



Working Party on Domestic Regulation

REPORT OF THE MEETING HELD ON 29 MARCH 2022

NOTE BY THE SECRETARIAT¹

The Working Party on Domestic Regulation (WPDR) held a meeting on 29 March 2022 chaired by Mr. Devabrata CHAKRABORTY from Bangladesh. The proposed agenda for the meeting was contained in document WTO/AIR/WPDR/16 dated 8 March 2022 and WTO/AIR/WPDR/16/Corr.1 dated 14 March 2022. The report of the previous meeting of the Working Party, held on 30 June 2021, is contained in document S/WPDR/M/77.

Before turning to the substance of the meeting, the Chairman recalled that, following the agreement by Members on a slate of names for the Chairpersons of the Council for Trade in Services (CTS) subsidiary bodies, the election of the Chairpersons for 2021 had been conducted through a written procedure and had been confirmed through a fax dated 5 August 2021. Since his election, the Chair had consulted bilaterally with several delegations.

The Chairman also indicated his intention to make a brief statement on the "appointment of the Chairperson for the WPDR for 2022" under "Other Business".

With these changes, the agenda was adopted.

The representative of Ukraine made a statement about the current situation in her country, and its effects on Ukraine's participation in the WTO. It was already the 34th day of war started by the Russian Federation against Ukraine and its people. For more than a month already, Russia had continued to commit an unprecedented aggression against her country, an attack on the sovereignty and the territorial integrity of Ukraine in brutal violation of international law. Ukraine – being devoted to the core principles and values 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 Members to conduct business as usual. Russia's military aggression was destroying the development of infrastructure and the economy. Effects on trade, prices, and the global flow of goods and services could already be observed. The full scale war launched by Russia had strong and long-term economic and trade consequences, which needed to be acknowledged and addressed. Bearing all this in mind, Russia's aggression had created an uncertain situation directly related to the process of implementation of Ukraine's commitments under the GATS with regard to all modes of supply and most - if not all - services sectors. In the current situation, Ukraine was not in a position to provide usual business conditions for services suppliers and consumers of other WTO Members. Therefore, Ukraine hoped that WTO Members would continue to stand in solidarity with Ukraine and its people and would impose trade restrictive measures against the aggressor state in order to stop the unjustified attack. Moreover, Ukraine urged all WTO Members to consider taking further action with a view to suspending the participation of the Russian Federation in the WTO for its violation of the purpose and principles of the Organization. Ukraine was very grateful to all WTO Members that had stood with Ukraine in response to this terrible war and were refusing to engage with Russia.

The representative of the Russian Federation raised a point of order. She noted that the comments of the previous speaker did not fall within the competence of the WTO, the issues were not part of the mandate of the WPDR, and were not relevant to the meeting's agenda, as reflected in document WTO/AIR/WPDR/16 and Corr.1 and agreed by all the Members at the beginning of the meeting.

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.

The representative of the United Kingdom thanked Ukraine for its statement. As Members were meeting to discuss issues related to domestic regulation, they could not sit by and ignore the egregious violations of international law and the UN Charter committed by one WTO Member against another. Members could not pretend that this was "business as usual", given not only the impact of Russia's unjustifiable aggression on Ukraine, but the broader global economic and humanitarian impact of Russia's actions across the world. Members had already seen the direct consequences of Russia's actions, which were impeding the ability of Ukraine to fully participate in the WPDR and in the work of the WTO. While Russia was continuing to violate international law, human rights, and multiple commitments to peace and security, the United Kingdom would continue working with its allies and partners across the multilateral system to condemn Russia's appalling actions and to isolate it on the international stage.

The representative of the United States strongly supported for Ukraine during this unimaginably difficult time. The United States was deeply impressed with the heroism of the Ukrainian people and the bravery of their armed forces and their leaders. The United States condemned Russia's premeditated and unprovoked attack on Ukraine as well as the actions of the Belarus' regime which was 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 had to hold Russia accountable. The United States 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. The United States stood united with its allies and partners in a commitment to ensure the Russian government paid a severe economic and diplomatic price for its further invasion of Ukraine. The WTO was predicated on certain values, among these that a fair and just international order was built on rules, reciprocity, and transparency. The actions of Russia were incompatible with the rules-based system that WTO Members had built and worked to improve. Russia's conduct in perpetrating a war of aggression against Ukraine undermined the rights of Ukraine in this Organization and was fundamentally incompatible with the values and principles of the WTO.

The representative of Australia stated that Ukraine had explained very clearly how Russia's attack had paralysed Ukraine's ability to participate in the WTO and the profound destabilising effects it was having on the global economy, including on providing predictability and certainty for global services trade. Australia joined the United Kingdom and the United States in condemning Russia's unprovoked, unjustified, and ongoing attack on Ukraine in the strongest possible terms. Russia's actions breached international law and the sovereignty and territorial integrity of a neighbouring state. The humanitarian, security and economic impacts of this crisis were profound. The Russian Federation had to withdraw its forces from Ukrainian territory and commit to 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 for this unspeakable situation.

The representative of the European Union expressed full solidarity with Ukraine and its people. The extensive discussion that had already taken place at the meeting of General Council about Russia's military aggression had reflected the broad condemnation felt by many Members, and squarely put responsibility on the Russian Federation for the negative effects on food security, trade in goods and services and global economic stability. The European Union and its Member States would continue to support Ukraine. The European Union had already adopted significant economic and trade sanctions against Russia and remained ready to move with further measures. The European Union called upon Russia to immediately put an end to the aggression, withdraw its military forces, and respect Ukraine's sovereignty and territorial integrity.

The representative of Canada joined others to strongly condemn Russia's unjustifiable and unprovoked invasion of Ukraine. It was already 34 days that the attacks were causing widespread humanitarian consequences and resulting in the senseless deaths of innocent people. The international community had to be seized of this issue. This was not just an attack on Ukraine, but an attack on international law, including the UN Charter, as well as democracy, freedom, and human rights.

The representative of Japan condemned Russia's aggression against Ukraine in the strongest terms, as it clearly infringed upon Ukraine's sovereignty and territorial integrity, constituted a serious violation of international law prohibiting the use of force, and was a grave breach of the UN Charter. Japan strongly urged Russia to cease the attack and withdraw its forces back to Russian territory

immediately. Japan stood in solidarity with Ukraine and its people, together with the international community.

The representative of New Zealand joined other Members in condemning, in the strongest possible terms, President Putin's unprovoked and unjustified attack on Ukraine. Russia's illegal invasion was causing widespread humanitarian consequences and had already resulted in the senseless deaths of innocent people. New Zealand strongly supported Ukraine's sovereignty and territorial integrity and stood with Ukraine as it defended itself against Russian aggression. New Zealand supported steadfastly collective action by the international community to denounce the egregious and unlawful actions taken by Russia, and to censure those in President Putin's Government who bore responsibility.

The representative of the Republic of Korea strongly condemned Russia's armed invasion against Ukraine as a violation of principles of the UN Charter. The use of force that was causing innocent casualties could not be justified under any circumstances. Ukraine's sovereignty, territorial integrity and political independence had to be respected. Korea shared the deep concerns that the international community expressed over the unfolding humanitarian situation in Ukraine.

The representative of Switzerland condemned in the strongest possible terms the military aggression of the Russian Federation against Ukraine, which constituted a flagrant violation of international law, notably the prohibition on the use of force and the principle of territorial integrity. Switzerland called upon Russia to respect its international obligations, to reverse its actions, as well as to withdraw its troops and contribute to de-escalation of this situation. Switzerland urged all actors to respect international law, and in particular international humanitarian law.

The representative of the Russian Federation expressed her disappointment that this meeting of the WPDR had started with a violation of the procedure that required Members to follow the agenda as adopted. Unfortunately, Members had raised issues that were beyond the scope of the WTO. Lamentably, the meeting had started with disinformation, which was actively being used to manipulate public opinion and incite hatred towards Russians. Many Members had called themselves supporters of the multilateral system at a recent General Council meeting, and had co-sponsored a statement on immediate action to support the multilateral trading system in preparation for a successful MC12.² However, those same Members called for an economic war against Russia, introduced aggressive restrictive discriminatory measures, which were ineffective as a political tool, and led to damages to the world economy, to an increase in business costs, to disruptions in supply chains, and to shocks in various markets. The friends of the multilateral trading system were not those who sought further turbulence to trade, but those who abided by its rules and remembered that trade, even in the most difficult times, had been able to play a stabilizing role. The Russian Federation called on Members to respect the rules of procedures and not turn this formal meeting of the WPDR into a talk show.

1 ITEM A SYSTEMIC CONCERNS OF GATS ARTICLE VI:4 AND THE REFERENCE PAPER – REQUESTED BY INDIA AND SOUTH AFRICA

1.1. The Chairman stated that the substantive item of the agenda was titled "Systemic Concerns of GATS Article VI:4 and the Reference Paper ". This item had been requested by the delegations of India and South Africa.

1.2. The representative of India, on behalf of India and South Africa, said that, in December 2021, 67 Members of the WTO (52 developed and 15 developing countries) had concluded negotiations in the Joint Initiative on Services Domestic Regulations, affirming that the outcome of their negotiations would be applied on an MFN basis. India, South Africa and Namibia, in the General Council meeting which had been held in February 2022³, had raised the issue of legality of Joint Statement Initiatives (JSIs), including the Joint Initiative on Services Domestic Regulation. The submission had *inter alia* highlighted the contradiction between the JSIs and the fundamental principles of the WTO, as well as systemic and development implications of JSIs.

1.3. With respect to the systemic concerns raised on the relationship between GATS Article VI:4 and the Reference Paper on Services Domestic Regulation, India and South Africa noted that the Initiative's proponents had maintained that no multilateral consensus was required for bringing in

² WT/GC/W/841/Rev.3.

³ WT/GC/W/819/Rev.1.

such results under the umbrella of the WTO since these new rules were to be appended to Schedules of specific commitments. India and South Africa stated, however, that amendments or additions to rules were governed by multilateral consensus-based decision. As no such procedure had been followed in the case of the Joint Initiative on Services Domestic Regulation, this was contrary to the fundamental principles and objectives of the multilateral system, as enshrined in the Marrakesh Agreement. Specifically, the GATS, read in concert with the Marrakesh Agreement, provided for different rules and procedures pertaining to the amendment of rules versus the modification of Schedules. While GATS rules were governed by GATS Part II on 'General Obligations and Disciplines', Part III of the GATS contained provisions concerning Members' individual 'Specific Commitments' to be inscribed in Schedules for specific sectors. Whilst both Article VI:4 (contained in Part II) and Article XVIII (contained in Part III) referred to qualifications, licensing, and standards, the differences between general rules and specific commitments could not be overlooked and GATS Article XVIII should not be used for bringing rules under 'General Obligations and Disciplines', as envisaged under GATS Article VI:4, into the multilateral framework. Members' rights to schedule "additional commitments" in their Schedules under GATS Article XVIII should not directly or indirectly amount to a variation (dilution, amendment or clarification) of any of the provisions of the GATS.

1.4. More broadly, India and South Africa recalled that their submission recognized that there were systemic and development implications in the work of the JSIs. Any attempts to introduce new rules resulting from JSI negotiations into the WTO without fulfilling the requirements of Articles IX and X of the Marrakesh Agreement would be detrimental to the functioning of the rule based multilateral trading system and erode its integrity by subverting established rules and foundational principles of the Marrakesh Agreement; it would create a precedent for any group of Members to bring any issues into the WTO without the required consensus; it would bypass the collective oversight of Members for bringing in any new rules or amendments to existing rules in the WTO; it would usurp limited WTO resources available for multilateral negotiations; it would result in Members disregarding existing multilateral mandates arrived at through consensus in favour of matters without multilateral mandates; it would lead to the marginalization or exclusion of issues which were difficult but remained critical for the multilateral trading system, such as agriculture or development, thereby undermining balance in agenda setting, negotiating processes and outcomes; it would leave Members with no option other than to choose between remaining outside the discussions or participating on matters that were inconsistent with their economic development priorities, needs, concerns and levels of economic development; and it would fragment the multilateral trading system and undermine the multilateral character of the WTO. India, South Africa and others had presented these concerns in the meetings of the WPDR held in December 2019 and June 2021.

1.5. Moreover, India and South Africa stated that, while there were studies which attempted to estimate the gains in terms of global trade and lowering of trade costs to the global economy (WTO, September 2021 and WTO & OECD, November 2021), there were very few studies which had assessed the impact of these regulatory disciplines on developing countries, especially in terms of compliance costs with these disciplines and implications for policy and regulatory space for developing countries. It had been estimated that the disciplines on services domestic regulation would lead to a reduction in services trade costs and the gains to the participating countries would be around USD 150 billion annually. However, these studies did not shed light on these gains at a disaggregated and comparative level, i.e., the total gains to developed countries that had already implemented these regulations, and the costs for those participating developing countries that had yet to put in place these disciplines. Furthermore, while these studies argued that there was a high correlation between implementation of the services domestic regulation disciplines and volume of services trade and participation in global value chains, they failed to establish any causality between the two. The WTO Staff Working Paper also found that there was a rising number of countries that were including services domestic regulation provisions in their trade agreements. However, for India and South Africa, including such provisions with respect to the partner countries in the region was very different from undertaking commitments on the same matters under the GATS. For example, a small developing country might be willing to include a discipline on "informing applicants of reasons for rejection of application and allow resubmission" for its partner countries in a regional trade agreement, but undertaking this commitment towards all WTO Members would not be feasible for a developing country and would entail huge costs of compliance and dedicated human and financial resources. According to the statistics provided by the WTO Staff Working Paper, while more than 70% of high-income countries had included such a provision in their trade agreements, only 30% of lower- and middle-income countries had done so. This was in contrast to a very limited inclusion of such disciplines in trade agreements which had been adopted by low-income countries. In a similar

vein, the WTO Staff Working Paper noted that more than 60% of non-participating Members in the sample had included at least one GATS-plus regulatory obligation in their trade agreements. Again, the suggestion that the inclusion of these disciplines in trade agreements allowed to assume that it was easy for developing countries to extend such commitments in their GATS Schedules ran into difficulty since the latter would apply on a MFN basis and their compliance costs at this level could be enormous for a developing country. Just to give an example, with respect the disciplines on regulatory quality and facilitation, the percentage of the Initiative's participating Members that had taken commitments in their trade agreements was around 68%, as compared to 11% of non-participants. Therefore, the regulatory burden for developing countries undertaking these additional commitments was much higher compared to developed countries.

1.6. India and South Africa also stated that the Reference Paper on Services Domestic Regulation did not address the needs and areas of interest of developing countries, including the following:

- a. The Reference Paper did not contain substantive provisions on qualification requirements and procedures, including rules on giving due consideration to the professional experience of service suppliers. These rules had significant bearings on developing countries, particularly for least-developed countries, under Mode 4;
- b. The Reference Paper did not contain robust S&DT provisions. While the Reference Paper included provisions on transitional periods and a waiver for least-developed country Members, it did not provide for reduced administrative fees for service suppliers from developing countries. Similarly, it did not provide for longer phase-in periods for measures in service sectors and modes of supply of export interest to developing countries;
- c. The development dimension appeared to be inadequately addressed in the Reference Paper. There was no binding obligation on developed country Members to provide technical assistance to developing and least-developed countries. On the contrary, the disciplines related to 'Development' were included in Section I of the Reference Paper, which was not even required to be inscribed in Members' Schedules. Indeed, Section I stated that "Members shall inscribe the disciplines in Section II in their Schedules as additional commitments under Article XVIII of the Agreement." The Reference Paper merely encouraged the participants (both developed and developing country Members) to provide technical assistance and capacity building to developing and least-developed countries upon their request, and if they are "in a position to do so".

1.7. In conclusion, India and South Africa noted that the WPDR had not met regularly or advanced any technical work on matters falling within the scope of its mandate. The development deficit in the Reference Paper highlighted the importance of continuing the mandate of the WPDR. India and South Africa invited suggestions from other Members and urged them to reinvigorate discussions under the WPDR on domestic regulation as per the mandate of GATS Article VI.4 with the aim to achieve multilaterally agreed disciplines that would increase the participation of developing countries in global services trade through inclusive, development-oriented disciplines.

1.8. The representative of Costa Rica stated that, as the Coordinator of the Joint Initiative on Services Domestic Regulation, he had listened carefully to the statement delivered by India, on behalf of India and South Africa. He clarified that the fact that Members were having this conversation in the WPDR had not to be misunderstood as an acknowledgement that the disciplines developed by and agreed upon by the Joint Initiative fell under the purview of the WPDR, or that the WPDR was the best venue to address them. Rather, this was just testament to the Initiative's participants willingness and flexibility to listen and engage on the concerns raised.

1.9. He noted that one of the points raised related to the alleged need for a multilateral negotiating mandate for WTO Members to work on matters dealt with in WTO agreements, or any new matters of a multilateral nature. He did not see how such a need for a multilateral mandate could be read into the words "the WTO shall provide the forum for negotiations", as set out in Article III:2 of the Marrakesh Agreement. The Initiative did not agree with the view that Article III:2 of the Marrakesh Agreement had to be read to effectively muzzle negotiations on issues that were covered by WTO Agreements, unless all WTO Members agreed that these could be discussed.

1.10. The Coordinator stated that one of the concerns raised at previous meetings related to the relationship between the WPDR mandate and the outcome achieved in the Joint Initiative. This was an issue to which participants had responded clearly on numerous occasions. He reiterated, therefore, that the multilateral mandate in GATS Article VI:4 remained for all WTO Members to fulfil collectively. The decision by a subset of the WTO Membership to undertake additional commitments of a GATS-plus nature in the same area in accordance with GATS Article XVIII did not render the mandate ineffective. The additional commitments undertaken by individual Members could not be considered as either full or partial fulfilment of the collective GATS mandate. Indeed, some participants clearly saw an outcome in the Joint Initiative as a steppingstone towards a multilateral outcome in the future. He could only assume that the concern with the GATS Article VI:4 mandate was based on a desire to make progress in the WPDR on the development of domestic regulation disciplines. The Initiative's participants would be ready to explore any proposals for work on disciplines under the Article VI:4 mandate.

1.11. The Coordinator also noted that the co-sponsors of the agenda item maintained that the disciplines that had been agreed upon by the Joint Initiative diminished existing GATS obligations or accorded new interpretations to existing WTO concepts. He highlighted that the Reference Paper explicitly stated that the disciplines shall not be construed to diminish any Member's obligations under the GATS. It was really self-evident as any new commitments that Members undertook in their Schedules could not contradict nor undermine existing GATS obligations. The reason why the Initiative's participants had decided to include such a sentence in the Reference Paper text was to provide further reassurance, especially to those Members that had decided not to participate in the outcome, that their rights under the WTO would not be affected.

1.12. With regard to the concerns expressed about the scheduling approach through which the disciplines on services domestic regulation would be given legal effect, the Coordinator highlighted the following points: first, GATS Article XVIII explicitly provided for the possibility to schedule additional commitments in the area of services regulation. This was important because the disciplines that the Initiative had agreed upon covered exactly those types of measures that were listed in the GATS as areas for additional commitments, namely "qualifications, standards, or licensing matters." He had also heard that additional commitments could only address individual sectors but could not apply horizontally. However, he was not able to find any textual basis for this claim in the GATS. He reiterated that the disciplines would apply for each participant to a distinct set of sectors, namely those that were contained in their GATS Schedules, plus, as participants would decide, any additional sectors that individual Members chose to include. Second, in accordance with the scheduling approach under GATS Article XVIII, the disciplines on services domestic regulation would bind only participating Members. As a result, the implementation of this outcome would create additional rights for other Members, but would not, and could not, impose any additional obligations on them. Third, by incorporation into participating Members' GATS Schedules, the disciplines on services domestic regulation would apply to all Members on an MFN basis. This was a very important aspect, because even those services suppliers from Members that opted not to participate in the Initiative would be able to equally benefit. The participants, contrary to what some Members had maintained, were not claiming that any benefits that the Joint Initiatives were willing to extend on an MFN basis could be brought into the WTO by a subset of the Membership alone. What the participants were doing was to use the well-established GATS mechanism for improving their specific commitments, and within the precise boundaries that the drafters of the GATS had stipulated. The necessary consequence was that these improved commitments would apply on an MFN basis, and the benefits from their implementation would therefore accrue to all Members. Finally, he emphasized that there was clearly no risk of fragmentation of the multilateral trading system through the improvement of existing GATS commitments. This was because GATS Schedules were flexible instruments to accommodate Members with higher and lower commitments. In fact, this flexibility was one of the architectural features of the GATS that developing countries had fought for during the Uruguay Round. The Coordinator noted that Members found themselves in the peculiar situation where a few delegations held the view that other Members were not entitled to legally bind themselves and grant better trading conditions to service suppliers of the entire WTO Membership of 164, including this very limited number of Members that has raised some concerns.

1.13. The Coordinator also stated that India and South Africa had shared insights on perceived areas in which the Reference Paper did not, in their view, address certain issues adequately, such as qualification requirements and procedures, or S&DT. He recalled that the outcome that 67 participating Members had agreed on reflected a compromise among all the negotiating parties. It reflected a landing zone that all participants felt comfortable with. He emphasized that the

negotiations had always been open to all WTO Members, and the delegations of India and South Africa could have pursued issues of their interest at any time during the negotiations in the Joint Initiative.

1.14. Moreover, the Coordinator noted that India had also mentioned that expanding regulatory commitments beyond regional trading partners could go beyond the resource capacity of developing countries. However, throughout the Initiative's discussions, the group had had the opposite experience. Typically, participants had indicated that they were implementing regulatory disciplines on a non-discriminatory basis, and that having different regulatory regimes for different trading partners was impracticable and would incur additional costs.

1.15. The Coordinator recalled that, on 2 December 2021, 67 Members had adopted a Declaration to announce the successful conclusion of the negotiations on services domestic regulation. This was a real success, for businesses, for all WTO Members, and for the WTO as an Organization. And it was even more so for the global development agenda. While services now represented around two-thirds of global GDP, this outcome – among Members representing 90% of global services trade – promised to increase services trade and facilitate participation in global value chains. It would also boost the competitiveness of manufacturing and agriculture businesses, since efficient services were an increasingly critical input for those sectors. Importantly, because trade-related fixed costs fell predominantly on smaller businesses, the biggest gains from implementing this outcome would accrue to small and medium-sized service suppliers, including in developing countries. He noted that developing country Members that were part of the outcome had explained that domestic regulatory reforms of services markets had been a cornerstone of their development strategies, and that participation in the Initiative was seen as a building block to achieve this objective. In the past three years, several developing country Members had decided to join the Joint Initiative on Services Domestic Regulation, based on the recognition that the Reference Paper's disciplines were clearly consistent with their recently adopted regulations aimed at streamlining administrative procedures and facilitating business operations, with a view to further supporting trade in services. On the other hand, regulatory reform was not limited to low- and middle-income economies. Research undertaken by the World Bank had shown that, since 2003/04, many of the OECD high-income economies had carried out a total of 464 internal regulatory changes, "suggesting that even the gold standard setters have room to improve their business climates". This clearly confirmed that this was a win-win outcome that would benefit WTO Members at all levels of development and across all regions of the world. The Coordinator also highlighted that a recent OECD-WTO trade policy brief estimated a potential reduction in trade costs by 11%, with trade cost savings in the range of USD 150 billion annually. Not surprisingly, most of these savings would accrue to those Members that implemented the disciplines in their own jurisdictions. Nonetheless, the OECD-WTO research found that non-participants would significantly benefit as well, with annual cost savings of around USD 17 billion.

1.16. In conclusion, the Coordinator invited all Members to take a good look at the disciplines and decide whether these could be useful in furthering their domestic agendas and contribute to their own development aspirations.

1.17. The representative of Barbados, on behalf of the African, Caribbean and Pacific (ACP) group, thanked the delegations of India and South Africa for requesting the meeting. The ACP group enquired whether the participants of the Joint Initiative on Services Domestic Regulation intended to invoke GATS Article XXI in order to modify their Schedules and implement the results of their new MFN commitments. In particular, the ACP group asked whether this procedure would require a submission to the Council on Trade in Services and subsequent consultations with affected Members. The ACP group attached great importance to the multilateral nature of the WTO and on the development of rules multilaterally agreed by consensus. In conclusion, the ACP Group expressed its willingness and readiness to engage in the work of the WPDR.

1.18. The representative of the European Union expressed full support for the statement delivered by the Coordinator of the Joint Initiative on Services Domestic Regulation. She noted that the concerns raised had already been presented at previous meetings of the WPDR and other WTO meetings and recalled the EU position on these matters. For the European Union, domestic regulation was one of the key areas of trade in services where further convergence amongst the Membership was necessary and the EU continued to be a strong supporter of multilateral work on domestic regulation.

1.19. The European Union recalled that in the run-up to the 11th Ministerial Conference in 2017, Members had worked hard in the WPDR to achieve a multilateral outcome. However, it had not been possible to achieve such a result at the Ministerial Conference due to opposition of some Members. Since then, a large group of interested Members had continued working to negotiate domestic regulation disciplines – in the form of the Reference Paper – in an open-ended format based on the Joint Statement on Services Domestic Regulation (WT/MIN(17)/61), adopted at Buenos Aires in 2017. These negotiations had successfully concluded with the adoption of a Declaration (WT/L/1129) by a group of 67 WTO Members, including the European Union. The outcome of these negotiations consisted of a Reference Paper providing for a set of disciplines that any WTO Members could decide to incorporate in their GATS Schedules. The outcome reflected an agreement among all Members who participated in the negotiations, including developing country Members, in line with their own objectives and interests. The European Union invited all WTO Members to consider attaching the Reference Paper on Services Domestic Regulation to their Schedules and stood ready to discuss with any interested Members.

1.20. The European Union noted that GATS Article XVIII provided Members with the right to negotiate additional commitments with respect to measures affecting trade in services which were not subject to scheduling under GATS Articles XVI and XVII, including those regarding qualifications, standards or licensing matters, with a view to inscribing them in their Schedules. For the EU, if Members decided to schedule additional commitments on domestic regulation, under no circumstances could this be seen as a dilution of their existing GATS commitments. As the Initiative's Coordinator had explained, the use of the scheduling approach under GATS Article XVIII would benefit all WTO Members who traded with the Initiative's participants. That was particularly important since participating Members currently represented more than 90% of world trade in services.

1.21. The representative of Australia fully supported the comprehensive statement provided by the Coordinator of the Joint Initiative on Services Domestic Regulation. As it had outlined at General Council meetings on several occasions, Australia did not agree with the arguments advanced by India and South Africa on the legal form of this Joint Initiative. There was nothing in the GATS to prevent – rather the GATS specifically allowed – Members to incorporate improvements to their GATS Schedules, whether unilaterally, or as a group. This did not require the consensus of the whole Membership, either in terms of a negotiating mandate or for the incorporation of the final outcomes. Australia had full confidence in the WTO consistency of this approach to incorporate the Initiative's outcome into the WTO legal framework. Moreover, Australia did not agree with the arguments made that the disciplines on services domestic regulation constituted some form of "rules" which could not legally fit into Members' GATS schedules. Australia considered that the disciplines covered precisely those types of measures that were listed in the GATS as areas for additional commitments under Article XVIII, i.e., "qualifications, standards, and licensing matters". There was no textual limitation which suggested that commitments under GATS Article XVIII could not be made on a cross-sectoral basis.

1.22. Australia recalled that the Initiative's participating Members were taking on these disciplines in addition to their existing market access and national treatment commitments under the GATS. Therefore, by their very design, the disciplines built on, and constituted improvements to, Members' GATS commitments. The disciplines would also be applied on MFN terms to the benefit of all Members, including non-participants. The GATS had clearly envisaged a process of incremental efforts to expand the ambition of Members' commitments over time, consistent with its trade liberalisation objectives. This was what the participating Members were doing in the Joint Initiative on Services Domestic Regulation. While a very limited number of Members maintained that the participants were not entitled to do that, such a statement was neither borne out by the language nor consistent with the spirit of the GATS. As the Coordinator had outlined, all Members should be proud of the fact that a group of them was able to achieve the outcome on services domestic regulation, the first set of WTO services rules agreed in a quarter of a century. These rules would assist Members' businesses, consumers and their communities to reap the benefits of services trade and support their recovery from the pandemic. Significant trade cost savings were expected to flow from implementation of this outcome, and particular benefits would accrue to MSMEs and female entrepreneurs, particularly in developing countries. This outcome would help the WTO to revive its much-needed rule-making function and make progress in other areas of rule-making interest. In conclusion, Australia looked forward to continuing work to implement the Initiative's outcome and stood ready to continue outreach efforts to encourage other Members to join.

1.23. The representative of China thanked India and South Africa for sharing their views and expressed his delegation's support for the statement delivered by the Coordinator of the Joint Initiative on Services Domestic Regulation. China was of the view that the Initiative's outcome would complement multilateral discussions in the following ways: first, since its very beginning, the Initiative's negotiations had been strictly conducted in line with WTO principles of openness, inclusiveness and transparency; second, the Reference Paper on Services Domestic Regulation clearly provided that the disciplines contained therein shall not be construed as diminishing any obligations of Members under the GATS; third, the Initiative's outcome would be incorporated into participants' Schedules as additional commitments and would be applied on an MFN basis to the benefit of all WTO Members.

1.24. China stated that the outcome on services domestic regulation would enhance transparency and efficiency of the services business environment. Research by the WTO and the OECD had found that the reduction in trade costs among the Initiative's participants from implementing the new disciplines would amount to USD 135 billion annually. The annual cost savings for non-participants' services exports towards participants would be around USD 17 billion. While the pandemic continued to wreak havoc, the Initiative's outcome would support the global economic recovery and boost growth, especially in services sectors, due to the reduction in red tape and increased transparency. Moreover, it would enhance the efficacy and relevance of the WTO by providing a concrete response to the needs of the business community. As a staunch supporter of the multilateral trading system, China was willing to work with all Members to advance discussions in the WPDR. China considered that the WPDR and the Joint Initiative on Services Domestic Regulation could complement each other, with the aim to establish universally applicable multilateral rules on domestic regulation as the ultimate goal.

1.25. The representative of Chinese Taipei thanked India and South Africa for sharing their views and concerns regarding GATS Article VI:4 and the Reference Paper on Services Domestic Regulation. However, as it had been reiterated at previous General Council meetings, Chinese Taipei did not share these concerns and supported the statement made by the Coordinator of Joint Initiative on Services Domestic Regulation. The plurilateral negotiations in the Joint Initiative had provided Members with the tools and means to enhance their interest in services trade and responded to the needs of their businesses and consumers in a timely manner. The disciplines on services domestic regulation were conducive to an efficient, transparent, predictable and non-discriminatory environment for trade in services. They augmented and improved the core disciplines of the GATS on domestic regulation. Chinese Taipei noted that Members participating in the Joint Initiative could not legally undermine their existing obligations under the GATS and thereby disturb the balance between rights and obligations among Members, as it had also been clarified in paragraph 6 of Section I of the Reference Paper. The additional commitments that Members participating in the Joint Initiative intended to inscribe in their Schedules according to Article XVIII of GATS were in essence improvements to their existing commitments. Chinese Taipei believed that it was Members' right to undertake additional commitments on domestic regulation as improvements to their existing Schedules. These additional commitments would be implemented on MFN basis and benefit all Members. Chinese Taipei welcomed the opportunity to continue discussion on issues relating to the development of disciplines on domestic regulation in the WPDR.

1.26. The representative of the Republic of Korea supported the statement made by the Coordinator of the Joint Initiative on Services Domestic Regulation. Korea was a strong supporter of the multilateral trading system and the WTO. Like many other Members, Korea was confident that the outcome on services domestic regulation would supplement existing WTO Agreements and not undermine them, including the GATS Article VI:4 mandate. Korea emphasized that all Members, regardless of their level of development or interests, were free to take part in the Initiative's discussions. Despite the conclusion of negotiations in the Joint Initiative on Services Domestic Regulation, all WTO Members could pursue further outcomes through the WPDR. Korea noted that GATS Article XVIII allowed the Initiative's participants to implement the outcome on services domestic regulation by updating their Schedules of commitments. This would have a legally binding effect only on the Members participating in the Joint Initiative. Most importantly, additional commitments would benefit service suppliers of all Members on MFN basis, eventually creating a GATS-plus effect. The outcome on services domestic regulation would ultimately serve to create a more transparent, predictable, and competitive business environment for global trade and investment in services. In the long run, the implementation of good regulatory practices would result in improvement of consumer welfare, more inbound FDI, more competent foreign human resources, and upgraded competitiveness in the service sector of participating Members.

1.27. The representative of New Zealand supported the intervention of the Coordinator of the Joint Initiative on Services Domestic Regulation. As it had been the case with other initiatives in the services agenda throughout the history of the WTO, Members participating in the Joint Initiative were paving the way for a more open, liberalized approach to trade in services, not just for themselves but for the whole Membership and the Organisation at large. For New Zealand, it had been pleasing to see a range of WTO Members continuing to join this Initiative and he was hopeful that others would do the same as the Initiative moved forward. While the Initiative's participants had already developed a significant outcome, New Zealand was committed to achieve further progress on rules on domestic regulation in the WTO in the future.

1.28. The representative of Turkey thanked India and South Africa for their interest in the outcome delivered by the Joint Initiative on Services Domestic Regulation. She stressed that Turkey remained committed to the mandate of the WPDR contained in GATS under Article VI:4. Indeed, Turkey regarded the Initiative's outcome on services domestic regulation as a solid step in putting forward the importance of good regulatory practices. Turkey had actively contributed to the Initiative's discussions, and was proud of the outcome achieved, which would be binding only for the participating Members, but would create rights for the whole WTO Membership on an MFN basis. Turkey, as a developing country, greatly valued this outcome since domestic regulation disciplines would not only play a crucial role for global development of trade in services but would also help create an environment conducive for the domestic services sector to prosper. Turkey invited Members not currently part of the Initiative to consider joining the Declaration of 2 December 2021 and incorporate the Reference Paper into their GATS Schedules, and it looked forward to developing further disciplines on domestic regulation under the WPDR.

1.29. The representative of Hong Kong, China echoed the statement made by the Coordinator of the Joint Initiative on Services Domestic Regulation. Hong Kong, China had been actively engaging in domestic regulation discussions in various WTO bodies, including the WPDR, as well as the Joint Initiative on Services Domestic Regulation. Hong Kong, China remained of the view that discussions in the Joint Initiative had never been intended to replace the work under the WPDR nor its mandate under Article VI:4 of GATS. On the contrary, the Initiative's outcome would help modernise and strengthen the multilateral trading system, reinvigorate the rule-making efforts of the WTO, and respond to business needs. He noted that the disciplines adopted by the Joint Initiative would apply on an MFN-basis to the benefit of all WTO Members. The outcome on services domestic regulation would not amount to a dilution or amendment of any GATS provisions nor would it undermine the existing obligations of Members under GATS. In the Reference Paper adopted by Initiative's participants in December 2021, it was clearly stated that the disciplines on services domestic regulation had not to be construed as diminishing any obligations of Members under GATS.

1.30. Hong Kong, China noted that, as shown by WTO and OECD research, implementation of the new services domestic disciplines was expected to result in potential savings in trade costs of up to USD 150 billion per year. This underscored the value and importance of the work of the Joint Initiative in facilitating the ecosystem of the global services trade, especially in times of the COVID-19 pandemic. Hong Kong, China remained committed to working closely with other Initiative's participants to harvest the benefits of the outcome and stood ready to engage constructively in any discussions or proposals to develop multilateral domestic regulation rules at the WPDR.

1.31. The representative of Canada stated her delegation was a strong supporter of the multilateral trading system and had been participating constructively on a broad range of trade-related issues, including domestic regulation, under various configurations offered by the WTO framework. Canada believed that new GATS-plus disciplines on services domestic regulation would reinforce good regulatory practices surrounding authorization of regulated services in a manner that provided further certainty and predictability to services suppliers from both developed and developing country Members. Given the lack of progress through the multilateral negotiations, Canada had joined the Joint Initiative on Services Domestic Regulation with other interested Members and was pleased with the ambitious outcome achieved in that forum. Canada expressed its full support for the statement delivered by the Coordinator of the Joint Initiative on Services Domestic Regulation. Canada strongly maintained that the Initiative's work was not in violation of GATS Article VI:4 mandate. While the Reference Paper provided sufficient reassurance that it did not affect existing rights and obligations of non-participating Members, the latter would benefit from the enhanced predictability and transparency deriving from the implementation in the participants' internal regulatory frameworks. For Canada, improving sound governance and reducing unnecessary regulatory barriers could support economic growth by facilitating the ease of doing business.

1.32. Canada strongly considered that plurilateral initiatives constituted an integral part of the multilateral trading system and that no multilateral mandate was required for launching any negotiations among interested Members. Looking at past WTO practice, including in the context of acceding governments, there were several examples where Members, individually or in a coordinated manner, had decided to unilaterally improve their GATS Schedules. Canada believed that the Reference Paper offered the most pragmatic and transparent approach for the Initiative's participants to incorporate the new disciplines on services domestic regulation in their GATS Schedules. As the disciplines would be applied on an MFN basis, all WTO Members, not just the participants, stood to benefit to some degree from the outcome achieved by the Initiative. Against this backdrop, if some Members were choosing to improve their own commitments based on established WTO procedures with a view to benefitting the entire Membership and the global services industry, including MSMEs, in concrete ways, it was difficult for Canada to understand any real concerns.

1.33. Canada noted that a number of non-participants had attended or observed the Initiative's discussions. Canada welcomed any interested Members to consider joining the services domestic regulation outcome and encouraged Members to approach the Initiative's Coordinator for any questions. Canada considered that the WPDR was not the appropriate forum to discuss the content of specific disciplines adopted by the Joint Initiative on Services Domestic Regulation. In terms of future multilateral work, Canada remained open to consider any proposals by Members that sought to constructively advance the mandate contained in GATS Article VI:4. Until then, Canada remained focused on making progress on domestic regulation within the Joint Initiative, and supported the WTO as a relevant negotiating body for meaningful trade rules.

1.34. Furthermore, Canada highlighted that, in WTO Agreements, key provisions such as the Most Favoured Nation and the National Treatment obligations prevented Members from discriminating between trading partners or between domestic and imported goods and services. Paragraph 22 (d) of the Reference Paper on Services Domestic Regulation aimed to prevent gender-based discrimination in the context of authorization procedures for service suppliers. This obligation would be scheduled as an additional commitment in participating Members' GATS Schedules. For Canada, given the very different meaning and ambit of these obligations, paragraph 22 (d) did not amount to a limitation on the MFN or NT obligations. In fact, to cite WTO DDG Ellard, this provision "institutionalizes the issue of gender in the WTO, transforming the Organization from a gender-blind to a gender-responsive one." In order to achieve gender equality, concepts of justice and fairness had to be taken into account to compensate for the historical and social disadvantages that prevented women and men from benefiting from equal opportunities. The footnote to paragraph 22 (d) provided that differential treatment between men and women did not necessarily amount to discrimination and that there could be legitimate reasons for employing differential treatment between men and women. The Initiative's discipline on non-discrimination represented a concrete action taken to advance women's economic empowerment through trade. This provision contributed to making international trade work for women by ensuring a level playing field for female service providers.

1.35. The representative of the United States echoed the statement by the Coordinator of the Joint Initiative on Services Domestic Regulation. For the United States, the benefits of the outcome on services domestic regulation were clear: by addressing opaque authorization procedures that negatively impacted service suppliers, Members could improve opportunities for workers, drive down costs for consumers, and enhance the conditions of trade. This achievement was particularly important for MSMEs for whom such opaque procedures effectively impeded exports. The United States hoped that other Members would consider joining the Initiative.

1.36. The representative of the United Kingdom added her voice to that of other Members affirming the validity and value of the Joint Initiative on Services Domestic Regulation and strongly supported the intervention made by the Coordinator. The United Kingdom maintained that the outcome on services domestic regulation would benefit services trade and service suppliers of all WTO Members. The Joint Initiative constituted a success for the WTO, its Members and global business, and the United Kingdom encouraged other interested Members to sign up to it.

1.37. The representative of Mexico thanked India and South Africa for sharing their views on the work of the Joint Initiative on Services Domestic Regulation and expressed her support for the statement by the Coordinator. It was Mexico's view that the disciplines on services domestic

regulation would complement the existing specific commitments undertaken by participating Members in their respective GATS Schedules. The disciplines would not affect any existing rights and obligations under the GATS or any other WTO Agreements. Moreover, the disciplines would become binding only for those WTO Members that inscribed them in their GATS Schedules. By being applied on a MFN basis, equal treatment for services suppliers from all WTO Members would be ensured. Finally, Mexico remained open to continuing a dialogue that could address any Members' concerns.

1.38. The representative of Switzerland thanked India and South Africa for sharing their views and concerns on the Reference Paper on Services Domestic Regulation and supported the statement delivered by the Coordinator of the Joint Initiative. Switzerland had always been a strong supporter of the multilateral trading system, including of the work on services domestic regulation. This was why Switzerland had actively engaged in different configurations to discuss the development of disciplines on domestic regulation, including in the WPDR and the Joint Initiative. The aim of the disciplines developed under the Joint Initiative was not to fulfil the mandate in GATS Article VI:4 – which remained untouched – nor to alter or diminish any existing obligation under the GATS. On the contrary, the disciplines built upon and complemented existing GATS commitments of the Members that had adopted the Reference Paper, and expanded the rights of all WTO Members including the ones that did not intend to adopt it.

1.39. The representative of Colombia thanked Members for the discussion and considered that it was particularly important to exchange ideas and learn more about different Members' perspectives with respect to the work of the Joint Initiative on Services Domestic Regulation. Colombia expressed its full support for the statement delivered by the Initiative's Coordinator. Colombia, like many other developing countries, regarded trade in services as a great opportunity to strengthen its export capacity, favoring people at all levels of training and from all regions. Indeed, the variety of services had the potential to accommodate the different business realities of the country. For Colombia, domestic regulation had always been a priority issue since the beginning of negotiations on this topic in the WTO for the following two key reasons: first, domestic regulation disciplines ensured that market access obligations were not adversely affected by domestic measures; second, the disciplines created basic governance conditions for the proper functioning of the service sector at the domestic level. This was why Colombia considered that domestic regulation disciplines would benefit both exports and the very functioning of the national market.

1.40. Colombia stated that the Reference Paper on Services Domestic Regulation addressed fully its domestic interests. The development of the text had advanced through an open process, where interested Members had proposed those disciplines they considered important. This was a process very similar to the one that had always been carried out in the past, for example, for the preparation of the WPDR Chair documents of 2009 and 2011, when the Members had presented and discussed their vision on the subject. Back then, like today, Colombia had been active in presenting proposals and supporting the importance of the issue, as could also be seen in documents JOB(06)/34; JOB(06)/193; JOB/SERV/231, among others. Moreover, the representative of Colombia emphasized that domestic regulation provisions were already included in its regional liberalization agreements, since it was convinced of the importance and utility of these measures. In addition, in the process of continuous improvement of Colombia's internal institutions, it had already implemented many of the obligations contained in the Reference Paper – not as the result of the Initiative's negotiations, but as the natural consequence of the objective to seek the best conditions for its service companies. Colombia was strongly committed to the multilateral trading system, and it would not have participated in the Joint Initiative on Services Domestic Regulation if it had not been confident that the outcome would strengthen the WTO and benefit its entire Membership.

1.41. The representative of the Russian Federation thanked India and South Africa for their contribution to the discussion on services domestic regulation. The Russian Federation was convinced that a strong rule-based WTO was critical for the effective functioning of the multilateral trading system. It concurred with India, South Africa, and other delegations that the consensus principle for decision-making, as it was defined in the Marrakesh Agreement, had to be respected. The Russian Federation also shared India and South Africa's interest in clarifying technical aspects of the certification process and was open to continue discussions in the Committee on Specific Commitments or in other appropriate formats.

1.42. The Russian Federation noted that it had acceded the WTO in 2012 when the negotiating function had already been under pressure from serious divergences among Members. At the same time, the urgency to negotiate up-to-date trade rules, especially in such an important economic

sector like services, was clear. The Russian Federation had decided to join the Joint Initiative on Services Domestic Regulation since it was convinced that disciplines on transparency, legal certainty, and predictability that would aim to reduce unnecessary regulatory barriers for businesses and consumers around the globe, were closely in line with the spirit of the WTO and did not contradict the mandate of GATS Article VI:4. The Russian Federation did not consider that the disciplines could affect any existing rights and obligations of Members under the GATS. Members' right to regulate and to introduce new regulations in order to meet national policy objectives, especially in developing countries, as a key principle of the GATS remained unquestionable. This was very important not only in the context of domestic regulation, but also when negotiating any new rules on trade in services. Moreover, the Russian Federation noted that the activities of WPDR were to some extent unique, and its mandate provided space for further negotiating work. In this regard, she echoed the Initiative's Coordinator to encourage all Members to consider what provisions on services domestic regulation could be discussed in the WPDR. While the Reference Paper on Services Domestic Regulation already provided a good set of rules, it was not necessarily exhaustive. Indeed, in many regional agreements and at the national level, there were already examples of different and more ambitious provisions on domestic regulation in services sectors.

1.43. To conclude, the Russian Federation encouraged all Members to continue working on any necessary disciplines to ensure that measures relating to licensing requirements and procedures, technical standards and qualification requirements and procedures would not constitute unnecessary barriers to trade in services. There were still many barriers and restrictions, which meant that working to remove them was an important priority for negotiators.

1.44. The representative of Indonesia took note of the concerns expressed by the delegations of India and South Africa with regard to the relationship between Article VI:4 GATS and the Reference Paper. Indonesia recognized that each of the Joint Initiatives had different characteristics. Hence, despite its participation in two other plurilateral processes, namely on e-commerce and investment facilitation for development, Indonesia considered that clarifying the institutionality of the Joint Initiatives within the WTO was crucial to ensure smooth implementation of their outcomes in the WTO. With respect to the outcome achieved by the Joint Initiative on Services Domestic Regulation, Indonesia was aware that GATS Article XVIII allowed Members to negotiate additional commitments on measures including those regarding qualifications, standards or licensing matters, in close connection with the obligations contained in GATS Article VI:4. However, for Indonesia, Members needed to clarify whether the additional commitment could incorporate or cover "new disciplines" or whether the Reference Paper on Services Domestic Regulation contained "new disciplines" as expected to be addressed under Article VI:4 GATS. Against this backdrop, Indonesia would study carefully the views expressed by other Members at the meeting. In the meantime, Indonesia hoped that all Members would maintain their willingness and commitment to continuing the negotiation on domestic regulation within the WPDR with a view to achieving a multilateral outcome that would benefit the entire Membership and the multilateral trading system.

1.45. The representative of Singapore reiterated his delegation's strong support for the statement delivered by the Coordinator of the Joint Initiative on Services Domestic Regulation. Singapore emphasized that the outcome on services domestic regulation was in line and in sync with the workings of the WTO. The most significant feature of the Joint Initiative was that it remained open, transparent and inclusive to all Members. He encouraged all Members to participate in the Joint Initiative, with the aim of attaining a multilateral outcome. For Singapore, the outcome on services domestic regulation strengthened the *raison d'être* of the WTO and enhanced its relevance at a time where this Organization was facing numerous challenges. The Joint Initiative on Services Domestic Regulation had proved this format could bring Members together to work towards meaningful and relevant outcomes with a view to addressing new and emerging issues faced by businesses, big and small alike.

1.46. The representative of Brazil fully supported the statement delivered by the Initiative's Coordinator. As already stated at previous meetings, Brazil reiterated that there was nothing in the WTO Agreement that prevented groups of Members from improving their Schedules of specific commitments, individually or in a coordinated manner. Brazil considered that, once incorporated into Schedules of the Initiative's participants, the disciplines of the Reference Paper on Services Domestic Regulation would bring benefits to all WTO Members, for both developed and developing countries alike. For the Initiative's participants, the provisions of the Reference Paper would bring more transparency and predictability to their regulatory environments, contributing to reduce costs and facilitate trade for domestic and foreign service suppliers. In the case of Brazil, like many other

developing countries, a series of domestic reforms had already been implemented over the past few years with the idea of improving the internal business climate, and these reforms were closely aligned with the good regulatory practices contained in the Reference Paper. For their part, service suppliers of non-participants would also benefit from the improved regulatory conditions through the application of the provisions in the Reference Paper on an MFN basis. Finally, he encouraged non-participants to consider adopting the disciplines of the Reference Paper in order to extend the benefits of the improved regulatory environments to a larger number of service suppliers.

1.47. The representative of Chile reiterated his delegation's support for the Joint Initiative on Services Domestic Regulation, and for all Joint Initiatives more generally. Chile noted that the incorporation of the disciplines on services domestic regulation in Schedules of specific commitments of each participant in accordance with GATS Article XVIII was fully consistent with WTO law and did not require consensus. Finally, with respect to the effects deriving from the implementation of the Reference Paper in developing country Members, Chile, as a developing country, had already been adopting these types of measures for several years, firmly convinced about the benefits that these would bring to trade in services and to trade more generally. The adoption of good regulatory practices would only be beneficial to all WTO Members irrespective of their level of development.

1.48. The representative of Barbados, on behalf of the ACP group, noted that the new commitments that had been put forward under the Joint Initiative touched upon the GATS, and in particular Article XVIII of the Agreement, as the participants had repeatedly indicated. And there were procedures in the context of GATS Article XXI on the modification of Schedules of specific commitments. In this light, the ACP group enquired whether the Initiative's participants intended to invoke GATS Article XXI in order to implement the results of their new MFN commitments in their Schedules, and whether this procedure required a submission to the Council on Trade in Services and consultations with affected Members.

1.49. The representative of Costa Rica noted that, as set out in the Declaration adopted on 2 December 2021 (WT/L/1129), the participants intended to incorporate the disciplines set out in the Reference Paper on Services Domestic Regulation as additional commitments into their GATS Schedules. The disciplines would apply to sectors contained in participants' GATS Schedules, as well as to any additional sectors identified by the individual participants. At present, draft Schedules representing 65 Members had been submitted, with only 2 draft Schedules outstanding. Subject to the completion of any required domestic procedures, participants aimed to submit their Schedules for certification by 1 December 2022, in accordance with the "Procedures for the Certification of Rectifications or Improvements to Schedules of Specific Commitments", as set out in document S/L/84 (14 April 2000). All WTO Members would be informed in due course.

1.50. The representative of India thanked Members for their comments. India was heartened to note the appetite for further discussions under WPDR as had been expressed by some Members. India reiterated that the WPDR had not met regularly or advanced any technical work on matters falling within the scope of its mandate and therefore invited suggestions from other Members to reinvigorate discussions on domestic regulation in the WPDR as per the mandate of GATS Article VI:4, with the aim to achieve multilaterally agreed disciplines that would increase the participation of developing countries in global services trade through inclusive development-oriented disciplines.

1.51. The representative of Barbados, on behalf of the ACP group, enquired whether certification would only occur among the Initiative's participants or whether GATS Article XXI was implicated. The ACP group remained ready to engage on this issue with other Members and wished to receive some technical guidance from the WTO Secretariat in this regard.

1.52. A representative of the WTO Secretariat noted that the certification procedure that the participants were planning to follow was a multilateral procedure adopted in document S/L/84. There was no possibility to certify an outcome in the WTO only among a subset of the Membership.

1.53. The representative of Venezuela appreciated the perspectives presented by India and South Africa. Venezuela was not a services demandeur, but it was undoubtedly in favour of multilateral processes agreed upon in the WTO. For this reason, Venezuela regretted that negotiations had not continued in the WPDR within the mandate of GATS Article VI:4. Venezuela also shared the same questions expressed by Barbados and the ACP group on the procedures for the certification of the outcome of the Joint Initiative.

1.54. The Chairman noted that delegations held different views on the points raised at the meeting, but he was hopeful that the exchange had proved useful to clarify Members' perspectives. He encouraged delegations to continue their discussions bilaterally and in any settings they considered appropriate. In order to resume substantive work in the Working Party, the input of Members was necessary. He understood that, at this stage, it could be difficult for delegations to make concrete proposals on multilateral work. He would therefore reach out to delegations bilaterally in what areas under the WPDR mandate they would find the development of disciplines "necessary" and would be ready to contribute.

1.55. It was so agreed.

2 ITEM B: OTHER BUSINESS

2.1. The Chairman recalled that the appointment of the Chairperson of the WPDR should normally take place at the end of the first meeting of the year. However, since the slate of names for the Chairpersons of the CTS subsidiary bodies for 2022 had not been confirmed to date, it was not possible to appoint the 2022 Chair at the present meeting. Once the slate of names was confirmed, Members would be informed, including on further arrangements concerning the appointment and hand-over of the Chairpersonship.
