomatic solution. Australia supported collective action by the international community to impose costs and increase leverage on Russia and those in Russia who bore responsibility. Australia had imposed

significant economic sanctions on Russia and Belarus and would continue to support international measures to sanction Russia's behaviour.

The representative of the European Union and its member states expressed full solidarity with Ukraine and the Ukrainian people. It condemned in the strongest possible terms Russia's unprovoked and unjustified military aggression against Ukraine, which grossly violated international law and the UN Charter and undermined international security and stability. This continued act of aggression had enormous implications on all the possible spheres of policy and economy, including trade and the international rules-based system. The EU demanded Russia to immediately cease its military actions, withdraw all its troops from the entire territory of Ukraine and fully respect Ukraine's territorial integrity, sovereignty and independence within its internationally recognized borders. The European Union resolutely supported Ukraine's inherited right of self-defence and the Ukrainians' efforts to defend Ukraine's territorial integrity and population in accordance with article 51 of the UN Charter. At all times, Russia must respect its responsibilities under international humanitarian law and stop its disinformation campaign and cyberattacks.

The representative of the Republic of Korea wished to echo the previous speakers on the situation in Ukraine. The Korean government also strongly condemned Russia's armed invasion against Ukraine as a violation of principles of the UN Charter. The use of forces that caused innocent casualties couldn't be justified under any circumstances. Ukraine's sovereignty, territorial integrity and political independence must be respected.

The representative of Switzerland condemned the Russian military attack on Ukraine in the strongest possible terms. This attack constituted a violation of the territorial integrity and sovereignty of Ukraine and thus a clear violation of international law, in particular of the UN Charter. Switzerland called on the Russian Federation to respect its international obligations, to reverse its actions, as well as to withdraw its troops and contribute to de-escalation. Switzerland called on all actors to respect international law, including international humanitarian law.

The representative of the Russian Federation stressed that delegations should refrain from discussing in the WTO and its bodies, issues and events which were out of the scope of the WTO and were under the focus of other international organizations and diplomatic agencies. She reminded that the WTO, as the central piece of the multilateral trading system, was created to raise standards of living, with an objective of sustainable development. The WTO had proved to be an organization that was primarily guided by economic considerations and solid legal norms. Unfortunately, the increasing pressure for its politicization had already brought inefficiencies to the operation of the WTO. She requested the Secretariat to exclude from the report of the meeting the comments unrelated to the agenda of this meeting and going beyond the mandate of this Committee.

1 ITEM A – IMPLEMENTATION OF SPECIFIC COMMITMENTS

1.1. The Chair noted that a new subitem had been included under this agenda item upon a request from Turkey. Turkey had proposed that the Committee discuss implementation issues related to specific commitments and Article II (MFN) on cross-border supply of road transport services under the GATS. Turkey's proposal, contained in S/CSC/W/73, had been circulated to all Member before this meeting.

1.2. Before presenting the proposal, the representative of Turkey noted that Turkey was deeply saddened by the situation in Ukraine. She believed that humanitarian pause, dialogue and diplomacy were urgently needed. In that regard, and upon their intensive diplomatic efforts, the Foreign Ministers of Ukraine and Russia had met on 10 March in Antalya-Turkey on the margins of the Antalya Diplomacy Forum. Turkey always believed in and supported peace, stability, and international cooperation, in its region and beyond.

1.3. Turkey explained that the disruptive effects of such situations on the world economy could not be disregarded, in particular for international trade and logistics which was the focus of its proposal that had been circulated to be discussed at the meeting. The proposal of Turkey concerned the questions arising from different interpretations of GATS commitments and the MFN principle in relation to road transport services through the cross-border supply. As mentioned in Turkey's communication, logistics was always an important component of international trade and logistics efficiency was critical for predictable trade. Any export or import contract contained items on delivery time and costs. With the surge of electronic commerce, door-to-door logistics and road transport

services as being in the heart of this concept had come into the forefront. Increased demand thanks to the rise of e-commerce and the effects of the container crisis had put pressure on the modes of transport alternative to maritime transport.

1.4. At this juncture, road transport services had been discussed intensively not only in the transport and logistics industry but also during free trade agreement negotiations. Turkey attached particular importance to transport and attempted to lift barriers to trade in transport services in FTA negotiations. During the negotiations, Turkey observed that its partners who had commitments under the GATS might not share the same understanding of GATS commitments with respect to the cross-border supply of road transport services. According to Turkey's observation, Members with full market access and national treatment commitments were still negotiating truck quotas, passage fees and other discriminatory treatments under bilateral road transport arrangements. Some Members with no MFN exemptions under the GATS were still negotiating different truck quotas with different other Members.

1.5. In this context, Turkey brought the issue to the attention of the Committee on Specific Commitments to initiate discussion with a view to exchanging views with Members on the interpretation of specific commitments and the MFN obligation. For now, Turkey had focused its proposal on three main questions: the first one was the compatibility of imposing truck quotas to WTO Members with full market access commitments in Mode 1 on road transport services. Second one was about how to read "Unbound" in market access and "None" in national treatment and what the boundaries between market access and national treatment were when it came to cross border supply of road transport. The last question concerned the interpretation of the MFN obligation. From Turkey's perspective, Members who had not listed any exemptions for road transport should have applied the same treatment to all other Members with respect to all measures affecting international road transport including truck quotas, passage fees, customs measures, etc.

1.6. Turkey was aware that the communication had been circulated shortly before the meeting. Turkey would nonetheless wish to hear the preliminary views of Members in the meeting and have further discussions in future meetings. Turkey was ready to cooperate with other Members and revise the proposal depending on the feedbacks it could get from this meeting's discussion.

1.7. The representative of the Russian Federation thanked Turkey for its valuable contribution to the work of this Committee and for its excellent presentation on the initiative regarding the cross-border supply of road transportation services. Russia would continue to assess it internally with all relevant authorities. As some preliminary comments, Russia considered the Turkish proposal to be in line with the mandate of the Committee on Specific Commitments. In general, Russia considered positively the idea to discuss possible approaches to the interpretation of Members' commitments on road transport services to increase the transparency of trade rules in the WTO. It would be important to flag that any conclusions expressed during the exchange of views and reflected in the possible outcome document "Understanding on Interpretation of Obligations in Cross Border Supply of Road Freight Transport Services" should be advisory and not legally binding. Russia looked forward to further constructive discussions on the issues contained in the Communication from Turkey.

1.8. The representative of the European Union thanked Turkey for its Communication which was still being assessed. She then offered general comments. She noted that the Communication included a number of examples from Members' schedules in abstract, which would require the interpretation of Members' commitments and the EU found it difficult to engage in making legal assessment of commitments on their GATS compatibility through theoretical examples. Moreover, given the nature of road transport services, bilateral and multi-party agreements in this sector tended to be multifaceted with historic and geographical considerations. Noting that the Secretariat had produced a useful background note on road transport services in 2010, the EU questioned the need for further work on this sector. She requested background information from Turkey on the objectives of the Communication.

1.9. The representative of China stated that the logistics sector was an important services sector with significant implications for Members' participation in the global market. China attached great importance to the discussions on logistics services. China had previously submitted to the CTS-SS a proposal on logistics services and engaged in the exploratory discussions. China appreciated Turkey's proposal on the cross-border supply of road transportation services. China was holding internal

consultations with domestic authorities and were willing to exchange views with Members on this issue in the future.

1.10. The representative of the United States thanked Turkey for its contribution. Noting that more time was needed to consult on and fully analyze it, he made general comments. It seemed that this communication was going a bit beyond the mandate of CSC to involve the interpretation of Members' commitments. The US was wary of engaging in such an action. The suggestion for an understanding was probably an issue more appropriate in actual negotiations calling for new commitments. He recalled that the US had been criticized for its proposal on transparency because some thought it was a call for new commitments. The US needed more time to examine Turkey's Communication before agreeing to further engage.

1.11. The representative of Australia joined others in thanking Turkey for its paper. Its capital was still considering the details. As a preliminary comment, Australia echoed the comments made by a few others on whether it was appropriate for Members to engage in specific discussions on the questions outlined in the paper and have the legal interpretation of commitments in this particular forum. Nevertheless, Australia would further consider the paper and revert with more comments at the next meeting.

1.12. The representative of India thanked the delegation of Turkey for its proposal on "Implementation of Specific Commitments and Article II (MFN) on Cross-Border Supply of Road Transportation Services". She noted that her delegation was examining the proposal, which would require more time.

1.13. The representative of Sri Lanka joined others in thanking Turkey for its proposal. Given the very short notice and the technicalities associated with this interesting and historical discussion, Sri Lanka took note of the submission. Its capital was considering the proposal and would revert to it at the next meeting with more details. Sri Lanka had a few initial questions for the benefit of understanding the Turkish proposal. Could Turkey provide more background information on the specific challenges it faced in freight transportation? Which specific Members was Turkey referring to? Were the quotas mentioned in the submission (e.g., number of individual journeys or number of permits) issued on a discriminatory basis which made Turkey believe it had certain trade concern? What were the allocation criteria for transit quotas and whether had they been reflected in the schedule of commitments?

1.14. The representative of South Africa thanked Turkey for its submission. While her capital was still considering it, at this point, she had two preliminary points to make. First, the issue raised was an important one, especially to assess or understand what the commitments in road transport were and to what extent a Member deviated from those commitments in its applied regime. Second, noting that the submission was laid out in a theoretical manner, she suggested that further discussion on this matter could benefit from a compilation of information similar to the one conducted by the Secretariat for the exercise proposed by the USA on conditional commitments.

1.15. Turkey thanked all the delegations who had commented on its proposal and understood that Members needed more time to analyse it. With respect to the question on whether the paper was appropriate for the mandate of the Committee, noting similar agenda items in this Committee and previous discussions in relation to the implementation of specific commitments, Turkey believed it was appropriate to discuss its proposal under the item on the implementation of specific commitments. Turkey sought the Secretariat's view on whether the issue raised in its proposal was appropriate for the mandate of this Committee. Regarding the questions raised by Sri Lanka, she noted that Turkey was facing barriers in road transport services as being a transit country. The share of road transport was quite high in Turkey's imports and exports. It was important for Turkey to discuss road transport services for the purpose of international trade. The barriers Turkey was facing were not only about the real market situation but also related to GATS commitments. Turkey noted that some Members were negotiating bilateral road transport arrangements, including those who had full market access commitments on the cross-border supply of international road transport services. A full market access commitment on the cross-border supply of international road transport services would mean no numerical or quantitative restrictions. In Turkey's view, quotas were explicit numerical limitations in that sense and thus not in compliance with full market access commitments. Through the exercise Turkey would like to know whether other Members had the same concerns which were about a real market situation and its reflection in commitments.

1.16. On the question about the allocation of transit quotas, this was also something Turkey struggled to interpret within the context of GATS. GATT Article V and Article 11 of the TFA provided for the freedom of transit, but there existed a question on how much of transit was covered by the GATS. This was a question that should also be discussed. On the last point raised by Sri Lanka about the relationship between the individual permit and quotas, permits could be applied if they were required for safety, environment, or other type of reasons without restricting market access. However, if the permit system was tied with a numerical restriction like a quota, then the permit became a market access restriction.

1.17. Turkey supported the suggestion made by South Africa on having a compilation of existing commitments and MFN exemptions as background for further discussions. Turkey asked the Secretariat to compile the specific commitments on market access for Mode 1 in CPC 7123 and also the Members who had MFN exemptions and the ones without MFN exemptions. The compilation would provide a good background for discussions on the issues raised.

1.18. The Chair thanked Turkey for this important contribution to the Committee's work and for delegations' interventions. He understood delegations would need more time to review the proposal and therefore expected more substantive discussions at the next meeting.

1.19. The Chair then moved to another subitem under this agenda item, the implementation of conditional commitments. He recalled that, following a proposal from the United States (S/CSC/W/69, dated 5 March 2020), this Committee had been conducting a transparency exercise examining commitments with certain conditional language in GATS schedules. This type of commitments usually made their entry into force, implementation or updating conditional upon a domestic process, such as the adoption of new legislation, policy reviews, or the review of pre-existing regimes. He also recalled that to facilitate the discussion on conditional commitments, the Secretariat had prepared a compilation of this type of commitments in GATS schedules (S/CSC/W/70, dated 13 November 2020) upon the request of the Committee. The Compilation had been updated three times with all sectors covered and implementation information added. He thanked the Secretariat for having circulated to Members the third revision of the Compilation (S/CSC/W/70/Rev.3) on 25 February 2022.

1.20. Engagement in this exercise so far had been on a voluntary basis with Members providing updates on the implementation of their commitments listed in the Compilation. Some Members indicated at previous meetings that they were holding internal consultations and would inform the Committee at a later stage. He encouraged Members to engage further and have a meaningful exchange of information.

1.21. The delegation of the United States thanked the Secretariat for the updated document and reminded that the exercise was on voluntary basis and for transparency purposes. He welcomed inputs to the document provided by Members. He thanked Thailand for its updated Schedule of commitments on telecom. The United States had held a discussion with Thailand on its certification request and lifted the objection they had raised. He would welcome future updates from Members.

1.22. The representative of Thailand thanked the Secretariat for circulating the document S/L/437 dated 9 March 2022 on the Certification of Specific Commitments of Thailand and to the United States for withdrawing their objection to Thailand's request for certification concerning the modification of the GATS schedule. Thailand looked forward to working closely with all WTO Members pursuant to commitments under the GATS.

1.23. The representative of China thanked the proponents and the WTO secretariat for their good work. China also appreciated the pragmatic measures by Members to update relevant information and improve transparency of the implementation of specific commitments. China believed that implementing specific commitments was a basic obligation of all WTO Members. China was open to discussing related issues. It was worth noting that the review and update of schedules should be limited to the implementation of Members' existing commitments, without entailing further market opening obligations.

1.24. The delegation of India noted that, while this exercise of compilation of conditional commitments by the Secretariat was useful for the purpose of transparency, any update of schedules

should only be based on full-fledged market access negotiations which went beyond the purview of the CSC. Therefore, India did not support taking this exercise any further.

1.25. The Chair thanked Members for their interventions and expressed his appreciation to the United States for their flexibility in withdrawing their objection which allowed the certification procedure concerning Thailand's Schedule of Specific Commitments to be concluded. He then congratulated the delegation of Thailand particularly but also the entire Membership on this significant step.

1.26. He suggested that the Committee take note of the statements made and revert to this agenda item at its next meeting.

1.27. It was so agreed.

2 ITEM B – SCHEDULING ISSUES

2.1. No intervention was made under this item.

2.2. The Chairperson suggested that the Committee revert to this agenda item at its next meeting.

2.3. It was so agreed.

3 ITEM C - CLASSIFICATION ISSUES

3.1. The Chairperson recalled that at the previous meeting, the UN Statistics Division (UNSD) had provided a presentation on an additional tool to help visualize the correspondence between the CPC Provisional and CPC Ver.2.1. The presentation had been welcomed by Members. Members had also shown interest in adding the Services Sectoral Classification List (MTN.GNS/W/120) to the visualization tool.

3.2. The Secretariat informed the Committee of the progress in this respect. Discussions were ongoing with the UN Statistics Division, with the support of Secretariat colleagues dealing with IT issues, to explore possibilities on appending the visualization tool to add MTN.GNS/W/120. The Secretariat would continue informing the Committee of progress made on this investigation.

3.3. The United States intervened further to the suggestion made by the Russian Federation to amend the minutes of the meeting. The United States did not support this proposal. They viewed the statements of the United States, Ukraine, and other Members to have been directly relevant to Ukraine's ability to implement its specific GATS commitments. The delegate also humbly suggested that the Chair not be asked to make a judgment call on the relevance to this meeting. He believed that the minutes should reflect the full discussion of the meeting.

3.4. The representative of the European Union supported the statement by the United States and wanted to see all their statements be fully reproduced in the minutes of the meeting.

3.5. The representative of Australia supported the US statement.

3.6. The Chair noted that several delegations had rejected the Russian Federation's suggestion to exclude from the minutes of the meeting certain statements made during the meeting. In his view, the minutes of the meeting should reflect the statements made at the meeting.

3.7. He suggested that the Committee take note of the statements made and revert to this agenda item at its next meeting.

3.8. It was so agreed.

4 ITEM D – OTHER BUSINESS

4.1. The Chair reminded that the handover of the chairmanship of the Committee should normally have taken place at this meeting. However, since the consultations conducted by the out-going Chair

of the CTS remained to be concluded, the handover would have to be postponed. He hoped that the process of appointment of the Chairpersons would be promptly concluded.

4.2. The meeting was adjourned.
