



General Council
3 March 2020

MINUTES OF MEETING

HELD IN THE CENTRE WILLIAM RAPPARD ON 3 MARCH 2020

Chairperson: H.E. Ms. Sunanta Kangvulkulij (Thailand)

Following the tribute made by the Director-General at the Informal TNC and Informal HODs meetings on 2 March, the Chair added her words of sympathy for the demise of the former Director-General of the WTO, Mr. Mike Moore. She extended the General Council's deep condolences to the representative of New Zealand and through him to his Government and to Mr. Moore's family. The Chair and the Director-General also extended deep condolences to the delegation of Oman and through them to the Government and People of Oman for the demise of His Majesty Qaboos bin Said, Sultan of Oman. The representative of Oman spoke¹.

The Chair and the Director-General welcomed H.E. The Right Honourable Elizabeth Truss, Secretary of State for International Trade of the United Kingdom who was present at the meeting. The Right Honourable Truss then addressed² the General Council.

The Chair and the Director-General bade farewell to Ambassador Peter Brño (Slovak Republic), Ambassador Diego Aulestia (Ecuador), Ambassador Shameem Ahsan (Bangladesh), Ambassador Carlos Mario Foradori (Argentina) and Dr. Yu-Ping Lien (Chinese Taipei) and expressed appreciation for their valuable contribution during their time as Permanent Representatives.

Subjects discussed³:

1 REPORT BY THE CHAIRMAN OF THE TRADE NEGOTIATIONS COMMITTEE AND REPORT BY THE DIRECTOR-GENERAL2

2 IMPLEMENTATION OF THE BALI, NAIROBI AND BUENOS AIRES OUTCOMES – STATEMENT BY THE CHAIR.....6

3 WORK PROGRAMME ON SMALL ECONOMIES – REPORT BY THE CHAIRMAN OF THE DEDICATED SESSION OF THE COMMITTEE ON TRADE AND DEVELOPMENT.....9

4 WTO ACCESSIONS: 2019 ANNUAL REPORT BY THE DIRECTOR-GENERAL – STATEMENT BY DIRECTOR-GENERAL.....10

5 TWELFTH SESSION OF THE MINISTERIAL CONFERENCE16

5.1 Election of Officers 16

5.2 Request for Observer Status by Palestine 17

5.3 Launch of the MC12 Logo – Statement by Kazakhstan 17

5.4 Statement by the Chair 17

6 ACCESSION OF CURAÇAO – REQUEST FROM THE KINGDOM OF THE NETHERLANDS .18

¹ The full statement can be found in Annex 1.

² The full statement can be found in Annex 2.

³ The proposed agenda was circulated in document WT/GC/W/797.

7 PROCEDURES TO STRENGTHEN THE NEGOTIATING FUNCTION OF THE WTO – STATEMENT BY THE UNITED STATES.....	22
8 PROCEDURAL GUIDELINES FOR WTO COUNCILS AND COMMITTEES ADDRESSING TRADE CONCERNS – COMMUNICATION FROM ALBANIA; AUSTRALIA; CANADA; CHINA; OF MOLDOVA; NEW ZEALAND; NORTH MACEDONIA; NORWAY; PANAMA; QATAR; SINGAPORE; SWITZERLAND; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; THAILAND; TURKEY; AND UKRAINE	30
9 THE IMPORTANCE OF MARKET-ORIENTED CONDITIONS TO THE WORLD TRADING SYSTEM – COMMUNICATION FROM THE UNITED STATES.....	35
10 KAZAKHSTAN – BORDER RESTRICTIONS OF GOODS IN TRANSIT – REQUEST FROM THE KYRGYZ REPUBLIC	45
11 UNITED STATES TRADE REPRESENTATIVE REPORT ON THE APPELLATE BODY OF THE WORLD TRADE ORGANIZATION – STATEMENT BY THE UNITED STATES	48
12 APPOINTMENT OF OFFICERS TO WTO BODIES.....	55
13 OTHER BUSINESS	57
13.1 Statement by the Chair on Administrative Measures for Members in arrears	57
14 ELECTION OF CHAIRPERSON	58
ANNEX 1 - STATEMENT BY THE SULTANATE OF OMAN ON THE DEMISE OF HIS MAJESTY QABOOS BIN SAID BIN TAIMOR, SULTAN OF OMAN	61
ANNEX 2 - ADDRESS OF H.E. THE RT. HON. ELIZABETH TRUSS TO THE GENERAL COUNCIL OF THE WORLD TRADE ORGANIZATION.....	62
ANNEX 3 - THE REPORTS BY THE DIRECTOR-GENERAL AND THE CHAIRS OF THE NEGOTIATING GROUPS AT THE INFORMAL TNC AND INFORMAL HODS MEETINGS HELD ON 2 MARCH 2020.....	65
ANNEX 4 - STATEMENTS BY MEMBERS AT THE INFORMAL TNC AND INFORMAL HODS MEETINGS HELD ON 2 MARCH 2020	74

1 REPORT BY THE CHAIRMAN OF THE TRADE NEGOTIATIONS COMMITTEE AND REPORT BY THE DIRECTOR-GENERAL

1.1. The Chair recalled the Informal TNC and Informal Heads of Delegation meetings held on 2 March. At that meeting, the Director-General had provided a report on his recent activities and consultations, the Chairs of three Negotiating Bodies had made oral reports on progress in their respective areas, and 51 delegations had taken the floor.

1.2. The representative of Costa Rica said that the WTO was the backbone of international trade, a fundamental engine of socioeconomic growth. Costa Rica had a long-standing policy of progressive trade liberalization and FDI attraction, coupled with a committed support of a transparent and rules-based multilateral trading system. As a small developing nation, Costa Rica believed that a strong system was crucial to ensure that the benefits of trade translated into development opportunities.

1.3. Costa Rica stressed that it was determined to continue playing an active role of constructive leadership in the WTO, and that it recognized the urgent need to address the challenges facing the system and the organization and also shared the generalized frustration with the inability to deliver balanced and ambitious outcomes, despite the prevailing good will and efforts deployed.

1.4. Costa Rica referred to the several initiatives undertaken in current negotiations that illustrated its endeavour. One of those initiatives was Costa Rica's out-of-the-box bid to address the issue of growing domestic support and the way it could distort global agricultural markets, where Costa Rica was proposing to leave aside the debate on each Member's development condition to focus instead on each Member's potential to affect those markets. Another initiative was the engaging role in the negotiations on electronic commerce, services domestic regulation and, with several Members, on climate change, trade and sustainability – all key issues defying global trade. A third initiative was Costa Rica's support of Members' proposals to first ensure that dispute settlement procedures

continued providing certainty, while a more permanent fix was found and, second, to warrant compliance of notification obligations and uphold transparency in the system.

1.5. In addition to the aforementioned, Costa Rica had decided to no longer seek S&DT provisions in current and future negotiations and, instead, negotiate specific concessions to accommodate its sensitivities. That was a forward-looking action based on Costa Rica's vision of what the future of international trade required, and something Costa Rica was convinced would be conducive to construct the consensus that was so urgently needed at the WTO.

1.6. Costa Rica believed that generalising flexibilities to address some Members' specific needs, under cross-cutting S&DT provisions, led to a cumulative sum of sensitivities that severely hampered the possibility of finding balanced outcomes, given the availability of such provisions to a significant majority of the Members. While Costa Rica respected every Member's view on WTO reform, it felt it was taking a step forward to re-invigorate the progress that the multilateral negotiations for trade reform demanded.

1.7. That decision did not imply that Costa Rica was, in any way, foregoing: (i) its developing country status at the WTO; (ii) its rights stemming from S&DT provisions under current WTO agreements, which Costa Rica would continue to uphold and use; (iii) its right to aggressively pursue concessions from Members to properly and satisfactorily address its sensitivities, in current and future negotiations, either individually or teaming up with others that shared them, including those in agriculture; (iv) finally, its right to actively seek available sources of multilateral, regional and bilateral cooperation.

1.8. The clock was ticking. Positive action to reshuffle the WTO's capacity to build consensus towards a fairer and more inclusive trading system could not be delayed. By embracing those measures, Costa Rica hoped to help break the gridlock and foster a more fitting advancement of multilateral trade negotiations, lest the WTO became irrelevant, which was a dangerous idea especially for small, open economies such Costa Rica's.

1.9. The representative of Gabon stressed that Gabon was a staunch defender of the multilateral trading system, and that it was convinced that the best successes are those that were achieved collectively. To achieve that, Members were obliged to ensure progress in their discussions in order to yield positive and concrete results. Gabon congratulated the Chairs of the Negotiating Groups for their efforts deployed to date. Gabon had no doubt that Members would have beneficial discussions to come in view of the numerous challenges facing the organization.

1.10. With regard to Gabon's priorities, it did not have to come back to all of those because those would not add value to the discussions. They had already been taken into account in the statements of the African Group and the ACP Group which Gabon fully endorsed.

1.11. Nevertheless, Gabon remained concerned with regard to the nature of the agenda of MC12 given the time left. It would seem essential in the lead up to MC12 to send out a signal to the multilateral international community by developing and progressing with the work under way. Gabon hoped that Members could overcome current gaps for the benefit all.

1.12. The representative of Côte d'Ivoire recalled that a report published by the International Centre for Trade and Sustainable Development (ICTSD) on 24 November 2009 titled "Strengthening Multilateralism: A Mapping of Proposals on WTO Reform and Global Trade Governance", which was focusing on institutional and governance issues linked to WTO reform, revealed that Members' concerns regarding reform dated back to the time when the WTO had been established. In recent years, however, Members' desire for reform had intensified, resulting in the impasse in the Appellate Body, which had not been operational since 10 December 2019. The varied topics in that paper were linked to questions raised in particular by developed country Members. It was important that subjects of interest for developing country Members were also addressed as part of the reform.

1.13. Better still, WTO reform should contribute towards achieving the Sustainable Development Goals (SDGs), in particular SDG 1 (End poverty in all its forms everywhere), SDG 2 (End hunger, achieve food security and improved nutrition and promote sustainable agriculture), SDG 8 (Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all), SDG 10 (Reduce inequality within and among countries), SDG 12 (Ensure sustainable

consumption and production patterns), SDG 13 (Take urgent action to combat climate change and its impacts) and SDG 16 (Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels), with a view to inclusive trade as a factor of development for all.

1.14. By adopting such a vision which would inevitably contribute to achieving the above-mentioned SDGs in an integrated and dynamic way, the WTO would at the same time accomplish its goals as set out in the Marrakesh Agreement.

1.15. With that in mind, Côte d'Ivoire stressed that Members had to rule out any dogmatic approach with paradigms that could restrict the discussion of certain subjects, and anything that could stand in the way of the discussion of topics relevant to the development of all LDCs and developing countries. Moreover, previous failures in the context of implementation of certain development initiatives should not undermine any fresh endeavours. To do that, account should be taken of the systemic and philosophical constraints at the root of those failures.

1.16. In that context, and in the quest for a WTO reform that took account of virtually all concerns and interests of the whole Membership of the organization, only the WTO's contribution to achieving the SDGs and hence the development of its Members should be the driving force, since trade was not an end in itself. Hence, any idea that fit into that dynamic of a WTO that sought to promote the attainment of the bulk of the SDGs should be welcomed, especially those referred to above. In other words, the reform should also encompass the governance of the institution, its functions as well as its principles and rules. Thus, all subjects relevant to the development of Members should be accepted, examined and taken into account.

1.17. Côte d'Ivoire then referred to the need for inclusion in the Twelfth WTO Ministerial Conference agenda of the issue of Members dependent on agricultural commodity export earnings for financing their development, and to the characteristics of low-income developing countries dependent on commodity export earnings for financing their development.

1.18. In that respect, according to recent UNCTAD statistics, over 90 developing countries were dependent on commodity exports and almost all added hardly any value to commodities, i.e. they did not convert them into finished or semi-finished products, and they struggled to establish operations in other manufacturing sectors, which limited the industrialization of their economies. Those countries depended on exports of unprocessed commodities such as agricultural products, amounting to at least 60% of the total value of their exports. In that regard, UNCTAD figures revealed that in 61 of those countries over 80% of economic activity was based on commodity exports, resulting in serious economic, environmental and social consequences if only because price volatility disrupted their macroeconomic management.

1.19. The UNCTAD report on the trade in raw materials stated that dependence on commodity exports created a direct link between developments in international commodity markets (which individual developing countries could not influence) and government revenues. In commodity dependent developing countries, where public revenues depended to a large degree on exports, price shocks on global commodity markets had a direct impact on governments' policy space.

1.20. Dependence on commodities also disrupted fiscal and monetary policies. Strong fluctuations in capital flows, such as those caused by commodity price volatility, had a negative impact on the balance of payments. In commodity-dependent developing countries, government revenues were also closely linked to commodity prices. If those prices were lower than expected, that could undermine the fiscal balance and reduce authorities' scope for action, causing cuts in public spending on key infrastructure and social programmes. That hampered national economic development and government efforts to reduce poverty. Commodity-dependent developing countries also faced the risk of imported inflation.

1.21. Thus, price volatility in those international markets created a fiscal imbalance that led to volatility in public spending. In many developing countries, such a situation undermined and hampered the continuity of social programmes, infrastructure development and other components of economic and social development plans. The report also indicated that individual producers in developing countries who were dependent on commodities for their income and means of subsistence, just like the economy as a whole, felt the negative impact of commodity price shocks

and volatility. The unpredictability of revenue made any financial planning difficult, especially for poor households without savings or access to credit to facilitate consumption or make the necessary investments.

1.22. However, in most of those countries, including Côte d'Ivoire, the world's leading cocoa producer, agricultural activity was primarily carried out by small labour-intensive undertakings using unproductive, even archaic, manual methods, with limited prospects of mechanization. Moreover, the "World Development Report 2000/2001: Attacking Poverty", which focused on three key areas for development and poverty reduction – namely, opportunity, empowerment and security –, showed that uninsured economic risks for poor people or low income countries tended to create poverty traps, which in turn severely restricted development prospects in both microeconomic and macroeconomic terms.

1.23. Furthermore, a World Bank study showed that economic instability was greater in low income countries with limited and undiversified exports. The study also showed that economic insecurity and instability had a negative impact on development prospects in low income countries. In addition, in conditions of instability and unpredictability of national revenues, it was particularly difficult to envisage long term policies, and hence development policies, and especially to promote well managed agriculture which did not contribute to environmental degradation in a context increasingly marked by climate change. That last aspect of the question was so important that in the medium term, if no realistic, viable and achievable solution was envisaged in time, that situation would inevitably result in accelerated environmental degradation and accentuate the effects of climate change, which would have a de facto effect on more than one continent. Consequently, in that context, achieving the SDGs by 2030 would be difficult, if not impossible, if the reform under way at the WTO did not incorporate those vital issues linked to the trade in agricultural commodities in general, and tropical products in particular. That included the nagging perennial question of commodity price volatility and the ensuing disequilibrium in the balance of payments.

1.24. Côte d'Ivoire then made reference to an "Examination of inadequate or inappropriate solutions implemented in relation to these issues". With regard to the impossibility for commodity-dependent developing countries to stabilize their export earnings, he stressed that, in terms of solutions, a number of measures and mechanisms had been implemented by countries exposed to such financial instability and by certain partners, but without any lasting success. Those included the Stabex and Sysmin systems for the stabilization of export revenue from agriculture and mineral products, respectively, two instruments established by the Lomé Convention and abolished under the Cotonou Agreement governing EU ACP relations.

1.25. Moreover, product agreements that had been frozen had shown their limitations. Indeed, the oligopolistic and highly speculative nature of international markets in commodities, especially agricultural products, rendered any strategy based on mere application of the principle of price-setting according to supply and demand, ineffective for resolving that issue. Côte d'Ivoire said that the large number of international stabilization agreements implemented clearly illustrated the inappropriate nature of those instruments for resolving that issue.

1.26. As regards vertical diversification policies, those still proved to be a very ineffective solution for various reasons, even if they were to play a key role in future in reducing developing countries' dependence on raw materials. In fact, tariff escalation meant that vertical diversification could not always be envisaged. The same applied to horizontal diversification strategies, which utilized competencies and resources available in the commodity sector in order to expand other sectors. Those were difficult to apply since the conditions for ensuring their success could not be completely fulfilled by those countries in the current situation. Hence those long-term solutions, some of which were complex and required substantial resources, could be envisaged once the countries concerned had sufficient resources for the purpose.

1.27. To that end, it was vital that multilateral solutions, supported by political will and resulting from consensus at the WTO, were adopted to enable the countries concerned to plan their development in a responsible and predictable manner, on the basis of trade in commodities in general, and tropical products in particular.

1.28. In that regard, Côte d'Ivoire emphasized that the preamble to the Agreement on Agriculture stated that: "[...] developed country Members would take fully into account the particular needs and

conditions of developing country Members by providing for a greater improvement of opportunities and terms of access for agricultural products of particular interest to these Members, including the fullest liberalization of trade in tropical agricultural products [...]". That question should therefore be addressed as part of the reform with a view to finding a solution that was appropriate to the particular situation of the developing countries and LDCs concerned.

1.29. In concluding, Côte d'Ivoire stressed that, as part of WTO reform, there was a need to address long standing issues relating to commodity price volatility and to find relevant, appropriate and sustainable solutions. The Agreement on Agriculture instructed the Membership in that regard. Those solutions, which were essential for the economic stability and inclusive development of those countries, had to take the form of self-enforcing measures that enabled commodity-dependent developing countries to systematically reduce the effects of excessive commodity price fluctuations that caused a decline in export earnings.

1.30. In that regard, the contribution of the WTO, which regulated world trade, was indispensable. All Members were invited to work on the basis of consensus towards a solution that enabled trade to be a genuine instrument for inclusive development and attainment of the SDGs, especially for Members facing difficulties on account of the instability of export earnings due to commodity price fluctuations resulting from speculative international markets. Accordingly, Côte d'Ivoire and a number of other Members would submit a proposal for a decision relating to MC12 in the very near future.

1.31. The General Council took note of the report of Director-General on 2 March⁴, of the statements made, and of the statements delivered at the 2 March Informal TNC and Informal HODs meetings⁵.

2 IMPLEMENTATION OF THE BALI, NAIROBI AND BUENOS AIRES OUTCOMES – STATEMENT BY THE CHAIR

2.1. The Chair⁶ recalled that on 24 February she had held a meeting with the Chairs of Regular Bodies, and she thanked them for their cooperation and engagement during her tenure as Chair of the General Council. As always, their updates on the implementation of the Ministerial mandates were the basis of her statement. She noted that a number of WTO bodies had not yet met since the last General Council meeting, and therefore her statement would focus on matters where there had been developments since her last report in December.

2.2. Starting with the Work Programme on Electronic Commerce, she recalled that, following the adoption of the Decision (WT/L/1079) in December 2019, she had convened an informal open-ended meeting on 10 February to report on her consultations, and to hear Members' views on how to structure the work ahead of MC12. At that meeting, she had urged delegations to come forward with specific proposals and had stressed the need to be focused given the short time left before MC12. Delegations had reiterated their commitment to implementing the December Decision and had restated known divergent positions on the moratorium and its impact. There had also been a general agreement to have a workshop focusing on various aspects of the moratorium.

2.3. She was pleased to confirm that the workshop would be held on Monday 23 March and, in that regard, a communication had been sent to all Members. The workshop would bring together various stakeholders including Members, international organizations, research institutions and business

⁴ The Director-General's report (also circulated in JOB/TNC/78) and the reports of the Chairs of Negotiating Bodies at the 2 March Informal TNC and Informal HODs Meetings are incorporated in the minutes of this meeting and are reproduced in Annex 3 of this document.

⁵ The statements at the 2 March Informal TNC and Informal HODs Meetings by the following delegations are incorporated in the minutes of this meeting and can be found in Annex 4 of this document: Switzerland; Brazil; Botswana (African Group); Singapore; Chad (LDCs); European Union; Morocco; Canada (Ottawa Group); Angola; Iceland; Jamaica (ACP); Montenegro; China; Mexico; Japan; United States; New Zealand; Uruguay (Informal Working Group on MSMEs); India; Norway; Peru; Egypt (NFIDCs except Peru); Barbados (CARICOM); Afghanistan; Russian Federation; Malaysia; Republic of Korea; Turkey; Philippines; Costa Rica (Joint Initiative on Services Domestic Regulation); Nigeria; Argentina; South Africa; Pakistan; Thailand; Hong Kong, China; Indonesia; Bolivarian Republic of Venezuela; United Kingdom; Viet Nam (ASEAN); Nepal; Solomon Islands (Pacific Group); Australia (Joint Statement Initiative on Electronic Commerce); Cambodia; Panama (Article XII); Chinese Taipei; Burkina Faso (C-4); St. Lucia (OECS); Ecuador; Chile (Structured Discussions on Investment Facilitation for Development) and Paraguay.

⁶ The Chair's statement was circulated in document JOB/GC/226.

representatives. As noted by Members at the informal meeting, the participation of capital-based officials would be beneficial to the discussion.

2.4. Looking ahead, she understood that some delegations were working on possible submissions to contribute to the discussions and that those might be submitted in the near future. In that regard, an Informal Open-Ended meeting was tentatively scheduled for 12 March to consider any new submissions received by then. Further information would be provided in due course.

2.5. Regarding TRIPS non-violation and situation complaints, the Chair of the TRIPS Council had held a number of small group consultations in January to discuss the way forward in light of the short time-period until MC12. Delegations had discussed the item again at the formal TRIPS Council meeting on 6 February and had agreed to ask the incoming TRIPS Chair-designate to hold consultations once the slate of chairs had been formally agreed by the General Council. Those consultations should begin as soon as the new Chair took up her duties.

2.6. Regarding some of the Ministerial outcomes on Agriculture, with respect to the Nairobi Decision on Export Competition, the Committee on Agriculture would conduct the 2020 dedicated discussions on export competition at its September meeting.

2.7. With respect to the review of the operation of the Bali Decision on TRQ administration, the Committee on Agriculture would have its first meeting in 2020 at the end of March, and would take up the matter in light of the recommendations agreed by the General Council in December.

2.8. Regarding the implementation of the Trade Facilitation Agreement, since December 2019, the Committee had met on four occasions. Two of the meetings had been called over the previous two weeks, and they were linked to the implementation of the flexibilities in the TFA for least-developed countries. Two additional ratifications had been received since her last report, bringing the total rate of ratification to over 90% of the Membership.

2.9. And finally, on Aid-for-Trade, Members had been able to agree to the new Work Programme for Aid for Trade which covered the period 2020-2021. She understood that Ambassador Blackman, Chairman of the CTD, wished to introduce the work programme and offered him the floor.

2.10. Ambassador Chad Blackman (Barbados), Chair of the Committee on Trade and Development, thanked Members for their positive engagement in the discussions on the new biennial work programme. He had begun discussions on the new work programme at the final, formal meeting of the CTD Aid for Trade in November 2019. An informal open-ended consultation had followed in January. Members had then considered a draft text at the 11 February CTD formal meeting. A series of briefings had also been held with Members in different groupings. Those consultations had harvested a number of ideas and suggestions that were captured in the text.

2.11. On the basis of that broad-based, inclusive process, he was pleased to inform Members that the new Aid-for-Trade work programme had been issued on 21 February. The 2020-21 plan was themed "Empowering Connected, Sustainable Trade". It focused on the opportunities that digital connectivity and sustainability offered for economic and export diversification – and how Aid for Trade could help empower different economic actors to realize those opportunities.

2.12. Building on the success of previous events, the work programme envisaged a further Aid for Trade Global Review next year. That would be the eighth such Review since 2007. In closing, he thanked Members for their support, their suggestions and the endorsement of the work programme. Following past practice, the 2020-2021 Aid for Trade work programme in WT/COMTD/AFT/W/81 was being issued under his own responsibility as CTD Chair.

2.13. The representative of Chad, on behalf of the LDCs, recalled the importance of the operationalization of the Decisions taken at previous Ministerial Conferences concerning Duty Free and Quota Free (DFQF) market access, the Services Waiver for LDCs' service suppliers, and Preferential Rules of Origin for LDCs for the economic and social development of the LDCs. The LDCs regarded those Decisions as successful outcomes to multilateral negotiations. They were, by their very nature, likely to contribute to the speedy integration into world trade, allowing the LDCs to gain further benefits for their societies.

2.14. The LDCs thanked all the Members who had notified their preferences granted to LDCs, in line with those three Decisions. There was nevertheless much work to be done for local economic operators to take full advantage of those benefits. That would involve improvements as regards both information and export capacities. To that end, the LDCs counted on the continued support of WTO Members, the Secretariat and other relevant actors and organizations to increase preference utilization, thereby enabling LDCs to follow a path of growth and sustainable development.

2.15. On Aid for Trade, the LDC Group congratulated the Chair of the Committee on Trade and Development, Ambassador Chad Blackman of Barbados, for having successfully led the consultations with Members that led to the adoption of the Work Programme for 2020-2021 entitled "Empowering Connected, Sustainable Trade". The programme was a continuation of the LDCs' objective to achieve more diversified economies and exports – which was synonymous with faster integration into world trade, the strengthening of the productive fabric and job creation.

2.16. The LDC Group regarded the Aid-for-Trade initiative as an important means of achieving empowerment and poverty reduction. The Group was therefore fully committed to Aid for Trade programmes that had a real, positive and effective impact. Thanks to the support and qualitative cooperation of the international community, bilateral and multilateral donors, South-South partners, the World Bank, multilateral development banks, private sector partners and other international trade related organizations, the LDCs were able to carry out a number of projects that promoted their empowerment and inclusion in the global trading system, with the expected positive social benefits. The Group had shared its thoughts on the aspects that were important to the LDCs in terms of the contribution of Aid for Trade to their development. The elements that the Group had mentioned during the meetings of the Committee on Trade and Development on Aid for Trade and the WTO biannual programme, had been set out in a recent communication that had circulated to all WTO Members in WT/COMTD/AFT/W/82. By means of that communication, the Group hoped to demonstrate its commitment to Aid for Trade and outline the key dimensions through which Aid for Trade could help to attain their development goals.

2.17. Overall, those dimensions concerned: the diversification of the LDCs' production of goods and services, and the strengthening of the productive capacities; being more firmly grounded in regional and global value chains; the improvement of trade facilitation conditions; the acquisition and mastery of information and communication tools; the development of the private sector, in particular the micro, small and medium-sized enterprises; the inclusion of women and young people in value creation; and ensuring that Aid for Trade was granted under favourable conditions for both LDCs and those that had graduated from that status.

2.18. There were many challenges, but the Aid-for-Trade initiative, in tandem with cooperation with the international community, the WTO and its Enhanced Integrated Framework, helped to provide relevant solutions for achieving sustainable results. The LDC Group therefore renewed its gratitude to WTO Members and to all stakeholders in the Aid-for-Trade initiative, of which the LDCs were beneficiaries.

2.19. The representative of Barbados recalled that, in December, Barbados had joined other WTO Members in endorsing the decision on Work Programme on Electronic Commerce. The decision, among other things, mandated WTO Members to reinvigorate discussions on the Work Programme. Barbados had done so with the understanding that the structured discussions would include discussions on issues beyond the moratorium on the imposition of customs duties on electronic transmissions.

2.20. While Barbados appreciated the comments which spoke to prioritizing those issues as well as those that sought to provide reassurance on the continued existence of the Electronic Commerce Work Programme post MC12, Members were reminded of the fragility of the Work Programme, and the continued belief among some that the exploratory work of the Work Programme was exhausted. The ACP and the LDC Groups had been vocal on a number of elements within the context of the 1998 Work Programme that were of interest to them, particularly in light of the acute challenges that those Members faced, including bridging the knowledge and digital gap between WTO Members.

2.21. Barbados would continue to work with those and other developing country Members with the aim of bringing issues forward for discussion, and would continue to engage positively on the Work Programme with the aim of ensuring that the interests of developing countries, particularly those

that were small, and whose peculiar circumstances could often be overlooked, were a key part of the MC12 decision. Barbados looked forward to the continued participation in the ongoing consultations, as well as in future informal open-ended meetings on electronic commerce.

2.22. The General Council took note of the Chair's report and of the statements.

3 WORK PROGRAMME ON SMALL ECONOMIES – REPORT BY THE CHAIRMAN OF THE DEDICATED SESSION OF THE COMMITTEE ON TRADE AND DEVELOPMENT

3.1. The Chair recalled that in line with the agreement in the General Council in 2002, the Work Programme on Small Economies was a standing item on the agenda and the Committee on Trade and Development reported regularly to the Council on the progress of work in its Dedicated Sessions. In Buenos Aires, Ministers had adopted a Decision reaffirming their commitment to the Work Programme and instructing the CTD to continue its work in Dedicated Sessions under the overall responsibility of the General Council.

3.2. Ambassador Chad Blackman (Barbados), Chair of the Dedicated Session of the CTD, recalled that in his previous report to the General Council, he had informed Members of two proposals by the SVE Group which had been considered at the meeting of the CTD's Dedicated Session on Small Economies in November 2019.

3.3. The first of those contained a proposed text for a Ministerial Decision on the Work Programme on Small Economies at MC12. With regard to future work, the submission by the SVE Group proposed that the Dedicated Session looked at the impact of natural disasters on the trade of small economies, and at the integration of small economies into new forms of trade. The second proposal was for a seminar on the opportunities and challenges for small economies in attracting investments. On both proposals, it had been determined in November that further informal discussions among Members would be required in order to make progress. Since that time, he understood that the SVE Group had reached out informally to a number of delegations.

3.4. He said that he had also reached out recently to Members, by inviting delegations to submit any comments they could have on either of the two proposals. The feedback he had received indicated that the proposed text for a Ministerial Decision was still under consideration, while it appeared that there were no objections to proceed with the seminar on attracting investments.

3.5. On that basis, he had scheduled the next meeting of the Dedicated Session for 26 March. He said that hopefully, by the time of that meeting, further informal discussions among Members would have allowed agreement to be reached on the text of a Ministerial Decision. That would permit the Dedicated Session to adopt its report to the General Council, which was the usual practice in the run-up to a Ministerial Conference. He reiterated that he stood ready to facilitate any additional informal discussions among Members that could be required in order to allow the process to be concluded as soon as possible. The meeting of the Dedicated Session on 26 March would be immediately followed on the same day by the seminar on attracting investments. He was working with the Secretariat to identify speakers for the event, and a programme would be shared with Members in due course.

3.6. The representative of El Salvador, on behalf of the SVEs, recalled that the Group had presented a proposal for a Ministerial Decision on the Work Programme on Small Economies at the Dedicated Session of the CTD on 1 November, which included new topics for the future work of the work programme. The SVEs regretted that the decision could not be agreed yet, but hoped to come to an agreement at the next Dedicated Session on 26 March. The SVEs would continue the constructive discussion with Members, to advance the work.

3.7. Regarding the proposal to organize a session on investment attraction, the SVEs thanked the Chair for the consultations and all the Members for their support. That was a very important topic for the SVEs, as they faced various challenges in the attraction of investment, and it could help small economies to integrate in the global value chains and to reduce trade costs; particularly important was investment in infrastructure, international sustainability certifications and standards, technology, research and development, and other necessary means to improve competitiveness.

3.8. The representative of Barbados recognized that decisions on the regular work of the WTO were a critical feature for outcomes at WTO Ministerial Conferences. Over the years, the Work Programme on Small Economies had come to be regarded as one of those salient features. Barbados recognized that the discussions on the decision on the Small Economies Work Programme were ongoing, and thanked Members for their engagement in that regard. Barbados looked forward to participating in those discussions, and to reaching an agreement to send the decision to the Ministerial Conference for Ministers' consideration.

3.9. Barbados thanked Members for their support to the discussion on, "Investment attraction: Small Economies' Opportunities and Challenges". It looked forward to working with Members and the Secretariat on devising a programme on the role of investments in enhancing competitiveness and in reducing trade costs in small economies. Barbados also wished to reiterate its concern that the issue of natural disasters and trade had not yet gained consensus for dedicated discussion on small economies, particularly as the relevance of the multilateral trading system and by extension the WTO, continued to be hinged on its responsiveness to respond to the changing world; and the duty to complete the unfinished business of the Round of negotiations. In light of the importance of the issue to the trade and development prospects of Barbados and other small, vulnerable island States, Barbados would continue its advocacy to discuss the issue.

3.10. The General Council took note of the report of the CTD Chair and of the statements.

4 WTO ACCESSIONS: 2019 ANNUAL REPORT BY THE DIRECTOR-GENERAL (WT/ACC/36 – WT/GC/207) – STATEMENT BY DIRECTOR-GENERAL

4.1. The Chair drew the General Council's attention to the Director-General's annual report on Accessions circulated in WT/ACC/36 – WT/GC/207 – and invited the Director-General to present the report.

4.2. The Director-General stated that 2019 had been another busy year for WTO accessions. At the end of the year, 14 out of the 22 ongoing accessions were in the "active" category. In particular, the year had seen four Working Party meetings for three accession processes – for Belarus, the Bahamas and South Sudan.

4.3. He recalled that the Working Party on the Accession of Belarus had met twice and had made considerable progress. The Working Party on the Accession of The Bahamas had been very active until Hurricane Dorian in September had become the worst natural disaster in the country's history. The Working Party on the Accession of South Sudan had held its first meeting after it became the most recent LDC to seek WTO Membership in December 2017.

4.4. There was also movement in other accession processes. Ethiopia – the largest acceding LDC in terms of economic and population size – had reactivated its accession after a 7-year pause. Its Working Party had officially resumed operations in January, and WTO accession was now a key driver for the Government's Homegrown Economic Reform Plan. Uzbekistan had reactivated its accession process after 14 years of dormancy, and had submitted an updated Memorandum on the Foreign Trade Regime and other documentation. That had provided the basis for officially resuming talks in its Working Party in the coming weeks. He also noted that accession talks for Algeria, Azerbaijan, Iraq, Lebanon, Serbia and Sudan could potentially be reactivated in 2020 and that Equatorial Guinea, Somalia and Timor-Leste had held their first Working Party meetings that year.

4.5. He added that towards the end of 2019, a new application for WTO accession had been received from Curaçao – a constituent country within the Kingdom of the Netherlands. Under Agenda Item 6, Members would decide whether to accept Curaçao's request and establish a Working Party on its accession.

4.6. Looking ahead to the rest of 2020, he noted that the accessions of Belarus, Bosnia and Herzegovina, and the Comoros were technically advanced and could enter into the final phases of the negotiations. Among the three, Bosnia and Herzegovina's accession process was the most advanced. After 2 years of a low level of activities due to constitutional changes, the Comoros – an LDC – was now ready to resume its accession process. Lastly, despite complexities linked to its membership in the Eurasian Economic Union, Belarus was expected to build on progress in 2019 and

work on resolving the bulk of outstanding issues in 2020, starting at its next Working Party meeting later that month.

4.7. He said that the WTO Secretariat in 2019 had also continued technical assistance and outreach aimed at building a better understanding of the accession process and associated benefits, and that new specialized training programmes focused on WTO rules in the context of accession talks, as well as on goods market access negotiations. The 8th China Round Table on LDC accession had taken place in Moscow and had focused on links among WTO accession, regional integration and WTO reform.

4.8. Looking ahead to the rest of the year, Africa, which accounted for 40% of WTO membership applicants, would be a key focus of Secretariat technical assistance on accession. He stressed that, the previous month, a partnership had been initiated with the African Union Commission, the UN Economic Commission for Africa, the ITC and the World Bank. Finding synergies between WTO membership and the African Continental Free Trade Area (AfCFTA), which was set to become operational on 1 July, would be one priority for that work.

4.9. He also recalled that every year, the Annual Report on WTO Accessions chose a thematic focus. That year, the report highlighted the relevance of inter-agency cooperation in promoting efficiency and coherence in support to governments' efforts on WTO accession. For example, it pointed to the WTO's accession specific cooperation with the IMF and the World Bank.

4.10. In concluding, he thanked all Members for their continued engagement and support for the WTO's work on accessions, including their technical assistance to acceding governments. In particular, he expressed appreciation to the Chairpersons of Accession Working Parties for their commitment to that important area for the WTO. He invited all Members to carefully review the report. Members' comments and advice would be welcome to prepare for new challenges and opportunities.

4.11. The representative of Panama, on behalf of Article XII Members, thanked the Director-General for all the hard work and support that the Secretariat, in particular the Accessions Division, provided in the course of accessions. Each successful accession and additional Member brought the organization closer to universal membership and the ideal that trade could serve as a tool for development and bring prosperity for all. Article XII Members hoped that 2020 would see significant progress on ongoing accessions and for those about to begin. They were saddened by the death of Chiedu Osakwe and recalled that he stood by acceding and acceded Members with encouragement, advice, friendship and good humour, and he would be sorely missed.

4.12. The representative of Afghanistan thanked the Director-General and the WTO Secretariat, especially the Accessions Division, for their excellent work and good achievements. Afghanistan encouraged Members to extend their support to acceding countries to conclude the accession process expeditiously and particular to support the efforts of the post-conflict acceding Members of the g-7+ WTO Accession Group, which Afghanistan proudly coordinated.

4.13. Afghanistan looked at the WTO accessions process, and after that at WTO membership, as an effective way to sustain peace, stability and prosperity; to conduct WTO-related legal and institutional reforms, trade integration and participation in the international trade and value chain. Afghanistan therefore wished to call upon all Members to take into account the specific challenges of LDCs and conflict-afflicted States during their accession process. Afghanistan commended the various activities and events organized under the "Trade for Peace" initiative led by the Accessions Division – some of them in collaboration with the g-7+ WTO Accession Group and expressed gratitude to DDG Alan Wolff for his support. Afghanistan also welcomed Ambassador Ebyan Mahamed Salah of Somalia to Geneva and was happy to hear that Somalia would submit their MFTR. As coordinator of the g-7+ WTO Accession Group, he extended the Group's support to Somalia's accession.

4.14. The representative of Chad, on behalf of the LDCs, thanked the Director General for the report on the status of WTO accessions and recalled that issue of WTO accession was of utmost importance to the Group since eight LDCs were currently in the process of joining the organization.

4.15. Accession to the WTO was a complex, multifaceted and demanding process. Nonetheless, the acceding countries, and LDCs in particular, rightly believed that accession to the WTO represented an opportunity for economic development, an occasion to derive further benefit from the gains generated by the international trading system – for the social well-being of their populations. WTO membership was also an opportunity to adhere to certain values such as openness and good governance within an international regulatory framework.

4.16. Among the eight LDCs engaged in the accession process, several had recently shown signs of intensifying their efforts to advance their accession, to carry out internal reforms and to consolidate the preparatory work phase with their respective Working Parties. Some LDCs were at the initial stage of that work, while others were at the strategic priority stage, that was, relatively close to the conclusion of their accession processes. While one could consider the latest news on LDC accessions to be encouraging, those countries still faced tremendous challenges during the accession process and, on average, were those that take the longest time to become WTO Members. That was essentially due to existing constraints in terms of financial, institutional and human capacity, or other factors.

4.17. That was also due, from the perspective of LDCs, to the concession and commitment demands of negotiations, which exceeded the capacities of LDCs and the fixed benchmarks in the 2012 General Council Decision concerning the average tariff binding on goods and market access for services. Against that background, and in order to facilitate and speed up the accession of LDCs to the WTO, the LDC Group called on Members to adhere to the 2012 guidelines, and to accept reasonable commitments, commensurate with the level of development and capacities of LDCs. The LDC Group, also thanked all those Members, as well as the Secretariat and its Accessions Division, for their support and the accessions-related technical assistance they offered to LDCs.

4.18. The tailor-made tools for capacity building, which had been provided to LDC officials, parliamentarians, private sectors and other actors, as well as the platforms for the sharing of information and experience to help acceding LDCs, were especially useful and appreciated. The Group encouraged the continuation and development of that type of collaboration with the Secretariat, the Accessions Division and the national programmes developed mainly by China, the European Union, Japan, New Zealand, Oman and the United States. The Group wished to warmly thank those Members and other actors that had contributed to building the accession-related capacity of LDCs, including the Enhanced Integrated Framework.

4.19. The representative of the United States said that the United States was a strong advocate of the WTO accession process because of its proven ability to make important, long-term contributions to sustainable development for Members at every stage of development. Fundamentally, the WTO accession process was a process of domestic reform in which applicants implemented market-oriented and trade-liberalising measures to align their trade regimes with WTO rules and principles, and to provide commercially meaningful market access. Implementing WTO provisions provided a predictable and stable legal framework that supported important national economic goals, such as achieving sustainable growth, promoting high-tech industry, attracting foreign investment, raising living standards, integrating into world markets, and asserting national trade interests worldwide.

4.20. That work produced results in practice, not just in theory. The Director-General's 2019 Annual Report on WTO Accessions once again showed that Article XII Members outperformed the rest of Members in terms of growth in GDP, trade in goods and services, and inward investment in the years following their dates of accession, as traders and investors saw for themselves the improvements achieved through reform and liberalization. In short, countries that had the opportunity to accede under Article XII, by virtue of the reform process they undertook, would become stronger and more resilient.

4.21. The WTO accession process was important to the United States. The United States was significantly involved in every accession, and often provided technical assistance to address specific needs that applicants brought to its attention. Like other Members, the United States had commercial interests to pursue through the accession process, and pursued them with appropriate attention. The United States also had systemic interests at stake, to ensure that each accession upheld and strengthened the trading system. The United States saw the iterative Working Party process, including the questions-and-replies, as a critical tool for acceding governments to learn WTO rules and principles and to push through what could be difficult reforms. In that way, the Working Party process itself delivered free technical assistance to reform minded applicants.

4.22. The United States had two other observations about the Director-General's report. First, the report tried to quantify the work on WTO accessions, such as the number of Working Party meetings and the number of pages of documentation produced. The United States understood the inclination to quantify, but in its experience, the number of meetings and the number of pages were not of primary importance. Rather, it was the progress that applicants made between Working Party meetings to implement WTO rules and principles, liberalize trade, and pursue market-oriented measures.

4.23. Second, in its thematic section, the report outlined current forms of collaboration between the WTO, the IMF, and the World Bank regarding WTO accessions, including discussions that had occurred in 2019. In that regard, the United States had a factual correction to make to paragraph 121, which would be discussed with the Secretariat. The report then stated that institutional cooperation had been "generally successful," but went on to suggest that existing cooperation was insufficiently effective. The United States was not convinced that cooperation or collaboration was lacking in any way.

4.24. In addition, in Paragraph 121, the report stated that better information sharing would "enable the WTO Secretariat to facilitate the conversation between WTO Members and acceding governments." However, the United States noted, with all due respect to the Secretariat's important contributions to accessions work, that it did not agree that the role of the Secretariat was to facilitate conversation between Members and acceding governments. In a Member-driven body, that was the responsibility of Members and applicants, and it was a responsibility that the United States took seriously.

4.25. The representative of Uruguay thanked the acceding governments and the Accessions Division for their hard work over the last year. Uruguay encouraged the 22 economies in the process of accession to redouble their efforts and to finalize and conclude their accession proceedings. Progress in that area, looking to the next Ministerial Conference, would be of benefit both to the new Members through the modernization of their domestic institutions and the promotion of their economic growth, and to the organization as a whole – reiterating its legitimacy and its relevance in the current international context.

4.26. The representative of Botswana, on behalf of the African Group, was encouraged by the continued commitment and efforts to assist Members in their accession to the WTO, especially African Member States which, as the Director-General had noted, constituted 40% of applications for accession. The African Group however took note of the slow pace on the conclusion of accessions and wondered whether that could be a reflection, among others, of lengthy complex procedures that were required from the acceding Members. The Group renewed its call to the WTO Membership to show some understanding in seeking concessions and commitments from acceding Members where they could be inconsistent to their levels of development, particularly for the LDCs. In that connection, the African Group pledged its support to the nine African countries that were in the process of WTO accession – Algeria, Comoros, Equatorial Guinea, Ethiopia, Libya, São Tomé and Príncipe, Somalia, South Sudan and Sudan.

4.27. The African Group was encouraged to see such unwavering trust on the part of its Members and hope in multilateralism, despite the systemic challenges currently facing the WTO and the multilateral trading system that it supported. It was the Group's sincere hope that the accession of those countries would carve a path to success and economic growth and usher in an era of development, stability and peace on the continent and in line with the African Union's Agenda 2063 – The Africa We Want.

4.28. The representative of South Africa supported the statement by Botswana on behalf of the Africa Group. In December 2002, the WTO General Council had adopted guidelines for LDC accessions, including the Addendum to document WT/L/508 adopted by the General Council stipulating that Members were to exercise restraint in seeking market access concessions from acceding LDCs, while the latter were expected to offer reasonable concessions commensurate with their individual development, financial, and trade needs. The text further stated that negotiations for the accession of LDCs to the WTO, should be facilitated and accelerated through simplified and streamlined accession procedures, with a view to concluding those negotiations as quickly as possible.

4.29. Those decisions established benchmarks on goods and services, as well as elements on special and differential treatment, transition periods, transparency and technical assistance. The Secretariat report stated that since the establishment of the WTO, nine Members had acceded as LDCs pursuant to Article XII of the Marrakesh Agreement Establishing the WTO. Currently, eight LDCs were in the process of WTO accession. It was for that reason that the G-90 had included in the 10 ASP the operationalization of special and differential treatment for LDCs in the accession process in accordance with the Guidelines.

4.30. The report made interesting observations about the impact of WTO accession on economic performance of Article XII Members, which was something to be applauded. South Africa wished to request the WTO Secretariat to also assess progress in terms of the impact on the structure of trade which was critical to the effective integration of countries in global trade. That would assist in the development of target programmes to support acceding members.

4.31. South Africa also recommended that the WTO, in addition to working in close collaboration with the World Bank and IMF in the context of WTO accessions, also enhanced the collaboration with development-oriented institutions, such as UNCTAD. Accession to the WTO was a complex process and typically involved domestic structural reforms, encompassing a wide range of national trade and economic policies that were underpinned by the development trajectory of a country. It was important to have a balanced and well-coordinated support programme for acceding countries in the context of promoting a fair, equitable and development-centred multilateral trading system. South Africa also welcomed the close collaboration between the WTO Secretariat, AUC and UNECA to ensure closer alignment between the WTO and the AfCFTA.

4.32. The representative of Turkey said that Turkey had always been a staunch supporter of WTO accessions. Accessions not only contributed to the universalization of the multilateral trading system, but they also became the engines of domestic regulatory reform in candidate countries. MC12 would be hosted by an Article XII Member, and that was very meaningful. The accessions of Belarus, Bosnia and Herzegovina and Comoros were at an advanced stage. As the Chairman of the Working Party for Belarus, he was happy to join the Director-General's report that considerable headway had been achieved, and believed that all Members would continue to engage constructively to make that accession process a reality. Turkey likewise welcomed Ambassador Ebyan Mahamed Salah of Somalia and wished Somalia a successful accession process.

4.33. The representative of the United Kingdom thanked the Director-General for the report and the WTO Accessions Division for their excellent and tireless work. The United Kingdom was a strong supporter of accessions while it was a Member State of the European Union. Now that the United Kingdom had left the European Union, it planned to be an even greater champion for the ambition of governments to join the WTO. The United Kingdom firmly believed that the WTO was an excellent anchor for domestic reform, more open and safer trade, stronger international engagement and better livelihoods. One of the greatest achievements of the WTO – arguably matching the benefits of any GATT or WTO negotiating round – was the expansion in its membership.

4.34. The United Kingdom recalled that, since the WTO was established, thirty-six governments had joined. In many cases, behind those successful accessions were years of difficult, highly technical negotiations. The Director-General's report rightly saluted the "remarkable resilience and strong commitment" by acceding governments. The United Kingdom fully agreed. Of course, the accessions story was far from over. Twenty-two governments were still in the process of WTO accession. The United Kingdom looked forward to engaging with acceding governments in Geneva and through its wide network of overseas posts.

4.35. In line with its commitment to be a champion of the voice of developing countries at the WTO, the United Kingdom planned to be especially engaged in support of its developing and least-developed country partners, particularly in Africa and the Commonwealth. Through its Aid-for-Trade instruments – in particular its Trade and Investment Advocacy Fund – the United Kingdom had supported a number of LDC Chief Negotiators and senior officials to attend Working Party meetings, reform key legislative instruments, and prepare documents for consideration by the Membership. The United Kingdom was also chairing the accessions Working Party of the Bahamas, and was proud to support its fellow Commonwealth member in Geneva. That support would not stop once the accession process was over. The United Kingdom would continue to support governments once they became Members, to help them navigate the new landscape of negotiations, defend their interests in Committee meetings, and help shape a better WTO.

4.36. The representative of Benin said that accessions was a highly important matter as it corresponded to the very reality of the functioning of the multilateral trading system. Benin endorsed the statement made by Botswana on behalf of the African Group and by Chad on behalf of the LDCs. Developing countries, particularly the LDCs, including SVEs and LLDCs, who were in the process of accession, encountered significant difficulties to meet the obligations that fell to them and the role they were expected to assume with regard to the package of measures that Members called for them to comply with, despite the constraints and difficulties that they encountered. That is why Benin wished to call for realism. Members should uphold the principles of inclusion and universality so that they could be carried forward and brought into reality by accelerating and facilitating the accessions processes of that group of countries.

4.37. Those countries were not operating in isolation within the institutional framework and measures that they were currently establishing. They were also in sub-regional and regional groupings and the realities that they experienced in them corresponded to the situation of countries in terms of their small scale economies, the complexity of needs that they faced and of the expectations in different areas such as goods, services and intellectual property, among others. The Guidelines on LDC Accessions had to be respected and that work in each of their accession processes should be followed up so progress in that area could be made towards an acceleration and facilitation for the large number of countries trying to accede to the WTO.

4.38. The representative of Oman expressed Oman's condolences to the government of New Zealand and family of Mr. Moore on the passing of former Director-General Mr. Mike Moore. Oman had had very good relations with Mr. Moore – he had helped and supported Oman's small mission during the accession process to the WTO and launching of the Doha Round.

4.39. Oman thanked the Director-General for his annual report on accessions which was a very important document to update Members on progress made.

4.40. Oman also welcomed Ambassador Ebyan Mahamed of Somalia and noted that Oman and Somalia had a long strong political, economic and social historical relationship. Oman welcomed any efforts to facilitate and accelerate Somalia's integration into the global trading system. As a country that was recovering from a long security battle, Oman congratulated Somalia for its determination to bring their country back to international community and for their efforts to integrate into the multilateral trading system by moving forward with their accession process. Oman welcomed Somalia's submission of its MFTR and hoped that WTO Members would assist Somalia in its accession process and would give Somalia all the needed support for the process to move forward smoothly.

4.41. The representative of Qatar took note of all the achievements made thus far and looked forward to participate actively in order to see the accession processes moving forward. Qatar also thanked the WTO Secretariat and all of those who were participating in the process for their hard work. It was important that the WTO continued to grow the number of its Members with the aim of achieving a fully global membership – thereby reinvigorating the multilateral trading system. Qatar also welcomed Ambassador Ebyan Mahamed Salah of Somalia and her team, and was happy to see that Somalia's accession process had made progress with its MFTR. Qatar wished Somalia all the success moving forward in its accession process.

4.42. The representative of Somalia, speaking as an Observer, said it was an honour to address the General Council. Following on from the Director-General's report on accession touching upon Somalia, she provided an update on Somalia's state of play on accession.

4.43. She was delighted to announce that its Memorandum of Foreign Trade Regime would be deposited to the WTO Secretariat later that week. She thanked Somalia's Chief Trade Negotiator and her team for their diligent effort to deliver the MFTR. All of those could not be possible without the support of H.E. Mohamed Abdullahi Farmaajo, President of the Federal Republic of Somalia, who had revived the accession after a period of inactivity. She thanked the Somali Government, the Parliamentarians and the Somali private sector for their continued support. WTO Accession was now the Government's policy and a matter of priority included in the Ninth National Development Plan launched in January.

4.44. She asked Members to be mindful of the impact war had had on policies and legislations of a country including in preparing questions on its MFTR – as some of the documents had been lost. To

that end, the Federal Government of Somalia had been working tirelessly to write, revise and amend all necessary legislations as it recovered and sustained its commitment to institutional economic reform and global integration. In February, the IMF had announced that Somalia was eligible for debt forgiveness under the enhancement heavy indebted poor countries known as HIPC Initiative. The power and the spirit of multilateralism could be seen in Somalia's quest of debt forgiveness as the Government of Somalia worked day and night to reach the HIPC decision point. The previous week, one of the IMF Member States had in fact contributed to the historical financing milestone for debt relief. That could not have happened without the financial pledges of many governments. On behalf of the Government and the People of Somalia, she thanked all Members and Observers who had contributed.

4.45. In concluding, she highlighted that the Government of Somalia was committed to economic reform and the WTO Accession was in itself a masterclass to achieve economic reformation. Somalia looked forward to continued support from WTO Members, bilateral partners and institutional partners. She thanked the WTO Secretariat for its continued support and in fact the efforts of the WTO Accessions Division Director, Ms. Maika Oshikawa, and DDG Alan Wolff. The DDG's leadership had created a crucial platform for post-conflict States such as "Trade for Peace". She looked forward to seeing delegations at Somalia's first Working Party later in the year.

4.46. The representative of Ethiopia, speaking as an Observer, associated with the statement made by Chad on behalf of the LDCs and by Botswana on behalf of the African Group. The Director-General had reported that 2019 had been the busiest year in WTO accessions and significant work had been done by the Secretariat. However, no accession had been registered and it was not sure that there would be one by MC12. Since 1996 to 2016, on average, about two accessions had been registered per year. If the trend went well, eight accessions should have been expected. But no accession had been registered for the last four years. The report indicated that, recently, some accessions seemed to be activated positively.

4.47. Based on the principles of universality of the multilateral trading system and of no one being left behind in the system, and to help specially the LDCs secure a share in the growth of international trade and benefit from the system in a balanced term consistent with their level and development and achieve their SDGs, Members should restrain from seeking concessions and commitments that could hamper the level of development of countries. To universalize the multilateral trading system, Members had to facilitate speedy and smooth integration of countries on accession.

4.48. The General Council took note of the Director-General's report and of the statements.

5 TWELFTH SESSION OF THE MINISTERIAL CONFERENCE⁷

5.1 Election of Officers

5.1. The Chair recalled that the Rules of Procedure (Rule 12) for the Ministerial Conference established that "During the course of each regular session a Chairperson and three Vice-Chairpersons shall be elected from among the Members. They shall hold office from the end of that session until the end of the next regular session." She recalled that, at its meeting in October 2019, the General Council had agreed that MC12 would be chaired by His Excellency Minister Bakhyt Sultanov of Kazakhstan – the host country of MC12.

5.2. Regarding the three Vice-Chairs, in view of the fact that the Chair would come from the Asian region, and in line with customary practice, she had invited the representatives of the other three broad groupings – i.e. Africa, Latin America and the Caribbean (GRULAC) and developed countries – to consult with their constituents in order to submit the names of the proposed Vice-Chairs.

5.3. Consultations had then been conducted by the Group Coordinators, and further to the process, she had sent a communication to all delegations on 12 February, informing all Members of the three names for appointment as Vice-Chairs. In the communication, she had also proposed that, if no objections were received by 20 February, the General Council would elect the proposed Vice-Chairs at that day's meeting.

⁷ See footnote 11 on the outbreak of COVID-19. See also JOB/GC/227.

5.4. Since no objections had been received, she proposed that the General Council agreed to elect the following Vice-Chairs for MC12: H.E. Ms Amelia Kyambadde (Uganda), H.E. Mr Jerome Walcott (Barbados) and H.E. Mr Simon Birmingham (Australia).

5.5. The General Council so agreed.

5.2 Request for Observer Status by Palestine (WT/L/1087)

5.6. The Chair drew the General Council's attention to the request for Observer status at MC12 by Palestine, which had been circulated on 9 January in WT/L/1087. In accordance with customary practice, she had undertaken consultations with interested delegations, and she understood that the General Council was in a position to take action concerning that request. Therefore, she proposed that the General Council agreed to grant Palestine Observer Status at MC12 on an ad hoc basis.

5.7. The General Council so agreed.

5.3 Launch of the MC12 Logo – Statement by Kazakhstan⁸

5.8. The Chair invited the delegation of Kazakhstan, the MC12 host country, to launch the logo of the Twelfth Session of the Ministerial Conference, as part of the preparations for MC12.

5.9. The representative of Kazakhstan was pleased to announce that talented experts in Kazakhstan, working in close coordination with the WTO MC12 Task Force, had been able to realize the logo for MC12 and was proud to present it in its two versions, with white background and with blue background. She expressed her satisfaction for the good progress of the preparatory works for MC12 and the excellent collaboration between the Permanent Representation in Geneva, the teams in Kazakhstan and the WTO Secretariat. Kazakhstan looked forward to welcoming all in Nur-Sultan and wished everyone a successful Conference.

5.10. The Chair thanked the delegation of Kazakhstan, the teams of experts in Kazakhstan and in the MC12 Task Force for their valuable work.

5.11. The General Council took note of the statements.

5.4 Statement by the Chair

5.12. The Chair referred to the substantive preparations for the Ministerial Conference, and in particular on two issues: the Annual Reports to be transmitted to the Ministerial Conference; and the other substantive aspects of MC12, including a possible MC12 outcome document.

5.13. Concerning the Annual Reports, she recalled that at the General Council meeting on 9-10 December 2019, she had noted that the Annual Reports that were considered under the relevant item on "Overview of WTO Activities" would be submitted to the Ministerial Conference, in line with the reporting obligations in WT/L/105. She had also noted that, since the Ministerial Conference was taking place later than usual, an update could be prepared for the information of Ministers, covering the first few months of 2020. In that respect, and in order to avoid unnecessary duplications, she suggested that past practice was closely followed and that, in addition to the 2019 Annual Reports, the General Council would submit to the Ministerial Conference a brief update report describing developments since the December meeting. The Chairpersons of subsidiary bodies could present brief updates, on their own responsibility, concerning developments in their respective areas since December 2019, if they considered it appropriate. She had sent a communication to the Chairs of subsidiary bodies to that effect, and she trusted that that was acceptable to delegations.

5.14. Regarding the other substantive aspects of MC12, and as the Ministerial Conference was less than 14 weeks away, it was essential to begin to think through all the elements and dimensions of the work ahead, and how they linked to each other going forward. In particular, in addition to the work which was taking place in the negotiating bodies as well as in the regular bodies, which could

⁸ This sub-item was taken up as the last sub-item under agenda item 5.

include points for action by Ministers, Members needed to start thinking about the kind of outcome document for the Ministerial Conference towards which they could wish to work.

5.15. As it had also been mentioned by the Director-General at the HODs/TNC meeting, past experience showed that different Conferences had had different types of outcome documents – from fully-fledged Ministerial Declarations, to Chairs' summaries, to "hybrid documents", made of both a multilaterally agreed part and a Chair's summary. The work towards the elaboration of those outcome documents had normally been conducted within the General Council's framework.

5.16. She stressed that, as always, it was the substance that drove the format, and not vice-versa. However, time was needed for any process towards the elaboration of an outcome document. She had been in close coordination with the incoming General Council Chair, Ambassador Walker, with the Director-General and with the delegation of Kazakhstan, the MC12 host – and they had started preliminary discussions on the matter. She would leave it to her successor to consult with delegations on a way forward in that regard. It was up to Members to shape MC12 into a Conference that would address their needs and expectations. She encouraged all delegations to engage actively and constructively in the discussions going forward, and to work together in ensuring a smooth preparatory process that laid the ground for a successful Ministerial Conference.

5.17. The representative of Barbados thanked GRULAC for nominating Senator Dr The Honourable Jerome Walcott, Minister of Foreign Affairs and Foreign Trade of Barbados for the Vice-Chairmanship of the Twelfth WTO Ministerial Conference. Barbados also extended its heartfelt appreciation to WTO Members for the confidence that they had placed in Minister Walcott by electing him as one of the three Vice-Chairs of the Conference. Barbados also congratulated the Ministers of Uganda and Australia on their election. Minister Walcott was acutely aware of the circumstances under which the Conference would be held and looked forward to working to secure a successful outcome in Nur-Sultan.

5.18. He thanked the Ambassador of Kazakhstan for her statement to mark the launch of the MC12 logo and said that Barbados strived to work together to advance the work towards MC12. Barbados had taken good note of the report by the Director-General under Agenda Item 1, particularly regarding the possible issues for MC12. While Barbados did not discount the importance of the shortlist of issues presented, that should not be considered as a closed list. All Members had to be allowed to bring their issues forward, and those issues had to be given due consideration if Members were to ensure a balanced outcome at MC12, and that the issues of interest of all WTO Members were reflected. Barbados recognized that with limited time left before the Conference, discussions on the outcome document for the Ministerial would soon commence in earnest. Such discussions should ensure that multilateralism remained at the heart and the *raison d'être* of the work in the WTO. Those discussions should not only be transparent, inclusive and consensus-based but should also reaffirm those principles.

5.19. The General Council took note of the statements.

6 ACCESSION OF CURAÇAO (WT/ACC/CUW/1) – REQUEST FROM THE KINGDOM OF THE NETHERLANDS

6.1. The Chair recalled that, at its December meeting, the General Council had taken up the Accession of Curaçao at the request of the Kingdom of the Netherlands, and further to the communication from Curaçao, circulated on 1 November in document WT/ACC/CUW/1. In that communication, Curaçao was requesting accession to the WTO Agreement pursuant to Article XII. At that meeting, some delegations had noted that they needed more time to further consult on the request. Subsequent to that meeting, she understood that further discussions and consultations had been held and that as a result, Members could be in a position to take positive action on the request.

6.2. She further recalled that, upon a request for accession and if that was acceptable to all, the action for the General Council would be to agree to establish a Working Party. She therefore proposed that the General Council moved forward and formally took action on the application.

6.3. She read out the terms of reference and composition that would form the basis of establishing the Working Party that would examine the request of Curaçao:

- a. Terms of Reference: "To examine the application of the applicant to accede to the WTO Agreement under Article XII, and to submit to the General Council recommendations which may include a draft Protocol of Accession."
- b. Membership: "Membership would be open to all Members indicating their wish to serve on the Working Party."
- c. Chairmanship: "In keeping with customary practice, the General Council would authorize its Chairman to designate the Chairperson of the Working Party in consultation with representatives of Members and with the representative of the applicant."

6.4. Therefore, with respect to the request of Curaçao in WT/ACC/CUW/1, she proposed that the General Council agreed to establish a Working Party with the terms of reference and composition as she had just read out.

6.5. The General Council so agreed.

6.6. The Chair added that further communications would be sent regarding the consultations for the chairmanship of that working party. She then invited the delegation of Curaçao to enter the room and welcomed Mr. Caryl Monte, Chief Negotiator, and the delegation of Curaçao. On behalf of all Members, she congratulated the Government of Curaçao on the successful establishment of the Working Party. She further invited the delegation of Curaçao to consult with the Accessions Division of the WTO Secretariat as to the further procedures and the basic documentation to be considered by the Working Party.

6.7. On behalf of the General Council, she then invited Curaçao to attend meetings of the General Council and, as appropriate, meetings of other WTO bodies as observer during the period of its accession process.

6.8. The representative of the Kingdom of the Netherlands thanked the General Council for the decision to establish the Working Party and said that the request for a separate WTO membership by Curaçao was fully supported by the Kingdom of the Netherlands as a whole. The Kingdom was constituted of four countries, three of which were situated in the Caribbean, namely Aruba, Curaçao and Saint Maarten and one in Europe – the Netherlands. Curaçao had been part of the original membership of the Kingdom of the Netherlands to the GATT and subsequently to the WTO, and with the request for membership as a separate customs union, Curaçao underlined its commitments to the WTO.

6.9. Mr Caryl Monte, President of the Permanent Commission for International Trade and Foreign Economic Relations and Chief Negotiator of Curaçao, speaking as an Observer, said⁹ that Curaçao was part of the so-called Leeward Islands, situated in the southern part of the Caribbean Sea about 55 kilometres off the coast of the Bolivarian Republic of Venezuela. Curaçao was an autonomous country and separate customs territory within the Kingdom of the Netherlands.

6.10. He stressed that it was a historic moment for Curaçao which had been long in the making. That moment was historic because it was the very first time Curaçao was formally addressing the General Council of the World Trade Organization in Geneva as an acceding separate customs territory, in effect after the decision to establish an accession working party, which was a great pleasure and honour for him, on behalf of his delegation and the country of Curaçao. He expressed gratitude to the Permanent Representative as well as the Government of the Kingdom of the Netherlands for facilitating the transmission of Curaçao's request for accession to the General Council.

6.11. He noted that, because of untraceable reasons, at the inception of the WTO in 1995, Curaçao had regretfully missed the boat that would have converted its GATT-membership in an original Article XI membership on the basis of its status as a separate customs territory. However, Curaçao's desire to join the WTO had been formally revived in 1998, when the Government of the predecessor

⁹ The statement of Mr. Caryl Monte was subsequently circulated in document JOB/ACC/CUW/1.

country, the Netherlands Antilles, had decided it should become a full member of the WTO as an independent customs territory.

6.12. As many knew and as indicated in Curaçao's statement of economic policies, which had accompanied the request for accession on the basis of Article XII of the Marrakesh Agreement, the former country of the Netherlands Antilles had constitutionally ceased to exist on 10 October 2010. However, it had left a legacy of great commitment to international trade for its successors, among which the autonomous country and separate customs territory of Curaçao. Their predecessors in the Netherlands Antilles had been a participant to GATT and all its multilateral negotiation rounds, at least since 1949. That meant that Curaçao had a history of solid and deep commitment towards multilateralism and international organizations since the initial post-war period of international cooperation on global economic governance.

6.13. Curaçao believed in and would actively support the role of the WTO in organizing and nurturing effective global economic governance especially where it concerned the interests of small island developing States like Curaçao within the WTO. In that respect, its fundamental aspiration was to directly participate in the global trade dialogue and seek mutual economic progress by connecting to other trading partners, especially in the region, based on a transparent set of multilateral and plurilateral trading and other commercial rules, administered on the basis of equality, and irrespective of the size of the Members represented in the WTO.

6.14. Furthermore, the multilateral trading system and the WTO assisted them all in bringing their trade and other commercial policies, systems and practices, where necessary, in line with the global environment for import, export, investment and trade facilitation to attract much needed foreign investments. It was for those reasons that although very small in comparison to many others, Curaçao was highly motivated to be directly involved in the rulemaking by, and reform of, the WTO.

6.15. He stressed that, although the institution faced different important challenges, and several alternatives for reform of the multilateral trading system were being circulated by or debated upon, while not disregarding the differences of opinion among Members and group of Members, there was still significant support for the work of the WTO. According to many, including the Government of Curaçao, the WTO was still the world's best bet in avoiding disrupting international trade wars. Therefore, although there was apparently no single path to address its main challenges, Curaçao urged WTO Members to continue to exercise solidarity and try their very best in protecting the present multilateral trading system from major interruptions and the frustrations that existed on both sides of the aisle.

6.16. From that unique and historic platform provided to Curaçao, he expressed warm greetings from the Government and people of Curaçao to all WTO Members, Observer Governments and the people all of them represented, thereby conveying Curaçao's deep appreciation for the cooperation and decision to establish the Working Party on the Accession of Curaçao.

6.17. In closing, he said that Curaçao committed itself to make a deep dive into the work of the Accession Working Party to complete the required procedures in the accession process as soon as possible, given the fact that, through its current shared membership with the other countries within the Kingdom of the Netherlands, Curaçao should already be in compliance, or largely in compliance, with the main requirements imposed on Members on the basis of the Marrakesh Agreement and the other Agreements related thereto. Curaçao looked forward to Members participating in the Working Group to favourably reciprocate its commitment to the Article XII accession process.

6.18. The Director-General congratulated Curaçao on Members' acceptance of its application to accede to the WTO and wished Curaçao the best for a swift and successful accession process. He said that Curaçao could count on the Secretariat's full support.

6.19. The representative of Panama, on behalf of Article XII Members, welcomed Curaçao's application for an individual membership to the WTO and wished them an expedited and successful negotiating process for its accession. MC12 in Kazakhstan would be the first Ministerial hosted by one of the Article XII Members, and the Group hoped that that milestone could result in the accession of more than one new Member to the organization.

6.20. The representative of the European Union congratulated the establishment of the Working Party to deal with Curaçao's request to accede to the WTO as a separate customs' territory from the Kingdom of the Netherlands. The European Union looked forward to engaging fully with Curaçao in its accession negotiations.

6.21. The representative of St. Lucia, on behalf of the OECS, welcomed Mr Caryl M.C. Monte, Permanent Commission for International Trade and Foreign Economic Relations, and his delegation. Similar to OECS Member States, Curaçao was a small island developing state and a small and open economy. Curaçao also shared very close ties with many OECS Member States, given a robust exchange of labour during the middle decades of the previous century. Today, the countries faced similar structural challenges.

6.22. In that regard, the OECS was of the view that the accession of Curaçao to the WTO would lend an additional and important voice on issues of common concern to small economies. A smooth and orderly accession would demonstrate that the WTO continued to be a place where the interests and concerns of all countries, including small island developing states, could be fully articulated and pursued.

6.23. Over the past five years, bilateral merchandise trade between the OECS and Curaçao had totalled approximately USD 24.5 million. That was not a huge sum but the OECS believed that trade relations could be enhanced if countries were able to trade on common terms such as those that the accession of Curaçao would facilitate. Based on the trade data and latent relative comparative advantages, there were a number of areas ripe for bilateral trade that could benefit both the OECS and Curaçao.

6.24. The OECS urged WTO Members to give favourable consideration to the accession of Curaçao on terms that were supportive of their sustainable development. The OECS welcomed the stated commitment of the Curaçao authorities to the principles of multilateralism and were thus confident in their continued path towards long-term economic development and sustainable economic growth. The OECS looked forward to working with Curaçao and urged the establishment of a Working Party to speedily progress the accession of Curaçao.

6.25. The representative of Barbados congratulated the Government of Curaçao on the beginning of its accession process to the WTO and wished the delegation and the Government of Curaçao the very best on the way forward. Barbados recognized and praised the role of the Government of the Kingdom of the Netherlands in the process. Curaçao and Barbados enjoyed strong business and economic ties. Curaçao could therefore count on Barbados' support in its accession process.

6.26. The representative of the United Kingdom thanked Curaçao for its statement and the colleagues from the Kingdom of the Netherlands for their engagement. He wished to re-emphasize that, as the Chair of a Working Party in a neighbouring Caribbean island, the United Kingdom understood the challenges that small administrations faced during their accessions process. The United Kingdom supported the establishment of a Working Party for Curaçao and looked forward to future discussions. The United Kingdom wished Curaçao the best in its discussions with Members going forward.

6.27. The representative of Jamaica congratulated Curaçao on the commencement of the process of its accession to the WTO. Jamaica and Curaçao shared many similarities as small states. Further, Jamaica and Curaçao had excellent relations and long-standing economic linkages. Jamaica assured Curaçao of its support and wished them an expedited and smooth accession journey.

6.28. The representative of the Dominican Republic warmly welcomed the delegation of Curaçao, and the initiation of its formal accession process through the establishment of the Working Party. The Dominican Republic had significant ties and friendship with Curaçao. That had been strengthened the year before through the signing of the collaboration agreement to have greater exchange of information with regard to maritime, cargo and cruise ship industries. They were seeking to facilitate the exchange of information on that industry in each port. The Dominican Republic looked very positively on the initiation of the process together with Curaçao and stood fully ready to cooperate to ensure that Curaçao became a Member of the World Trade Organization. The Dominican Republic expressed its full support to the process.

6.29. The General Council took note of the statements.

7 PROCEDURES TO STRENGTHEN THE NEGOTIATING FUNCTION OF THE WTO – STATEMENT BY THE UNITED STATES (WT/GC/W/757/REV.1 AND WT/GC/W/764/REV.1)

7.1. The Chair recalled that the item had been included in the agenda by the delegation of the United States, with the document WT/GC/W/757/Rev.1 and the revised communication in WT/GC/W/764/Rev.1.

7.2. The representative of the United States said that the United States was pleased to continue the discussion of that important reform initiative. The United States recalled that, in January 2019, it had submitted a detailed paper on differentiation at the WTO. On that factual and analytic basis, the United States in February 2019 had submitted to the General Council a proposal to resolve the differentiation problem through a pragmatic approach that recognized the complexity of the issue.

7.3. The US proposal established objective criteria for determining whether a WTO Member could continue to avail itself of blanket "special and differential treatment" (S&DT) in current and future WTO negotiations. The four criteria were: (i) a WTO Member that was a Member of the OECD, or a Member that had begun the accession process to the OECD; (ii) a WTO Member that was a member of the G20; (iii) a WTO Member that was designated as a "high income" country by the World Bank; or (iv) a WTO Member that accounted for no less than 0.5 per cent of global merchandise trade. For the "high income" and the "share of global merchandise trade" criteria, a Member had to meet the criteria for three years prior to the date of decision or three years thereafter. Members who met at least one of the four criteria would forego blanket S&DT provisions in current and future WTO negotiations. However, they would retain the ability to negotiate the flexibilities they needed to defend their interests.

7.4. Since the previous meeting of the General Council in December, the United States had continued to deepen its conversations with several Members across the development spectrum. Those included Members that would meet at least one of the four criteria, as well as Members that would benefit if the more advanced, wealthy, or influential economies finally accepted responsibilities commensurate with their role in the global economy. The United States was encouraged by those conversations. The United States' arguments in favour of reform enjoyed support from a diverse and deep cross-section of the Membership, even if some could not openly express their support in Geneva.

7.5. They agreed that certain Members were inappropriately seeking S&DT in WTO negotiations despite overwhelming evidence of economic strength, wealth or influence; that those Members' rigid insistence on receiving special treatment intended for much poorer, less-integrated Members was damaging the WTO and Members' collective ability to reach agreements; and that the issue had to be addressed if the WTO was to be a viable forum for negotiations. The United States was also encouraged by the Members that were giving serious thought to the reform proposal and stood ready to continue its discussions with them.

7.6. The United States discussed one of the four criteria in the US proposal – G20 membership. A few Members had asked why G20 members should forego S&DT in current and future WTO negotiations – arguing that the G20 had been created to reflect the voices of developed and developing economies. In the United States' view, the founding documents of the G20 told a different story which in an important respect mirrored the need for change at the WTO. In December 1999, in the communique of the inaugural meeting of the G20 Finance Ministers and Central Bank Governors, G20 members had stated the following:

"The G-20 was established to provide a new mechanism for informal dialogue in the framework of the Bretton Woods institutional system, to broaden the discussions on key economic and financial policy issues among systemically significant economies and promote cooperation to achieve stable and sustainable world economic growth that benefits all."

7.7. In other words, at the founding of the G20, every member had self-identified as a "systemically significant economy" that should be at the table to help solve global economic problems for the benefit of all, including the poorest among them. Importantly, the creation of the G20 had involved

a conscious decision by its members to adapt the international architecture to a changed world – an example that the WTO desperately needed to follow.

7.8. Previously, the roster of systemically significant economies had been narrower, with economic power concentrated in fewer hands. By 1999, tectonic shifts in the global economy had begun to disperse that power and influence to a wider group of countries. Each member of the new G20 was an important economic power – domestic developments in each could affect conditions far beyond its borders. Those tectonic shifts had continued and had accelerated. Today, a diverse set of indicators confirmed that the self-declared developing members of the G20 had differentiated themselves from the poorest, least integrated Members of the WTO.

7.9. As just one example, the share of global merchandise trade for the ten self-declared developing members of the G20 had surged over the past three decades, from 9 per cent to 24 per cent. Yet, the share of global merchandise trade for the African continent over that period had actually decreased from 2.8 to 2.7 per cent, and the share for LDCs had nudged up to just 1.2 per cent.

7.10. However, G20 membership was a criterion in the US S&DT reform proposal not simply because of economic data. An important differentiating characteristic of G20 membership was influence; the opportunity and the capacity to shape the agenda for international engagement on a diverse set of issues, including globalization, aid, financial market development, regional economic integration, reserves, and demographics. Amazingly, despite those gross advantages in economic weight and global influence, most self-declared developing Members of the G20 insisted on receiving the same special treatment as the poorest and least integrated WTO Members. The United States was pleased that two of the ten self-declared developing country G20 members had stated their intent to forego S&DT in current and future WTO negotiations, and hoped to see more step forward during Saudi Arabia's G20 Presidency in the year.

7.11. The United States also wished to explain another recent development. As Members could be aware, the SCM Agreement required WTO Members to extend S&DT when applying their CVD laws to developing and least-developed countries. There were two S&DT provisions that were still in effect in the SCM Agreement: developing and least-developed countries were entitled to a higher de minimis threshold than developed countries, and they enjoyed a higher threshold for import volume negligibility.

7.12. US law, pursuant to the Uruguay Round Agreements Act, required USTR to designate, and to update as necessary, which countries were developing and least developed, for purposes of US CVD investigations. On 10 February, the USTR had published a Notice in the Federal Register that updated the list of WTO Members that were designated as developing or least-developed countries for purposes of US CVD investigations. The previous list had been published in 1998. As a result of the update, some Members were no longer eligible to receive the two forms of S&DT when the United States conducted CVD investigations on imports into the country from those Members. The CVD Notice did not affect in any way the approach laid out in the US S&DT reform proposal, which was exclusively focused on S&DT in future WTO agreements. As stated in the CVD Notice, it "has no effect on how that Member may be classified with respect to any other law."

7.13. The United States, through its S&DT proposal, was not asking any Member to change its self-declared development status, nor was the United States asking any Member to forego S&DT in existing WTO agreements. The CVD Notice did not affect the US approach.

7.14. Finally, the United States provided a brief update to Members on the US President's instruction to the USTR in July 2019 to publish on its website a list of all self-declared developing countries that the USTR believed could inappropriately seek S&DT in WTO negotiations. Members were asking when the USTR would publish the list, and the USTR was actively consulting on the issue.

7.15. In closing, the discussions that the United States was having with Members were constructive, sincere, and candid. The United States looked forward to continuing to engage with Members on that reform proposal.

7.16. The representative of the European Union said that the European Union supported development as a central pillar of the organization. However, the current distinction between developed and developing countries no longer reflected the reality of the rapid economic growth in

some developing countries. Members should therefore continue to work on special and differential treatment with a view to ensuring that flexibilities were made available to those Members who actually needed them to enable them to fully benefit from their membership of the WTO.

7.17. If the organization was to prosper, S&DT had to become much more granular in function of an individual Member's demonstrated needs and capacities. Future differentiation should be designed in terms of specific individual country needs at the sectoral or activity level, rather than calling for a block exemption of a large category of Members. Furthermore, the European Union considered that each developing country's need for S&DT should be assessed on a case-by-case basis and should be evidence-based. The notable exception should be the least-developed countries who deserved particular treatment.

7.18. In that respect, the European Union welcomed Costa Rica's decision not to seek flexibilities in current and future negotiations. The European Union was open to looking into special and differential treatment provisions in future agreements such as the ongoing negotiations in fisheries subsidies. The European Union expected to have a discussion with Members as to what development concern was raised by the provisions under discussion, and what flexibility was necessary in order to eventually allow the affected Members to fully implement the agreement. It was only when special and differential treatment responded to a specific need that it could be truly effective.

7.19. The European Union called on advanced WTO Members claiming developing country status to undertake full commitments in ongoing and future negotiations. That should particularly be the case for members of the G20 which represented the world's most important economies.

7.20. The representative of Australia welcomed the ongoing discussion on that important issue and the opportunity to once again express its views on the question of special and differential treatment, which was an important element of the collective efforts to strengthen and modernize the organization. Australia remained committed to fostering all Members' participation in global trade – and continued to recognize the value of S&DT in supporting developing countries, particularly LDCs, to integrate into the multilateral trading system.

7.21. S&DT should not be an end in itself – rather, it was part of a broader set of tools available to assist Members to move towards full implementation of WTO agreements. Members had to recognize that some of the approaches to S&DT over the years had not helped in achieving negotiated outcomes – and in some cases had not reflected developments in the global economy. Members' needs clearly differed, including on particular issues, so S&DT should not be applied in a one-size fits all fashion. Instead, S&DT had to be tailored on a needs-basis to enable Members to make commitments commensurate with their capacity to do so. Australia would continue to work with Members to find appropriate, targeted solutions to S&DT in current and future negotiations – and looked forward to participating further in the discussion.

7.22. The representative of Colombia thanked the United States for including that item in the agenda, for its insightful background paper and for previous discussions on the matter. Colombia understood the US position and its concerns about the impact that Special and Differential Treatment could have in the negotiating function of the WTO. It was a fact that the world had changed since 1995 and that the inclusion of S&DT provisions in negotiations had increasingly proven to be a challenge. It was also a fact that development trajectories had in practice diverged substantively, and rigid categories could not be able to adequately grasp the current differences among Members, to the detriment of the weakest of them.

7.23. In that context, the future use of S&DT provisions was a very important discussion and Colombia acknowledged the responsibility that lied upon all Members to tackle it on the pursuit of a greater systemic goal. Members should not avoid that difficult discussion or hide it under the carpet. Although Colombia was eager to engage in such discussion, some of the elements in the proposal taken together with some recent decisions were making that engagement increasingly more difficult for Colombia.

7.24. First, the criteria used in the document under discussion could be undermining the discussion of S&DT and its effects on the negotiating ability of the WTO since much of the attention shifts to the criteria themselves hindering the central point of the discussion. In Colombia's case, for example, the OECD criterion had proven internally damaging in its efforts to move forward to a more integral

discussion. The background paper directly acknowledged that every criterion was inherently flawed. Colombia understood that, but it was also true that some criteria were less accurate than others. Membership to the OECD was a particularly misguided proxy for S&DT needs. In fact, the OECD reached out to countries as a good-practices organization, not as an organization of fully developed countries. In Colombia's perspective, much had been extracted from a simple preambular provision in the OECD Convention. For the Colombian Government, the OECD accession process was always meant to be a helping hand in Colombia's development path, not a conclusion to it. The OECD criterion had thus handicapped Colombia's domestic and internal discussion on S&DT, particularly when that was the only criterion that Colombia fulfilled in spite of being the less accurate one.

7.25. Secondly, the discussion had always been brought as a matter for the future: a solution was needed to strengthen the negotiating arm of the WTO for current and future negotiations. Unfortunately, however, the barrier between past rights and current and future negotiations had started to be blurred by some recent additional measures, risking again the undermining of the ultimate purpose that Colombia shared. The recent changes to the US' internal list of developing countries for CVD purposes had had quite a harsh effect on Colombia's internal politics. One thing was to discuss how to strengthen future negotiations, another was to potentially weaken hardly conquered rights in past agreements. Even though there had been assurances that the proposal was only forward-looking, when those more recent decisions were added to the mix, an extra step could be seen that risked restarting settled discussions. That had made it more difficult for Colombia to properly engage in a substantive discussion of the topics raised by the United States under that item.

7.26. In conclusion, Colombia invited the US Government to give a second thought on those two matters. Colombia felt that the issues that it had just raised could not add to what was really needed to be addressed but, on the contrary, risked weakening the central point under discussion: it made it more difficult for countries like Colombia to engage in a pragmatic solution.

7.27. The representative of China said that after extensive debate in the past year, China requested that the General Council kindly take note that its position on special and differential treatment stayed unchanged.

7.28. The representative of Chad, on behalf of the LDCs, reaffirmed the importance of considering the development dimension, which was crucial for LDC Members. That was the only way to ensure the existence of a fairer and more equitable multilateral trading system.

7.29. The representative of Barbados took note of the statement by the United States as well as the update on its recent actions on that front. Barbados continued to note the shortcomings of per capita income as a measure, particularly if it was used to determine the development status of small vulnerable island states with small population sizes. That had long been recognized by international organizations, including the World Bank.

7.30. Barbados continued to be of the view that special and differential treatment had to be afforded to all developing countries, particularly LDCs and SVEs. Given the criteria used by the United States in its proposal, Barbados was classified as a High Income Country (HIC) and therefore in accordance with such criteria, would be precluded from special and differential treatment in current or future or in the WTO agreements that resulted from such negotiations were such a proposal came to fruition. Such thinking was counter to Barbados' growth and development prospects as well as to ensuring that Barbados and other developing countries became more fully integrated into the multilateral trading system.

7.31. Barbados therefore wished to find out from the proponent the reason for excluding countries such as Barbados from accessing special and differential treatment despite the shortcomings of per capita income particularly as it related to small countries with small populations coupled with their high economic and environmental vulnerability. Barbados was open to engaging in dialogue on the above with the United States and other interested partners.

7.32. The representative of India referred to the submission in WT/GC/W/765 by India and some other Members where they had dealt with most of the issues raised by the United States and had underlined that S&DT was a treaty embedded right at the WTO, an entitlement which developing

countries had paid for, and that it could not be taken away from them, based on certain arbitrary assumptions, including creative interpretations of the basis of G20 membership.

7.33. The draft decision by the United States used parameters, many of them unrelated to development, to target certain Members. While some developing Members could have made progress, old gaps in the levels of development persisted, and in some areas had even widened. Further, new divides, especially in the digital and technological spheres, were becoming more pronounced. The S&DT in favour of developing countries and LDCs was therefore as relevant and required today as it had been in 1995. The basis of S&DT was to give Members time and flexibility to integrate into the rules-based system. Members with huge differences in economic and social development could not be put in the same category. For instance, to put India, which had an annual per capita income of about USD 2,500 in the same development category as the United States, with a per capita GDP of more than USD 70,000, would be blatantly unfair.

7.34. India also wished to draw the attention of the Membership to the repeated assertions of the United States that its draft decision for the General Council as well as the US Presidential Memo related only to the Special and Differential Treatment in the current and future negotiations and not under the existing WTO Agreements. However, in complete negation of such repeated assertions, the United States had been unilaterally denying S&DT to developing countries even under the existing WTO Agreements. A recent example of such unilateral action was the Notice dated 2 February 2020, wherein the United States Trade Representative, using the criteria mentioned in their draft decision for the General Council, had denied ten WTO developing country Members S&DT under Article 27.10 (a) and (b) of the Agreement on Subsidies and Countervailing Measures, which dealt with rules for termination of countervailing duty investigations.

7.35. Similarly, with Presidential Proclamation 9902 of May 2019, the United States had unilaterally removed India and Turkey from the list of developing countries exempt from application of the safeguard duty on crystalline silicon photovoltaic cells and large residential washers, an S&DT provision for the developing countries under Article 9(1) of the Agreement on Safeguards. Similarly, in the future, using arbitrary criteria the United States could deny S&DT under the existing WTO Agreements to other developing countries and even to LDCs.

7.36. In fact, such actions on part of the United States fuelled India's apprehensions that the real purpose behind the United States submission at the General Council, the Presidential Memorandum on the issue and the draft decision for the General Council as to ultimately terminate S&DT at the WTO altogether. To that end, a so-called case-by-case approach was being proposed, dependent on providing evidence of the need for S&DT, sector-wise to start with, which would soon expand to requesting for and seeking S&DT, product-by-product and line-by-line. It would be so burdensome and impractical that it would make S&DT for developing countries and LDCs, extinct and a part of history of the WTO.

7.37. Furthermore, on the issue of the S&DT in the WTO, the United States had been denying any discussion on the G-90 Agreement-specific proposals in the CTD SS, which *inter alia*, included a proposal that "importing developed country Members shall not ban the importation and marketing of products originating from a least developed country Member and developing county member facing capacity constraints based on the rejection of shipments from one or a limited number of suppliers from that Member". India found that the Economic and Trade Agreement between the United States and China of 15 January 2020 contained similar provisions for US exports to China of dairy products and infant formula; meat, poultry and processed meat; aquatic products; feed additives, premixes, compound feed, distillers' dried grains, and distillers' dried grains with solubles; pet food and non-ruminant derived animal feed. That reflected the double standards of the United States. On the one hand the United States, even as a developed country, had negotiated a flexibility for its exports to China, and on the other, it had been refusing even to discuss a similar flexibility under special and differential treatment for developing countries, including LDCs in the CTD SS, as part of the G-90 proposals for decades. That appeared to be a case of not only not practicing what one preached but also not preaching what one actually practiced.

7.38. The representative of St. Lucia, on behalf of the OECS, thanked the United States for its submission on an issue of priority and concern to many developing countries, including OECS Member States. The OECS was a strong supporter of the multilateral trading system which for the past 25 years had provided a more equitable footing for all countries – the small, the large, the powerful and the weak, to advocate for and defend their interests. Today, everyone was better off

for subscribing to legally binding rules which undergirded the core principles of the multilateral system. The foundation of the WTO as elaborated in the Marrakesh Agreement recognized the need for positive efforts designed to ensure that developing countries, and especially the least-developed among them, secured a share in the growth in international trade commensurate with the needs of their economic development.

7.39. It was true that in the past 25 years, OECS member States were generally better-off as evidenced by economic growth, and positive developmental trends in a number of critical spheres, including in measurements of national income. Notwithstanding those hard-fought gains, their small size and innate vulnerability rendered them helpless in the face of natural disasters or global systemic shocks. In those events, their progress, and by extension the livelihoods of their people were severely and adversely impacted. Recent natural disasters demonstrated that an entire economy could be wiped out in less than 24 hours at a cost several times the size of national output. As a consequence, OECS member States continued to be challenged by high levels of debt, limited economic diversification, gaps in the trade infrastructure as well as regulatory gaps which hampered their ability to integrate fully into the global economy.

7.40. It was for those reasons that the OECS urged Members to pay attention to the realities that confronted in particular the small developing countries. For example, if one was to use World Bank criteria to re-classify WTO Members, a number of small economies would be classified as high-income countries. However, behind that classification would be a country with a population of less than 100,000 people, and an economy that relied on one or two sectors for economic growth and sustenance. Moreover, most if not all of them were constrained by virtue of their small size and untrammelled exposure to external threats including climate related events. In such cases, high-income status would fail to provide a realistic profile of a country.

7.41. In closing, the OECS believed that now was the time to strengthen the cause of development at the WTO, especially for small vulnerable economies. For them, development, including special and differential treatment (S&DT), continued to be the north star upon which the WTO was founded. The OECS therefore urged Members to seek to use a scalpel rather than a hammer to address development related concerns.

7.42. The representative of South Africa recalled the submission that her delegation had co-sponsored with China, India and the Bolivarian Republic of Venezuela in WT/GC/W/765, as well as previous statements that South Africa had made. Those continued to be South Africa's response on the issue. S&DT was a treaty-embedded right and the proposed criteria for determining which WTO Members should continue to access S&DT were not acceptable.

7.43. The only mandate that existed on S&DT was to strengthen S&DT and make it precise, effective and operational as entailed in paragraph 44 of the Doha Ministerial Declaration. The G-90's ten specific S&DT proposals entailed in document JOB/GC/160 – JOB/TNC/65 and the room document RD/DEV/182 remained important departure points to deliver on that mandate. The G-90 would be submitting its revised proposals with a view to get a meaningful outcome at MC12.

7.44. However, South Africa was concerned with unilateral measures that took away rights of Members in covered agreements that upset the delicate balance reached in negotiations. The case in point were the rights that Members had under the Agreement on Subsidies and Countervailing Measures through the revised list of WTO Members designated as eligible for special de minimis countervailable subsidy and negligible import volume standards under the countervailing duty (CVD) law. The implementation of unilateral differentiation on the basis of arbitrary criteria was not supported. South Africa remained of the view that the G20 had been established to provide a new mechanism for informal dialogue to achieve stable and sustainable world economic growth that benefited all, and should not be a determinant for a development status of a country. The G20 had never been conceived as a grouping of developed countries.

7.45. As the WTO, Members had to ask themselves whether they were laying the right foundation to achieve the Sustainable Development Goals (SDGs). The 2019 SDG Report stated that there was increasing inequality among and within countries. Therefore, while developing countries had made some progress, it was disingenuous to ignore the persistence of the enormous development divide between the developing and developed Members of the WTO. The development divide was reflected on a wide range of indicators. It was evident in levels of economic development, industrial structure

and competitiveness, such as GDP per capita, poverty levels, levels of under-nourishment, production and employment in agriculture sector, trade in services, receipts from IPR, share of trade in value-added under GVCs, energy use per capita, financial infrastructure, R&D capacity, company profits, and a range of institutional and capacity constraints, among other things.

7.46. Speaking at the "Make Poverty History" campaign in 2005 in Trafalgar Square in London, former President Nelson Mandela had identified areas of global cooperation required to deal with poverty and had said that, "The first is ensuring trade justice. I have said before that trade justice is a truly meaningful way for the developed countries to show commitment to bringing about an end to global poverty. The second is an end to the debt crisis for the poorest countries. The third is to deliver much more aid and make sure it is of the highest quality."

7.47. Trade justice could be achieved by ensuring that developing countries had access to the same policy tools developed countries had used to industrialize. It was by ensuring that there was appropriate and adequate policy space to achieve national development objectives within the parameters of global trade rules. It was by recognising the differences in levels of development. And it was by preserving S&DT and to ensure that in the context of the multilateral trading system, developing countries and LDCs took commitments commensurate with their levels of development. There was wisdom in the words of Thomas Jefferson who had said "there is nothing more unequal than the equal treatment of unequal people".

7.48. The representative of Indonesia thanked the United States for its update on the issue and noted that S&DT was the reflection of the developmental perspective in international trade. Development had been an integrated and inseparable core element of the organization. The fact that the founding Members had explicitly recognized the needs of positive efforts designed to ensure that developing countries and LDCs secured a share in the growth in international trade commensurate with the needs of their development had been the DNA of the organization.

7.49. The commitment by Members through the Doha Development Agenda to integrate elements of development into the multilateral trading system in 2001 should also constitute a reminder that the effort to address those developmental needs had to be escalated, amid global challenges and economic disruptions, to ensure that no one was left behind in reaping the benefits of international trade. Those commitments that Members had agreed to in 2001 had been a longstanding homework that needed to be concluded, to prove to the outside world that the organization remained living its DNA. Hence, any effort to dilute the longstanding struggle to address developmental issues while global challenges remained rising, would not be acceptable.

7.50. The representative of Jamaica, on behalf of the ACP, thanked the United States for its statement and wished to reiterate its previous statements on the matter. Since the establishment of the WTO, some Members had made progress economically, and on a range of development indicators. Yet, despite modest gains, some Members of the Group continued to fight the scourge of poverty and underdevelopment while others were hemmed in by structural constraints and vulnerabilities, flowing from, among other things, climate change and natural disasters. For many ACP Members, economic data and the realities on the ground remained far apart.

7.51. The ACP Group therefore wished to reiterate that it would be difficult to accept that some developing countries were not entitled to special and differential treatment and that they should be excluded upfront from claiming that facility even before negotiations began. The ACP Group urgently called for constructive and inclusive dialogue where the concerns of all Members could be addressed.

7.52. The representative of Thailand agreed that Members had to take on obligations commensurate with their capabilities but was also aware of the importance and essentiality that developing country Members and LDCs retained the flexibility to S&DT, which was a vital tool for attaining sustainable and inclusive trade, economic, and social growth. Thailand continued to believe that frank exchanges and compromise in the negotiations remained key to ensuring that Members achieved breakthroughs and ultimately meaningful outcomes. Thailand remained ready to engage in further discussions to find an appropriate approach to strengthen the negotiating function of the WTO.

7.53. The representative of Sri Lanka recalled that S&DT had emerged for the first time in the Tokyo Round as it had been believed to be an effective way to get less developed countries to participate in the multilateral trade rounds. Since then, the importance of S&DT had not disappeared, as it

continued to play an essential role in all the activities of Members, including in the trade rounds that they had embarked upon and were still unable to conclude.

7.54. S&DT provisions in the WTO Agreements were diverse. To illustrate, provisions concerning de minimis thresholds in agreements relating to trade remedies already recognized the different levels of development such that some had not been granted equal treatment. That example showed that some of the advanced developing countries were no longer beneficiaries of certain flexibilities in some of the provisions in WTO Agreements.

7.55. Over the years, the development concept had been incorporated into the WTO Agreements. The WTO did not permit its Members to resort to unilateral measures and to deprive certain countries from availing S&DT. Some Members had made it clear that they would not seek S&DT in future negotiations. That was their decision but it had not resulted into them being recognized as developed Members. It should likewise not result in depriving others from benefitting from S&DT. In the multilateral forum, Members could take into account the various levels of development but in no case should they ignore S&DT. Sri Lanka therefore urged those Members to first exhaust all of their options within the multilateral framework before resulting to imposing unilateral measures.

7.56. On the proposal itself, Sri Lanka was very happy to note that the United States had slightly revised it taking into consideration some of the comments which Sri Lanka had made during a previous General Council meeting. Sri Lanka acknowledged in particular the introduction of the concept of "graduation" so that whatever measures were planned to be imposed would not be imposed in a given period but would instead look at the development of the countries concerned. The US proposal had also included a sectoral clause which could put Members in a situation where they would have to negotiate for S&DT thereby putting small developing countries such as Sri Lanka in a weaker negotiating position. There was still not too much clarity as to how that particular clause would be applied by the United States in current and future negotiations. Sri Lanka remained very worried about the sectoral approach.

7.57. As all Members believed in multilateralism, they should all work together and take into account the concerns of Members on all sides of the development debate rather than resorting to unilateral measures. Otherwise, it would simply encourage policymakers to engage more in bilateral discussions which were not held in the context of the multilateral trading system.

7.58. The representative of Namibia supported the statement by the African Group. Namibia was of the view that S&DT should be addressed in a proper and transparent manner for all Members to achieve the objectives of the WTO among others – to help developing countries benefit fully from the global trading system. Looking ahead, with the period before MC12, there was a need to address the issue of S&DT in a constructive and inclusive manner while preserving the rights of Member States under the WTO Agreements.

7.59. The representative of the United States thanked the membership and delegations for their comments. The United States would take them under consideration. With respect to the CVD that had been referenced a couple of times, he noted that US law required the USTR to designate an update which countries were developing, and there was no provision of the WTO Agreement that required a Member to consider other Members' self-declarations when administering its own countervailing duty law. The criteria were similar but they were not the same, so the United States invited Members to review the federal register notice for more details.

7.60. On the issue raised by Colombia about OECD membership not being a good proxy for the issue, the United States respectfully disagreed. OECD membership was a self-chosen mark of differentiation supposed to be for economically more advanced economies who were willing take on more responsibilities. For sure, if one was an OECD member, one could certainly call itself a developing country but it should not be entitled to automatic as-of-right SDT at the WTO.

7.61. Finally, he had heard yet again another reference for the second time to the Thomas Jefferson quote "nothing is more unequal than the equal treatment of unequal people." He said he was afraid that was not from Thomas Jefferson. According to the Monticello Trust which tracked spurious Jefferson quotes, that one dated to a tax reform pamphlet in Colorado in 1902.

7.62. The General Council took note of the statements.

8 PROCEDURAL GUIDELINES FOR WTO COUNCILS AND COMMITTEES ADDRESSING TRADE CONCERNS – COMMUNICATION FROM ALBANIA; AUSTRALIA; CANADA; CHINA; EUROPEAN UNION; HONG KONG, CHINA; ICELAND; REPUBLIC OF KOREA; REPUBLIC OF MOLDOVA; NEW ZEALAND; NORTH MACEDONIA; NORWAY; PANAMA; QATAR; SINGAPORE; SWITZERLAND; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; THAILAND; TURKEY; AND UKRAINE (WT/GC/W/777/REV.5)

8.1. The Chair noted that the EU delegation had requested the Secretariat to add the item in the agenda of the meeting. That included the revised communication in document WT/GC/W/777/Rev.5 circulated by the co-sponsors.

8.2. The representative of the European Union wished to address a question that some could have concerning why Members should continue working on the proposal for "Procedural Guidelines for WTO Councils and Committees Addressing Trade Concerns", which some could think was of little relevance when the organization was facing existential challenges. As the European Union had been saying since the beginning, the proposal aimed to allow the membership to agree on a small step to make the WTO more effective. Members would need time to address the more fundamental issues. But what the organization needed first was to re-build trust – and the proposal was about just that, in the context of the WTO regular work which after all represented a significant share of their work.

8.3. Against that background, and following the update provided at the previous meeting, the co-sponsors had circulated a second revision of the proposal for the meeting which incorporated constructive suggestions from many Members. The European Union expressed its appreciation of Members' engagement and the good cooperation with the co-sponsors and welcomed Canada and China among them together with whom they currently formed a group of 20 Members.

8.4. As had been explained at previous occasions, the proposed guidelines were intended to be a practical contribution to making WTO regular work more effective. In trying to improve how Members dealt with each other's trade concerns, the co-sponsors had based themselves on existing practices and procedures. The proposal was carefully drafted to ensure that it did not put into question practices that worked well and that it did not hinder any WTO body from creating more sophisticated or ambitious arrangements for itself. Instead, the proposal aimed at creating a minimum platform of good practices.

8.5. Spelling the principle out more clearly was one objective of the changes in the second revision, for example in the preamble and by making further reference to existing practices such as the existing guidelines on scheduling meetings. There were also other changes. In paragraph 7, the concept that written questions and replies could complement and deepen oral exchanges in Committees remained. But several Members had pointed out that the envisaged 30 days to reply to written questions could be too challenging. The language had been softened to make it even clearer that that was a good practice that Members were encouraged to follow. The wording was in line with the existing procedures such as in the Committee on Agriculture.

8.6. On paragraph 11, which aimed to make exchanges on trade concerns in the formal meetings more focused and efficient, a number of Members continued to be concerned that their ability to express themselves fully would be diminished. That had never been the intention. To make that clearer, the co-sponsors had taken out the reference to past statements and had replaced it with an invitation to focus, when making an intervention on trade concern, on new developments since the last discussion. Some Members had also expressed concern that the proposal would give too significant a role to the Secretariat. In response, in paragraph 12, the co-sponsors had adjusted the participation of the Secretariat to be the normal scenario, but not a mandatory requirement.

8.7. Some other concerns related to the fact that elements shared in the informal processes could be relied upon in dispute settlement procedures. The co-sponsors had complemented paragraph 14 to state explicitly that that could not be the case. Finally, the co-sponsors had responded to the LDCs' call to take account of their specific situation. Paragraph 15 then clarified that technical assistance from the Secretariat to help implement those guidelines would be available in particular to LDCs.

8.8. Over the next couple of weeks, several Committees and Councils were scheduled to meet which usually reviewed a long list of trade concerns. The European Union was very active in those bodies,

both raising and responding to trade concerns. The European Union had a real interest in making Members' work in those fora more effective and saw that that interest was shared broadly – even by those Members who were still unconvinced about the proposal.

8.9. The European Union encouraged those unconvinced Members to leave aside both individual concerns, of which they all had a few, and any reticence about past proposals from the times of active DDA negotiations, with which the proposal had minimal resemblance or not at all. Rather, the European Union would appreciate engagement on the question of how to foster better engagement on trade concerns. The European Union looked forward to further concrete feedback on the proposal that day and stood ready to continue informal exchanges with Members in the hope that the proposal would soon be mature enough for adoption.

8.10. The representative of Canada was pleased to join the proposal as co-sponsor. As the European Union had just explained, several constructive suggestions from many Members had been incorporated into the revised version – a version that Canada believed solidified the proposal as one that would importantly contribute to strengthening the deliberative function of the organization.

8.11. As had been noted in Canada's discussion paper circulated in JOB/GC/211, the deliberative function consisted of three separate but related activities: information sharing, policy deliberation and dialogue and discussing and seeking to resolve specific trade concerns. The revised proposal addressed all three areas. It encouraged information sharing to improve their knowledge of each other's trade policies. It improved the environment to create substantive engagement by Members in the WTO's Councils and Committees. It also created an additional tool for Members to voluntarily use in their efforts to resolve trade concerns in a collaborative and cooperative manner.

8.12. Canada appreciated the open and constructive engagement from the European Union and its co-sponsors in the lead up to the revision. Canada looked forward to the adoption of the proposal and continued improvements in the implementation, administration and operation of the WTO Agreements.

8.13. The representative of China appreciated the efforts made by the European Union and other proponents for the improvements of the proposal and shared the objective and the suggestions reflected in the proposal. Reasonable and effective procedure could contribute to strengthening the WTO through facilitating adequate exchange of views and increasing the potential for resolving trade concerns. In light of that, China had joined the co-sponsors of the proposal. China would continue to engage on the issue constructively and was looking forward to further collaborating with the proponents and other Members.

8.14. The representative of Hong Kong, China thanked the European Union for leading the proposal on procedural guidelines which it co-sponsored and in particular for its continued efforts in reaching out to interested Members. As had been suggested in different fora in the WTO that small concrete steps could be important, Hong Kong, China continued to see value in making the day-to-day operation of WTO bodies more efficient and believed that the proposal was a solid and practical contribution to the broader reform efforts. The latest revised version of the proposal had taken into account the constructive suggestions from many Members. Hong Kong, China reiterated its support for the proposal and hoped that the changes made would help address the concerns and comments raised earlier by some Members.

8.15. The representative of Switzerland said that his delegation co-sponsored the proposal because it was part of the logic of improving the functioning of WTO Committees, both from an organizational point of view and in the consideration of trade concerns. It also offered structured elements that promoted the resolution of trade disputes using a cooperative approach. For those reasons, Switzerland believed it was useful to support the initiative which proposed concrete measures in the interest of all Members. Like other co-sponsors, Switzerland stood ready to continue the discussion with all the Members to improve the proposal.

8.16. The representative of Chinese Taipei said that, as a co-sponsor of the proposal and at a time when the WTO was undergoing transformation and reform, Chinese Taipei believed that more effective work in dealing with Members' trade concerns would pave the way for the improved functioning of the WTO. As the European Union had said, the aim was to create a meaningful and a minimal platform of good practices. In the revised version, language was incorporated to that effect

in a more flexible and practical manner. For repeated, revised trade concerns, more focus should be put on new developments. Chinese Taipei was also fully aware of the needs of the LDCs regarding implementation.

8.17. Overall, the procedural guidelines aimed to make regular work better respond to the needs of the stakeholders. Without a doubt, Chinese Taipei recognized the importance of Members' strong will to resolve specific trade concerns. The proposal just provided a starting point for all Members to modernize the organization. Though a small step, the contribution would be significant because it would apply horizontally to WTO Councils and Committees. Chinese Taipei urged Members to support the proposal as one of the ways forward on WTO Reform.

8.18. The representative of Chad, on behalf of the LDCs, found the proposal useful as it set out voluntary procedures that could assist Members to clarify and resolve trade concerns and conduct meetings in a framework of better transparency and efficiency. Providing all relevant information and documents in advance would be more logistically appropriate given the constraints faced by LDCs.

8.19. However, although the procedures for trade concerns were voluntary, that did not mean that LDCs would be able to respond quickly to detailed lists of concerns even if assistance from the Secretariat would be provided. Those procedures could represent a significant capacity constraint placed upon the shoulders of LDCs. Another concern involved the scope of trade concerns which could be identified to make the guidelines more practical.

8.20. The representative of the United Kingdom said that his delegation was a strong supporter of efforts to improve the functioning of the WTO's regular Councils and Committees. Though less glamorous and headline-grabbing than the work that took place in negotiations or as part of dispute settlement, the work that happened in those bodies was just as important. It indeed seemed more important than ever.

8.21. When he was told by the media or others in the United Kingdom that the WTO was in crisis, he reminded them that while the WTO faced significant challenges – not least with the Appellate Body – there was still a huge amount of important work going on in the organization every day, not least the process of Members monitoring each other's compliance with the WTO agreements, and using the WTO's regular bodies to de-escalate trade tensions before becoming more entrenched.

8.22. Because that work was so important, it was right that Members reviewed the functioning of those bodies to ensure they were still functioning in the interest of all Members. The proposals in WT/GC/W/777/Rev.5 constituted a sensible and pragmatic set of updates to the ways of working. While they would apply a common standard across most Committees and Councils, they would only apply a broad framework or minimum standard – there was still plenty of scope within them for individual Committees to develop their own tailored approach to other questions of committee operation.

8.23. Where needed, elements were voluntary, ensuring that Members remained in the driving seat. The proposed guidelines likewise recognized the additional challenges faced by developing countries and LDCs, encouraging Secretariat support where needed. The United Kingdom stood ready to support its developing country partners through its extensive aid-for-trade portfolio, including through partners based in Geneva. The United Kingdom looked forward to continuing to discuss that important topic with other Members.

8.24. The representative of Bangladesh associated with the statement made by the LDC Group. Bangladesh noted that the proposed procedural guidelines submitted in document WT/GC/W/777/Rev.5 aimed to bring positive changes in the working procedures of the Committees and Councils in general and welcomed the constructive ideas presented in the revised draft proposal.

8.25. In previous meetings, Bangladesh had consistently suggested changes in the existing convening notice templates which should include, inter alia, information like the date of the last meeting of the relevant Committee or Council, document reference of the minutes of the meeting of the previous one, and name of the Chair. Members should also review the suggested time-limit for serving a convening notice before the actual date of meeting and the time-limit for circulating the minutes of the meeting. Bangladesh also proposed that a summary note should go to the WTO

website immediately after the meeting. That would immensely help smaller delegations unable to attend all meetings in regularly updating their information repository.

8.26. The aim of the submission, as the proponents pointed out, was to strengthen the capacity of the regular WTO Councils and Committees to help Members function more efficiently. In that respect, Bangladesh encouraged Members to reflect on the wider scope that the proposed guidelines had so that Members' decisions would not create difficulties in the future. Paragraph 13 of the draft suggested that Members should involve capital-based experts. The prerogative in determining who would be involved in its affairs rested and should continue to rest on each Member. On the other hand, the participation of capital-based experts in informal meetings, in person or through videoconferencing, remained an issue of constraint for many Members. Bangladesh urged the proponents to re-think whether all Members were in a position to implement that call. Bangladesh would remain constructively engaged with the proponents and other Members on the issue.

8.27. The representative of Paraguay fully agreed with the objective of improving the functioning of WTO Committees. In that regard, Paraguay had played and would continue to play an active part in discussions on improving the Committees not only in that context but also in the initiatives headed by Brazil in the SPS Committee and by Hong Kong, China in the Goods Council, where it had contributed constructively to discussions.

8.28. Improvements to the Committees should focus on pragmatic solutions to issues that delegations had to face in their daily work especially small delegations with few delegates whose effective participation was limited on numerous occasions. In that regard, much work remained to be done including with regard to improving the scheduling of meetings. The current situation of overlapping meetings between Councils and their subsidiary bodies, between subsidiary bodies and certain negotiations, was a constant problem that obstructed its participation in many discussions of interest at the WTO. Consideration could be given on whether to modify the rules governing the scheduling of meetings and to provide a definitive, binding solution to that situation.

8.29. Focusing on the proposal, substantial improvements had been made to the current version, including removing the requirement that the presentation of trade concerns should be of a subjective nature, removing the encouragement to Members to refer to previous statements, and requiring the participation of capital-based experts in consultations and meetings.

8.30. Paraguay however continued to have reservations regarding the reduction of time for the submission of agenda items to the Goods Council, to which Members should add the requirement to submit all documents to be considered by Committees at least 15 days before the meeting, with the exception of room documents. That could be considered as a best endeavour clause encouraging Members to present documents within those deadlines in order to give others enough time for analysis, without it being binding, and to enable Members that had been unable to submit documents because of an excessive workload within that period to do so anyway.

8.31. Moreover, the possible effects of the bilateralization of multilateral discussions could have a negative impact on the flow of discussions and the process of enriching those debates. Although on several occasions dominant interests had indicated that those measures would not apply to the SPS and TBT Committees, that exclusion was not explicit in the reference document and there were also proposals from some co-sponsors of the document to harmonize the proposal with other initiatives that would specifically affect the said Committees. Although Paraguay appreciated the efforts made by the proponents, it still thought that the best way to resolve or avoid trade concerns was to align the measures from which they originated to Members' WTO commitments.

8.32. The representative of the United States recalled the US statements in previous meetings on that matter. The most essential element for successfully resolving trade concerns was political will – and the United States did not see that being addressed in the current proposal. The United States could easily identify multiple longstanding trade concerns it had raised over many years with several of the co-sponsors of the proposal. The United States had in fact reached out to clearly communicate and explain its concerns, had submitted questions in writing, had waited for written responses and had even been involved in Chair-led consultations. The United States was not prepared to accept the premise that it was at fault for the lack of resolution of those trade concerns because it had not followed a particular procedural sequence. As the United States had stated before, resolving trade concerns required political commitment and there were unfortunately no shortcuts for that.

8.33. With respect to the specifics of the proposal, the United States continued to question the desirability of imposing horizontal procedural guidelines on Committees. The United States asked the proponents to explain why they believed that individual Committees should not be responsible for their own rules of procedures or for determining the most appropriate way to deal with items on their individual agendas or determining their own meeting arrangements.

8.34. Based on the United States' conversations with some co-sponsors, it sounded as if dissatisfaction with the Council for Trade in Goods was the common denominator rather than failures of the many other Committees the proposal sought to modify. Canada and Hong Kong, China had recently initiated a conversation in the Council for Trade in Goods raising some specific suggestions to improve the functioning of the CTG. The United States asked why the proponents believed that those kinds of initiatives should not be supported but rather replaced by a horizontal mechanism.

8.35. The proposal appeared to assume a homogeneity among Committees and bodies that the United States did not see nor necessarily agreed with. The United States asked the proponents to explain why they had taken a trade concern specific approach and had applied it across Committees that had a notification focus – and why they believed that an approach or procedure that could work for a trade concern would supersede or be more important than a procedure that facilitated review and discussion based on notifications.

8.36. With respect to the specific suggestions, the United States agreed that any Member truly serious about resolving an STC would notify the responding Member as soon as possible. The United States therefore asked the rationale behind the 20 days.

8.37. The United States was not sure why the Secretariat necessarily needed to be involved at all or 20 days before a meeting. The United States asked the proponents to explain why involvement of the Secretariat was needed when it was not the role of the Secretariat staff to get involved in the substance of a conversation between Members.

8.38. Paragraph 9 resurrected a concept that had already been discussed in other Committees and Councils and one the United States had disagreed with. The United States did not believe it was appropriate or conducive to resolving a trade concern to have the Chair or Secretariat providing their own views, interpretation or annotation of the issue at hand.

8.39. The United States had only been told that in the abstract any information would be neutral but it failed to see how that would work in practice. Characterizations of measures should be left to Members. That suggestion was only inserting a complication and obstacle to the process of dialogue and the United States failed to see how any Member would be served by that unnecessary process.

8.40. The United States also questioned the utility of paragraphs 12 to 14. The United States had a long history of raising and resolving trade concerns through dialogue at the WTO and had never faced the situation where the missing variable had been a third party. The United States viewed those paragraphs as an attempt to remove unresolved issues from the agenda and send them into an offline process.

8.41. The United States failed to see how a Member that had allowed an issue to become a longstanding and unresolved trade concern, where they had failed to involve capital-based experts in a Committee structure, would somehow modify their behaviour in an offline process. Those suggestions appeared to be a pathway to avoid peer pressure and multilateral scrutiny rather than an avenue to resolve issues.

8.42. The representative of India supported the need for the mechanism to address specific trade concerns effectively. India therefore supported the idea of improving the meeting procedures of the WTO bodies with indicative yearly schedules of meetings for each of the WTO bodies for effective participation of Members particularly those having limited resources. Timely circulation of the agenda and the minutes of the meetings and strengthening of the existing processes to address constructively the specific trade concerns were also welcome.

8.43. Though the joint proposal was being examined in its capital, it appeared to be an improvement over the earlier versions. The proposal however still contained certain unclarified issues on which India wished to make some preliminary comments. Given the fact that the WTO was a Member-

driven organization and neutrality was the core principle embedded in it, Members should be cautious about any enhanced direct role of the Chair of any of the WTO bodies as well as that of the Secretariat in resolving trade concerns between the Members.

8.44. The opportunity to bring up a trade concern in every Committee could prompt Members to raise their concerns frequently across all relevant WTO bodies thereby crowding the agenda of each Committee – putting strain on the precious time of such bodies and on the resources of smaller delegations. The requirement of submitting written responses within the strict timeline of 20 days could be burdensome on resource-constrained Members and those with multiple layers of federal structures. It was likewise not clear as to whether the oral report of the Chair would involve any interpretation particularly on highly technical issues which could be beyond the capacity of the Chair. Having raised those issues, India was keen to further discuss the proposal and work to improve the functioning of the WTO bodies.

8.45. The representative of Indonesia remained in the opinion that the proposal could create cumbersome processes in addressing trade concerns. Indonesia continued to question paragraph 12 of the proposal concerning the right to request an informal meeting to the Chair. Such a mechanism would not only raise a significant number of informal meetings which would drain resources of the parties but would also put more burden to the Chair without any guarantee of success. Moreover, the Secretariat should not be involved in the bilateral meeting of the parties concerned especially by providing technical inputs to the issue of trade concern. The Secretariat needed to maintain its independence and therefore should not provide any inputs that could prejudice to the specific trade concerns.

8.46. The representative of South Africa noted that some of the comments made by her delegation had been taken on board. In welcoming the provision for technical assistance in the proposal, South Africa underscored that the core challenges facing Members were more in relation to institutional capacity at a country level including lack of systems that would facilitate a coordinate response to the STCs within the proposed timeframes. South Africa's fundamental concerns with the enhanced role of the Chair and Secretariat still remained. While South Africa saw value in some elements of the proposals, there was a need for consideration of the proposals by the Committees and Councils on how those could be applied to the relevant institutions in view of their mandate and rules of procedure. South Africa remained concerned with the horizontal procedural nature of the guidelines but would continue to engage constructively in the discussions.

8.47. The representative of Ecuador acknowledged the efforts made by the co-sponsors to respond to the comments of other Members. The new revision was still being considered in capital and Ecuador would come back in due course with further comments. In any case, Ecuador remained ready to continue to work with the co-sponsors and all Members on the matter with the view to improving the processes of the Committees and Councils of the organization to resolve specific trade concerns without affecting the full enjoyment of Members' rights – as each Member had the right to deal with specific trade concerns in the various WTO Councils and Committees.

8.48. The representative of the European Union thanked all delegations that had made comments and welcomed the engagement of all in supporting and in improving the proposal. The proposal suggested the setting up of a common platform of good practices that could be followed by Committees. It was not mandatory. Nothing impeded Committees from developing even better practices. The European Union saw the reflection that was ongoing in specific WTO bodies not as contradictory, but as a useful complement to what was envisaged in the proposal. The European Union and the co-sponsors would continue to engage with the membership at large to try to mature the proposal and to have it adopted in the General Council.

8.49. The General Council took note of the statements.

9 THE IMPORTANCE OF MARKET-ORIENTED CONDITIONS TO THE WORLD TRADING SYSTEM – COMMUNICATION FROM THE UNITED STATES (WT/GC/W/796)

9.1. The Chair noted that the item was included in the agenda by the United States with the communication circulated in document WT/GC/W/796.

9.2. The representative of the United States said that the agenda item had been requested to discuss the centrality of market orientation – one of the core principles of the WTO – in Members' collective efforts to achieve meaningful WTO reform. The United States had circulated a draft decision in which Members would reaffirm that market-oriented conditions were fundamental to a free, fair and mutually advantageous trading system to ensure a level playing field for their workers and businesses.

9.3. Any reform conversation should begin with some basic questions concerning the purpose of the organization and the values it upheld. Members had heard the United States emphasizing in previous statements that those who had founded the WTO had the goal of moving all economies toward greater market openness and free market competition. The Marrakesh Declaration had set out Members' collective intention to establish the World Trade Organization to promote participation in a world trading system "based on open, market-oriented policies and the commitments set out in the Uruguay Round Agreements and Decisions." They had also collectively noted their "desire to operate in a fairer and more open multilateral trading system for the benefit and welfare of [our] peoples."

9.4. Many accession protocols concluded over the past 25 years reflected those core principles by reaffirming a commitment to the Marrakesh Declaration or more explicitly stating that the goal of WTO accession had been to achieve economic reform "based fully on market principles" or to "transition from a centrally-planned to a market based economy." The importance of an acceding party's adoption of market-oriented reforms was evident in reviewing the historical record of WTO accessions, to ensure that it and existing Members fully benefited from reciprocal and mutually advantageous commitments.

9.5. In May 2018, the Trade Ministers of the European Union, Japan and the United States had agreed that non-market-oriented policies and practices created unfair competitive conditions for their workers and businesses and undermined the proper functioning of international trade. Those statements further reaffirmed that market-oriented conditions remained fundamental to a free, fair and mutually advantageous global trading system. It was because market-oriented conditions were crucial to ensure a level playing field for all Members' workers and businesses. Put differently, if workers and businesses were subject to market constraints and disciplines, it was fundamentally unfair to force them to compete with another Member's enterprises that were not subject to those same constraints and disciplines.

9.6. For the United States, the WTO was and should be a place where countries came together to work towards developing and enforcing rules that promoted the common goal of free and fair trade on the basis of openness and market principles. To put it another way, it was as if all Members had agreed to join the same swimming club, using the same pool together, with all of them agreeing to swim in the same direction. As in any swimming club, there would be those who swam faster or slower, some who preferred different strokes, and some who needed to take a short break on the side of the pool. On occasion, they would bump into each other and could even swim outside their respective lanes. But, in that club, there was a fundamental, shared understanding that they should all be swimming in the same direction toward a common destination.

9.7. A shared commitment to open, market-oriented policies across the WTO membership was critical to restoring and building confidence in the organization as a defender and promoter of free and fair trade. The draft decision would help them accomplish that important goal. The importance of market-oriented conditions to the world trading system could seem obvious to many of them. But sometimes restating the obvious and asserting their shared values was a necessary step on the path to progress. With the WTO in crisis, it seemed that then was an appropriate time to do so.

9.8. The United States noted some key elements that indicated that market-oriented conditions existed for market participants:

- a. Decisions of enterprises on prices, costs, inputs, purchases and sales were freely determined and made in response to market signals;
- b. Enterprise decisions on investments were freely determined and made in response to market signals;

- c. The prices of capital, labour, technology and other factors were market-determined;
- d. Capital allocation decisions of or affecting enterprises were freely determined and made in response to market signals;
- e. Enterprises were subject to internationally-recognized accounting standards, including independent accounting;
- f. Enterprises were subject to market-oriented and effective corporation law, bankruptcy law, competition law and private property law and could enforce their rights through impartial legal processes such as an independent judicial system;
- g. Enterprises were able to access freely relevant information on which to base their business decisions.
- h. Moreover, in all of those areas, there should be no significant government interference in enterprise business decisions.

9.9. The absence of market-oriented conditions in one or more WTO Members could have devastating consequences for others. The distortions were not mere ripples that crossed into other Members' lanes. In a global economy, they could build into cresting waves that swamped other Members' economies, threatening to undermine the social compact between a government and its citizens. The adoption of non-market policies and practices could lead to severe overcapacity in certain industrial sectors, create unfair competitive conditions for workers and businesses that led to massive job displacement and lost business opportunities, and hinder the development and use of innovative technologies.

9.10. Existing WTO rules went some way to ensuring fair competition that benefited all of their citizens as producers and consumers. Commitments such as most-favoured nation treatment, national treatment, subsidy disciplines, intellectual property rules and others were designed to ensure fair play for all. But the existence of non-market oriented conditions tilted the playing field in the direction of those Members that sought to unfairly determine economic outcomes.

9.11. As WTO Members considered new initiatives and rules – such as on fisheries subsidies, industrial subsidies, State Enterprises or other issues – which could be key elements of achieving meaningful WTO reform, the importance of market-oriented conditions only increased. A shared understanding of and commitment to the market-oriented norms upon which the WTO was established would significantly increase the prospect that those rules, once implemented, would be both effective and durable.

9.12. The United States was currently engaging with interested WTO Members on initiatives to support market-oriented policies and outcomes and to reinforce the values the United States had endorsed when it had helped create the institution. In the coming months, the US delegation would be speaking with many Members on that critical issue so that they could jointly endorse the draft General Council decision and increase their citizens' confidence that the WTO fully supported providing a level playing field for all.

9.13. The representative of Canada understood the motivation behind the proposal and agreed with the principle that the world trading system should be based on open, market-oriented policies. For example, Canada strongly affirmed that the decisions of enterprises on purchases should be freely determined and made in response to market signals. In addition, situations where governments' policies and practices played a significant role in directing or influencing business decisions by commercial enterprises were of concern to it. Canada also shared the desire to create conditions that ensured a level playing field for Members, workers and business. Canada remained open to engaging all Members in that regard including on discussions that could eventually lead to new disciplines.

9.14. The representative of Japan said that the draft General Council decision proposed by the United States was made based on the principles that WTO Members had repeatedly confirmed among themselves and clearly delineated the elements of market-oriented conditions. The proposed

elements comprised necessary pre-conditions for free and fair multilateral trade which heavily depended on the functioning of the price adjustment mechanism in an efficient market.

9.15. Nowadays, the multilateral trading system was challenged in various ways and the need for WTO reform was widely recognized. In order to undertake reform, the time seemed to be ripe for Members to share a common recognition on the market-oriented conditions that formed the basis for securing free and fair trade and a level playing field. Japan therefore supported the draft General Council decision by the United States.

9.16. The representative of Brazil recognized the need to improve rules so that the multilateral trading system was able to effectively foster free trade and by doing that, promote higher standards of living and of development. That was not something new. In the Marrakesh Declaration of 1994, Members had stated that "the establishment of the WTO ushers in a new era of global economic cooperation reflecting the widespread desire to operate in a fairer and more open multilateral trading system for the benefit and welfare of all people." Members had also agreed in the Preamble that they had been "determined to build upon the success of the Uruguay Round through the participation of our economies in the world trade system based upon market-oriented policies."

9.17. Joining the WTO was a necessary step but was not sufficient by itself to ensure development. Members should remain committed to trade liberalization and strengthen rules. Brazil agreed with the United States that it was essential that market-oriented conditions prevailed in Members' market in order to guarantee a level playing field. Brazil was looking at the proposal carefully and would provide more comments later.

9.18. The representative of Colombia said that his country shared the principles mentioned in the proposal and had always based its participation in international trade on them. Since 1995, Colombia had maintained a market economy model. Colombia had participated in the WTO's establishment and had consistently asserted its agreement and satisfaction with the preamble to the Marrakesh Agreement and with the provisions that anchored global development firmly in market principles. Colombia was able to concur with the content of the proposal and would even extend it to other domains beyond those explicitly mentioned. Members were not discussing principles and orientations that applied only to industrial subsidies as they also affected other WTO areas such as agriculture.

9.19. Colombia understood the interest in reiterating some of the founding principles, especially at that time of introspection for the organization. Nevertheless, Members should not draw any particularly firm conclusions from the exercise. The principles that they shared that day belonged to a larger body of principles and provisions that had garnered consensus and balance over time at the multilateral level. A few differences regarding the re-establishment of a single principle should not put the existing balance in the total body of WTO Agreements at risk. Moreover, Colombia drew attention to the need to maintain a horizontal view of the WTO and its benefits, which sometimes ran the risk of getting lost in the animosity of discussions on specific issues.

9.20. Colombia regarded the WTO as a forum, which, apart from the problems it faced, offered tools and solutions to Members in their daily participation in international trade. Colombia appealed to all Members to apply the principles mentioned in the proposal in a broader manner that embraced the entire scope of trade between their economies and to consider the total positive impact that the WTO had on its Members. Colombia would be ready to further those discussions with both the United States and other delegations concerned. There was much that united Members in the WTO. In that bond, they should join forces to maintain, promote and improve the multilateral trading system.

9.21. The representative of Chinese Taipei had always championed the view that the WTO had been established to uphold the rules-based trading system to ensure a level playing and to promote trade as an instrument of economic development. Having said that, it was equally important that the whole system functioned properly allowing business and workers to prosper in a free and fair competitive market. That depended crucially on Members having a common understanding of the rules of the game and respecting them. A market-oriented trading environment was therefore an essential condition for underpinning the key elements of fairness in the WTO's multilateral trading system.

9.22. The representative of Nigeria said his remarks were preliminary while the draft General Council Decision was being reviewed in its capital. Nigeria had concerns on the likely scope of application of a draft decision and its potential implication on the rights of a State to regulate

economic activities within its sovereign territory especially during market failures. There was also no clarity as to the meaning of the term "market-oriented condition". An assessment of existing market-oriented conditions in developed economies depicted a system of massive subsidy schemes that did not only provide financial support for domestic producers to enterprise but also ensured that the world market price of products to commodities remained low. Developing countries were still struggling to cope with the economic losses and social dislocation by those policies.

9.23. Furthermore, Nigeria had not understood the broad objective of the draft decision. If the objective was for the WTO to impose a specific economic model onto its Members, that would constitute an infringement on the sovereignty of Members. The aforementioned notwithstanding, Nigeria was open to further discussions on the issue with the United States to enable Nigeria to gain greater insights and better understand its scope and the meaning of terms such as "market-oriented", "freely determined" and "market determined".

9.24. The representative of Australia shared the view that the WTO represented a fundamental commitment by Members to an open trading environment underpinned by market-oriented principles. Australia stood ready to contribute to constructive discussions with all Members to support an effective WTO that remained fit for purpose and continued its unparalleled contribution to liberalising global trade.

9.25. The representative of the European Union thought it was important that businesses operated under market-oriented conditions. Like the United States, the European Union had repeatedly expressed its concerns with non-market-oriented policies and practices that had resulted in damage to the world trading system and a lack of level playing field.

9.26. The European Union's aim through the work in the trilateral group had been to identify the negative spill-overs into the trading system that could result from non-market based economic practices. That kind of reflection would allow Members to identify the kinds of future rules that could help address and minimize the impact of those negative spill-overs. That was the process the European Union was going through in the field of industrial subsidies for example, where having reflected on the kinds of rules needed, it was beginning to discuss its ideas with other WTO Members.

9.27. The representative of South Africa said her comments on the matter were preliminary and noted that the submission was currently being considered in capital. As a principle, South Africa agreed with optimal functioning of markets. The paper introduced a number of terms that were not clearly defined making engagement on the issue a challenge. It was not clear whether Members had the same view of what significant government interference was.

9.28. Countries had a number of policies that were implemented in the public interest to address market failure or achieve developmental objectives, including in South Africa's case addressing historical exclusion of especially black people in the mainstream economy. South Africa was wondering whether those policies would be seen as creating non-market conditions in terms of creating a level playing field for workers and businesses even though they achieved a Constitutional mandate. Markets and the way they operated led at times to unintended consequences. That included market concentration, rising unemployment and inequality. Policies and regulations were essential for their proper functioning and to promote a range of public policy outcomes.

9.29. Almost all WTO Members had mixed economies where Governments intervened in the economy or had State-owned enterprises which carried out specific functions to achieve a developmental mandate. That included certain kinds of research and development incentives that supported industries that developed new technologies that were then commercialized, a range of non-tariff measures that were not based on science, price controls on agriculture and pharmaceutical products, interventions taken in the context of the global economic crisis and interventions for national security imperatives.

9.30. South Africa was sensitive to any proposal that challenged the right to regulate in the public interest. Governments needed to balance a broad set of interests and concerns including those of investors, workers, the unemployed, young people and others as they forged social pacts within their societies to promote sustainable growth and deeper economic inclusion.

9.31. In addition, the WTO membership consisted of Members at different levels of development. It was for that reason that the Marrakesh Agreement had a number of objectives including: conducting trade and economic relations with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, expanding the production of and trade in goods and services, and enhancing the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development.

9.32. It further recognized the need for positive efforts to ensure that developing countries, and especially LDCs secured a share in the growth in international trade commensurate with the needs of their economic development. Countries developed at uneven rates, the reasons for which were complex. Those complexities necessitated the implementation of policies suitable to their development objectives and to address their specific challenges. The WTO should not attempt to determine the economic model of countries. Members needed a multilateral trading system that supported inclusive growth and enabled national authorities to pursue steps to achieve national developmental objectives and outcomes based on their peculiar circumstances.

9.33. South Africa agreed with the need to promote a fair and more open multilateral trading system for the benefit and welfare of their people and that that should start with addressing agricultural subsidies which also impacted on food production and SDG 1 and 2 which was a long outstanding issue in the WTO. South Africa looked forward to further engagement with the United States.

9.34. The representative of Uruguay recalled that after the failed experience of industrialization due to the imports in the 40s and 50s, Uruguay had defended the market-oriented conditions where prices and the assigning of capital and other factors of production were determined freely thanks to the interaction of the different economic agents and not because of orders derived from central planning. Introducing the necessary corrections that took into account the interest and welfare of the public was the best way to assign resources given that they were always scarce. Uruguay had therefore conveyed the proposal to its capital for consideration.

9.35. Given the features and the current circumstances that the organization was currently going through, Members should focus their discussions on the effective implementation of existing agreements and on new disciplines to improve the global trading system. Those principles of free market were already enshrined in the fundamental text of the World Trade Organization and Uruguay would defend them as it had always done in current and future negotiations.

9.36. The representative of Indonesia noted that the proposal emphasized the importance of promoting market-oriented conditions to the world trading system. His delegation would appropriately study it. Indonesia recognized that it was essential to have a multilateral trading system that allowed the smooth flow of global trade in goods and services and that provided certainty to business and investments and predictability and opportunities in conducting their activities. The multilateral trading system should also have a developmental perspective to allow Members to serve the larger interests of their people.

9.37. International trade would always need the efforts of Members for it to be used as a tool to achieve Members' development objectives in particular as regards the SDGs. The future agenda of the WTO should therefore integrate all dimensions of SDG 2030 – economic, social and environment protection – as a reflection of trade as a tool for development particularly on matters the WTO had been clearly expected to deliver through global partnership envisioned by the SDGs. In that regard, Members should continue their discussion on how they could improve the WTO's relevance including in addressing future development challenges of its Members.

9.38. The representative of the United Kingdom said that the WTO Agreements recognized the importance of market-oriented conditions to the world trading system. The United Kingdom sought to ensure fair competition by guaranteeing all Members upheld their obligations under the agreements. The world trading system could only succeed if Members continued their endeavour to tackle unfair practices when those occurred. The United Kingdom therefore thanked the United States for enabling that discussion. It was important that Members made progress on issues such as industrial subsidies, state-owned enterprises and forced technology transfer. Unfair practices had real-life impacts on their citizens – innovation was stifled, communities were damaged and uncompetitive businesses were bolstered. All Members benefited from advancing market principles.

9.39. The representative of Norway had listened carefully to the statements made and agreed that items listed in the US paper were important conditions for a well-functioning market economy to which Norway subscribed to. The first seven items currently described how the Norwegian market functioned and item 8 covered the policy of the Norwegian Government when addressing both private and state-owned enterprises. With that said, the multilateral agreements did accommodate Members with a variety of economic systems.

9.40. What was important was that Members ensured that their divergent systems did not harm other Members' businesses and that there was full transparency on how governments and businesses functioned. If WTO Agreements and Members' commitments did not ensure that, they needed to turn to the Agreements themselves, ensure that they were fully implemented in a timely manner and negotiate amendments when needed. Norway agreed that there was a need for such adjustments. Those were challenging times for the WTO. Members needed to work together in a constructive manner in order to reduce further tensions and update the rulebook when needed.

9.41. The representative of Pakistan said that it was ironic that while Members debated market orientation, they were contemplating regulations in the wake of a pandemic that threatened to have a lasting impact on the global economy. At a relatively small level, Pakistan was intervening in the market for protective masks in some countries and would need to intervene in the market price for medicines as well at some stage – as was quite often done in many otherwise market-oriented countries. Market-orientation was an ambiguous concept. Pakistan asked whether there was such a thing as a free market and whether any country could claim to have always been a completely free market economy.

9.42. Economic history was replete with examples of countries relying heavily on government support to develop their economies – relaxed patent rules, protection of textile industries through quota regimes, hugely subsidized agricultural commodities, often further protected under tariff rate quotas, development of aircraft, steel, automobiles and arguably even the internet and global tech giants were all examples not very distant in history. Within the last ten to fifteen years, several countries otherwise claiming to be market-oriented had resorted to state intervention in the wake of the financial crisis – billions of dollars' worth of taxpayers' money had been used to nationalize mortgage lenders, bailout large companies and clean up so-called 'toxic assets'.

9.43. Members' own rules formulated in the GATT condoned government intervention – evidenced by the incidence of antidumping and countervailing duties. Complete free market economics would allow trade to flow freely and for dumping to be preferred in the name of consumer welfare and the lowest price determining who could buy and by how much.

9.44. Indeed, Members were already contemplating new regulations to save the planet from an environmental catastrophe. It was because they understood the value of market intervention. In other words, they acknowledged market failure that often deterred States and Governments in achieving the aspirations of their people. Otherwise, if people had wanted to drive more polluting cars or if enterprises had found polluting production methods more profitable, Governments would not have to prevent them from expressing such free choice.

9.45. There was no perfectly free market or a perfectly market-oriented country or economic model. To borrow from a famous British Economist, "... some markets look free, only because we totally accept the regulations that are propping them up such that they become invisible". Moreover, it was not for the organization to impose a particular model of running economies on its Members. Each Member had its own history, culture, development trajectory and methods of policy-making.

9.46. The preamble of the Marrakesh Agreement recognized the need for Members to raise standards of living and ensure full employment in a manner consistent with their respective needs and concerns at different levels of economic development. Needless to say, accepting a one-size-fits-all approach in the organization as the proposal intended would only further impede progress in the organization. Allowing and accepting more diversity in economic models would allow the organization to function better.

9.47. The representative of the Russian Federation said that, concerning the question of the relationship between national economic policies and WTO rules, none of the current WTO provisions imposed on Members cleared benchmarks with respect to internal economic governance unless

certain policies and measures directly affected trade. Moreover, and there the Russian Federation agreed with Pakistan, fully market and fully non-market economies did not exist. There was always a certain degree of state regulation and intervention in the economy even if policies were generally market-oriented. State participation in the economy was necessary to compensate market failures for the benefit of the people – the aim enshrined in the Marrakesh Declaration.

9.48. On the trade policy dimension of state activity, trade was influenced by various aspects of state intervention and internal support policies represented only one facet of those aspects. Another one, and equally important, was trade protectionism that distorted trade and squeezed foreign players from the market, for example, by use of trade defence policies, measures implemented with recourse to national security considerations. The US paper was silent about such aspects of policies provided by the State.

9.49. Regarding the question of balance, the Russian Federation understood that the paper represented the views of the United States with respect to how Members' economies should operate "to ensure a level playing field for workers and businesses". Obviously, the United States cared mainly of its own workers and companies. But the Russian Federation asked how much policy space the United States was ready to provide to other Members' workers and businesses, for example, regarding agricultural support reduction or strengthening multilateral rules of trade defence instruments. The Russian Federation further asked whether the United States intended to lift its numerous protectionist barriers especially on steel and aluminium and to commit not to introduce them anymore. Without positive answers to those questions, the call of the United States to other Members to change their policies seemed to be quite one-legged.

9.50. The bilateral trade deals between Members should also fall within the scope of the proposal. When concluding such deals, the parties should abstain from encouraging or pressuring other Members to agree to terms and conditions that went against basic market principles. Such bilateral deals should not contribute to further disruption of the international trade and market conditions. It seemed that a deal recently concluded between the US and another major Member of the WTO did not meet those criteria. The Russian Federation did not see benefit from the selective approach to promoting market-oriented conditions.

9.51. The Russian Federation hoped that the United States would be able to engage in the discussion on the above points in a meaningful way. Otherwise, the document would only trigger useless debates about economic models and internal policies of Members which would be far beyond the mandate of the organization.

9.52. The representative of Sri Lanka said that the WTO promoted fair and balanced trade. Members adopted different economic models such as Sri Lanka's market-oriented policies with a human face. It could mean many things to everyone. The United States had said that there were already some provisions in the WTO Agreements with some principles which came from 1947 such as MFN and national treatment. Members also had trade remedies particularly on antidumping and on subsidies – those that caused such a distortion within the market-oriented context could be adequately addressed given the current provisions. They also had been, under the Agreement on Agriculture, targeting to frame disciplines on state owned enterprises. Having such instruments at Members' disposal, Sri Lanka wondered why some countries still considered that such emphasis was necessary again after 1947.

9.53. As the proposal was being considered at national level in detail, Sri Lanka sought some clarifications from the United States. Sri Lanka asked whether the proposal meant that there could be no role for the State to regulate. Sri Lanka further asked what would happen if some sectors were heavily regulated because the private sector could not deliver or participate in those areas such as education and health care given their essential nature and that government intervention was forthcoming or in case government intervention was necessary particularly in the services sector. Sri Lanka questioned the effect of the proposal such that one could be deemed to have a market economy at the expense of the government not intervening in the market in case of market failures that could result in socio-economic unrest within a country. There was always the question on whether a Member could be deemed to have a market economy if it only heavily regulated one sector, because of its essential nature, but not the rest. Sri Lanka inquired on the practical implications of the proposal – particularly on whether it gave Members the right to take action on any State intervention involving investment or capital allocation decisions.

9.54. Sri Lanka further inquired whether a Member that had government intervention regulations on its economy meant that Members could impose tariffs beyond the bound level with impunity and whether that would constitute the end of the rules-based system. Sri Lanka also asked what types of enterprises would be covered – whether it would cover public entities or all enterprises, enterprises engaged in commercial activities or all activities, only profit-making enterprises or all enterprises, or enterprises that had public functions such as those that ran hospitals, the media and utilities. Sri Lanka would constructively engage with the United States to seek answers to those questions.

9.55. The representative of India noted that the proposal was being examined in capital and would revert with detailed comments. Like many others, India was curious about the intention behind the proposal which at that stage was not clear. Some of the terms used in the proposal were not clearly defined. The nature of a State's actions and the category of enterprises falling under its scope were also not elaborated. Because of its prescriptive nature, the proposal had stirred up the old market-versus-State debate.

9.56. The debate over market-versus-State had been settled a long time ago and State intervention in economic activities occurred in every country of the world, without an exception. While it was not its intention to go into that debate, India drew attention to some of the questions it had raised. The proposal seemed to assume that all state interventions were bad for markets and overlooked instances where state interventions had enabled markets to function better. India asked whether Members needed markets only for market's sake or they needed markets that worked for welfare and development. India also questioned whether the WTO should be making prescriptions and monitoring development models and economic systems of its Members who could be at different levels of development. Those were important questions which needed to be answered.

9.57. India had been striving over the past three decades to pursue pro-market, pro-competition and transparent policies. State interventions had however been warranted to address market failures given the significant need to pursue pro-poor, pro-welfare and pro-equity policies and bring more than 250 million people out of poverty. While doing so, India had been mindful of the need to achieve a fair balance between the market and state interventions.

9.58. As a founding Member of the WTO, India believed that the WTO's core objective remained promoting sustainable development "in a manner consistent with the needs and respective levels of economic development" of its Members. State or market were only the instruments for achieving that objective and the decision of which one to choose when should be best left to the wisdom of the Members. The focus of the WTO should be to use trade to create conditions of welfare and development.

9.59. The representative of Mexico was grateful to the United States for the draft decision which was currently being considered in capital. Mexico took note and understood the need to reiterate the fundamental principles underscoring the organization. That was a relevant discussion. It was true that Members needed fair and balanced competition among their market-based economies. Mexico was willing and looked forward to discussing that in a constructive fashion with Members.

9.60. The representative of Switzerland said that the text set out a number of principles that should direct the functioning of a market economy. Switzerland recognized various elements in it that characterized its economy and had long been firmly established in its policies. WTO Agreements were at the same time geared to the liberalization of trade and acted as a lubricant for market forces. It was however true that Members had economic models that could vary greatly.

9.61. What mattered was that the different models could co-exist in line with the letter and the spirit of the multilateral trading system. If certain practices or policies had been to distort exchanges or cause major disruption to trade, they should be brought into line with existing rules and the latter should be reinforced. Switzerland was ready to participate constructively in efforts to modernize the WTO rules to take account of contemporary economic realities.

9.62. The representative of China noted he was reading the novel *La Parure* (The Necklace) by the French writer Guy de Maupassant and he had noticed something interesting. When Mathilde had approached Madame Forestier to borrow some jewellery to attend the ball, the necklace that she had picked – supposedly costing forty thousand francs – had simply been kept in a box with other

jewellery: "Mme Forestier alla vers son armoire à glace, prit un large coffret, l'apporta, l'ouvrit, et dit à Mme Loisel: Choisis, ma chère." At the end of the story when it had been revealed that the necklace had been an imitation worth at most five hundred francs, he had immediately thought of that scene, which at the beginning of the novel, had already given a clear hint – in a few words – that the necklace had not really been precious. Guy de Maupassant had demonstrated what was a good foreshadowing or scene-setting: which was to suggest what was to come later in the story but did it in such a natural and subtle way.

9.63. At the December General Council meeting, China had had a debate with the United States about the so-called non-market policies and practices. That had already been quite an obvious scene-setting by the United States. As had been said in that meeting, what the United States, the European Union and Japan really wanted was to introduce a proposal on the revision of the subsidy rules. If that was the case, China said at that time to just drop the other shoe so that other Members would not have to be kept in suspense for so long. The answer was that because China knew – and perhaps the proponents also knew – that no matter how elaborate the scene-setting was, no matter how many times they foreshadowed, a proposal that was inconsistent with the fundamental principles of the WTO and that went beyond the institution's mandate was unlikely to gain support and consensus from the membership.

9.64. All Members had a common sense about market economy. There was really no need to debate about it. It was just like Members did not have to debate if they needed to eat when they were hungry or bring an umbrella when it was raining. That being said, whatever development path a Member could choose, whatever model a Member could adopt for its own economy, it was entirely up to that Member, and the WTO was in no position to interfere with that decision.

9.65. China thanked the United States for reminding Members of the Marrakesh Declaration. If China needed to pick one sentence from the Declaration that was most relevant to current global trade, it would be: "Ministers express their determination to resist protectionist pressures of all kinds." Members should also not forget in their relations in the fields of trade and economic endeavour those words from the Marrakesh Agreement: "for doing so in a manner consistent with their respective needs and concerns at different levels of economic development."

9.66. The document could look straight-forward yet it was anything but. China asked what the United States meant with the terms "non-market-oriented policies and practices", "internationally recognized accounting standards", "freely access relevant information" and "significant government interference". Any of those concepts could lead to an endless debate. Considering that Members only had three months before MC12, perhaps their limited time and resources could be best spent on resolving the crisis of the Appellate Body and pushing for possible outcomes at the MC12. Time was not on their side to debate on the issues that could lead to a philosophical discussion but were not directly relevant for the outcome of the Ministerial meeting. After all, the world was watching the WTO and Members had to deliver concrete results.

9.67. The representative of the United States was amazed by some Members' ability to say what they thought. Although some of them had said that they had to consult with their capital, they still offered preliminary observations that were far ranging. He was impressed by that. As he had not understood the story told by his Chinese colleague at the beginning of his intervention, he asked him whether they could talk about that offline. The United States thanked delegations for their comments on the draft decision.

9.68. The representative of China clarified that China did not want to discuss the issue of market economy and did not think that the WTO had the mandate to do that. China did not likewise want to discuss the amendment of the SCM Agreement, but if there was a proposal, China would be ready for a debate with the objective of persuading the proponents to give up their unnecessary efforts.

9.69. The General Council took note of the statements.

10 KAZAKHSTAN – BORDER RESTRICTIONS OF GOODS IN TRANSIT (G/C/W/774 - G/TFA/W/20) – REQUEST FROM THE KYRGYZ REPUBLIC

10.1. The Chair noted that the item was requested to be added in the agenda by the delegation of the Kyrgyz Republic which included document G/C/W/774 – G/TFA/W/20. She understood that an Addendum to the document had already been circulated to delegations the previous day.

10.2. The representative of the Kyrgyz Republic said that it was unfortunate that Kyrgyzstan had to raise the issue on the trade restrictive measures by its neighbour Kazakhstan at the General Council. But Kyrgyzstan highly trusted in the impartiality and integrity of the multilateral instrument provided by the WTO, and in that respect had brought that issue to the attention of Members in the General Council meeting.

10.3. Kyrgyzstan recalled that a similar situation had occurred at the end of 2017, when its export and transit goods had encountered severe trade restrictions in the form of unilateral measures imposed by Kazakhstan which had resulted in hundreds of Kyrgyz cargo carriers stuck at the border as well as in serious, unrecoverable damage to the Kyrgyz economy. In the wake of those trade distortive actions by the Kazakh authorities, the IMF in 2017 had estimated the damage for Kyrgyzstan to be around USD 200 million.

10.4. Kyrgyzstan was a landlocked country which had managed to liberalize its economy and recognized as a market economy back in 1998. At present, Kyrgyzstan was deeply integrated in the regional trade relations, as proven by the fact that the country's current trade turnover was approximately 85% of its GDP. Kyrgyzstan's high degree of integration in regional trade flows had been achieved largely thanks to its early membership in the WTO and to its geographical location between fast growing economies. That had led to the situation where more than 15% of the country's active labour had been involved in the wholesale and retail trade business sector within the last twenty years. That geographical, fact along with a liberal trade regime, posed as an opportunity and as a major vulnerability for Kyrgyzstan. The vulnerability stemmed from the existing potential of arbitrary policies from other countries of the region and from actual ones such as those imposed by Kazakhstan whose actions deviated from the multilateral norms and principles and had put under threat the major retail trade business of Kyrgyzstan.

10.5. Kyrgyzstan had been raising its concerns on the trade restrictive measures imposed by Kazakhstan since March 2019 with respect to goods in transit from Kyrgyzstan to third countries, which was described in document G/C/W/774. For almost the past twelve months, its cargo carriers had encountered significant obstacles and delays caused by stricter inspection at the border by Kazakh authorities conducted in a very burdensome and excessive manner. Moreover, the excessive and unjustified inspections by Kazakh inspection bodies were not carried out in a transparent way which had provided no clear explanation on why they took place. The Kyrgyz delegation had informed Members about those developments and the suffering of the Kyrgyz cargo carriers as well as the inappropriate behaviour of the Kazakh fiscal bodies on Kyrgyzstan's last communication and at the meeting of the Committee on Trade Facilitation on 11 February.

10.6. The trade distortive border measures applied by Kazakhstan with respect to Kyrgyz transporters had been causing enormous and irrecoverable economic damage and exerting negative impact on trade between Kyrgyzstan and third countries. The consequences of those unilateral actions by Kazakhstan was the congestion of cargo transport amounting to up to 250 units, and with a length of up to 10 kilometres. According to the State border service of the Kyrgyz Republic, the passage of cargo vehicles through the "Ak tilek avtodorozhnyi" checkpoint in 2018 amounted to 93,612 units, and 73,652 units as of 2019. The decline of the passage in comparison to 2018 and 2019 represented 22%. Those measures at the border by Kazakh authorities had virtually forced many Kyrgyz transport carriers to move into Kazakhstan's cargo market and to register their business there – for example in the Union of Authorized Economic Operators whose vehicles had no problem in transiting through the territory of Kazakhstan to third markets.

10.7. In the addendum of the document recently circulated, Kyrgyzstan had brought to the attention of Members some statistics which showed the decline of Kyrgyz exports as a result of said trade-restrictive actions by the Kazakh authorities. The volume of exports of goods from the Kyrgyz Republic for 2019 had amounted to USD 270.8 million. In comparison to 2018, the volume of export had decreased by 24.4%. The largest decline in volume of export had been registered in export of

garments, knitwear and footwear. For eleven months in 2019, the volume of export of those products had been USD 36 million which was 70% less than in the same period in 2018. It should be noted that the average volume of decline for those products had been 88.4%. The said measures by Kazakhstan had likewise targeted the transit goods passing through the territory of Kazakhstan and which had no relation to the market of Kazakhstan itself.

10.8. To address the situation in a constructive manner, he stressed that Kyrgyzstan had undertaken all necessary steps throughout 2019 by holding several bilateral consultations at different levels. Kyrgyzstan had informed Kazakhstan in detail about the critical situation of the mass congestion of vehicles due to the unjustified inspections by Kazakh inspectors. As bilateral talks had been fully exhausted with no success, Kyrgyzstan had been left with no choice but to raise it at the last meeting of the Committee on Trade Facilitation on 11 February when Kyrgyzstan had urged Kazakhstan to eliminate their applied trade restrictions and to act within the established WTO rules. At present, because of even harsher measures imposed by Kazakh authorities, the Kyrgyz goods transporters had remained stuck at the border in difficult wintery weather conditions. Some trucks had been staying at the border for one week. At the end of February, there had even been cases where passenger cars had been stuck at the border.

10.9. He noted that Kazakhstan justified its actions by mentioning inadequate customs administration allegedly carried out by Kyrgyzstan with regard to the VAT collection losses and customs duties as well as statistics on the improper execution of documents which Kyrgyzstan had heard about during the mentioned CTF meeting two weeks ago. Kyrgyzstan anticipated that Kazakhstan would again mention those reasons in its statement. Kyrgyzstan was questioning the validity and sincerity of the reasons behind the said actions of Kazakhstan – moreover, they raised even more questions. Kyrgyzstan drew Members' attention not to the reasons and justifications of those developments but on the scale, method, nature and motives of those controlled checks as well as significant negative consequences of those devastating measures which could have been easily avoided had Kazakhstan carried out those controlling measures in full accordance with its obligations under WTO rules with respect to freedom of transit and trade facilitation provisions.

10.10. Taking into account the current critical situation at the border of the two countries, despite all the efforts and appeals by the Kyrgyz side on a bilateral basis, Kyrgyzstan considered the measures taken by the Kazakh authorities as trade restrictive and violating the following basic norms of the WTO Agreements, inter alia, GATT Article III on "National Treatment", Article V on "Freedom of Transit"; Article X on "Publication and Administration of Trade Regulations" and Article XI on "General Elimination of Quantitative Restrictions" and TFA Article 7 on "Release and Clearance of Goods" and Article 11 on "Freedom of Transit". Given all of those, Kyrgyzstan strongly urged Kazakhstan to abide by WTO rules and respect its WTO commitments.

10.11. The representative of Kazakhstan responded to the complaint submitted by the Kyrgyz delegation to the relevant WTO Committees and to the statement just made by the Kyrgyz Republic by emphasising that the Republic of Kazakhstan and the Kyrgyz Republic were Members of the single customs territory of the Eurasian Economic Union. According to Article 25 of the Treaty on the Eurasian Economic Union, free movement of goods between the territories of Member States were ensured without the use of customs declarations and without application of state control including customs, transport, sanitary and veterinary sanitary control.

10.12. The Kyrgyz Republic had joined the Eurasian Economic Union in August 2015. Since then, all the goods which entered Kazakhstan from the Kyrgyz Republic as well as transiting through Kazakhstan were exempt from customs control procedures applied to third countries that represented separate customs territories. In accordance with the Customs Code of the Eurasian Economic Union, transit of goods was defined as the movement of goods under customs control while ensuring payment of duties and identification of goods and with the final destination to a third country. That definition was in line with Article V of the GATT and the provisions of the TFA.

10.13. The following conditions of placement of foreign goods under the Customs Procedure for Transit should be met: (i) ensuring the financial guarantee in the amount of VAT and customs duty for transported goods or customs escort of the goods; (ii) enabling identification of goods by applying seals and stamps; and (iii) compliance with safety related regulations. As financial guarantee, Kazakhstan also applied the Convention on International Transport of Goods Under Cover of TIR Carnets of 1975 particularly when transit took place through several countries.

10.14. Since all of those requirements were applied to transit from third countries outside the single customs territory of the Eurasian Economic Union and were not applicable towards the transit from the Kyrgyz Republic, the complaint of the Kyrgyz Republic was purely related to the enforcement of the EEU regulations and did not fall as such under Article V of the GATT.

10.15. Authorized bodies of Kazakhstan carried out verification activities along the route of cargo vehicles with respect to cargo couriers of all EEU Member States for monitoring and ensuring the VAT payments to the national budget of Kazakhstan. It should be noted that motor vehicles of Kazakhstan as well as other EEU Member States were subject to the same inspections. Moreover, only cargo vehicles identified in accordance with the risk management system were subject to inspection measures.

10.16. During the period of November-December 2019, out of 2,470 Kyrgyz vehicles, only 194 were subject to inspection while violations were detected in 191 cases. It should also be noted that in the course of 2019, only 2,600 cases of entry of goods from the Kyrgyz Republic to fictitious residents within Kazakhstan had been identified from which VAT remained unpaid. During the same period, 4,800 cases had been identified as false transit which had been documented as goods destined to third countries but actually withheld on the territory of Kazakhstan.

10.17. She noted that all measures applied by Kazakhstan were in full conformity with Article I on MFN Treatment, Article III on National Treatment and Article V on Freedom of Transit under the GATT 1994 and relevant provisions of the TFA. Currently, there was no national law or government resolution in Kazakhstan that was in violation with any of the above-mentioned or other WTO norms. The communication by the Kyrgyz Republic did not therefore contain any references to the official legislative document of Kazakhstan or measures applied by Kazakhstan which reflected such violation.

10.18. Kazakhstan stood ready to work with the Kyrgyz Republic to address those outstanding issues through bilateral consultations as well as existing institutional mechanisms within the Eurasian Economic Union. In particular, four meetings had taken place between May and July 2019 between the heads of fiscal authorities of their countries. The Head of Kazakhstan's Committee on Internal Revenue was sitting there and could also answer the questions if necessary. In the course of those meetings, concrete agreements had been achieved and the roadmaps had been developed in order not to allow false transit and imports to fictitious residents through use of navigation seals, daily exchange of information and monitoring mechanisms. No enforcement or implementation follow up actions had been done. In 2020, those issues had also been discussed at the meeting of the Eurasian Intergovernmental Council on 31 January and the Meeting of the Eurasian Council at the level of Prime Ministers on 20 February. No agreements had been reached.

10.19. Considering that the Kyrgyz Republic was its neighbour and strategic partner, Kazakhstan called on the Government of Kyrgyzstan to implement the commitments undertaken by the Kyrgyz Republic upon joining the Eurasian Economic Union and respect the legitimate national interest of its partners.

10.20. The representative of the Kyrgyz Republic underlined that Kyrgyzstan considered, from the statement by Kazakhstan and from the failure of all bilateral talks that had been held before, that this illustrated that Kazakhstan was not showing any interest towards resolving the existing problem at the border in accordance with WTO norms and principles. That gave Kyrgyzstan no other option but to refer the problem to the WTO Dispute Settlement Body and initiate the process within the DSU. Given Kyrgyzstan's difficult situation which had been lasting for a long time, it was high time for the DSB to evaluate the actions of Kazakhstan.

10.21. The representative of Kazakhstan said that her delegation stood ready to defend its case in the DSB. In response and for information sharing purposes, Kazakhstan would also be bringing a complaint about the measures applied by the Kyrgyz Government with regard to Kazakhstan's exports on the application of the minimum level of control prices, on VAT exemption for agricultural machinery produced in domestic enterprises as well as on the draft resolution on the ban for imports of goods for which Kazakhstan applied exemptions in accordance with its accession protocol to the WTO.

10.22. The representative of Japan appreciated the detailed explanation from Kyrgyzstan as well as the response from Kazakhstan surrounding the case and looked forward to having an amicable solution through continuous bilateral consultations.

10.23. The representative of the Republic of Moldova thanked the Kyrgyz Republic and Kazakhstan for the detailed explanation of the concerns raised and encouraged both Members to engage in a constructive dialogue in order to solve their economic and trade issues in a mutually acceptable and bilateral manner.

10.24. The General Council took note of the statements.

11 UNITED STATES TRADE REPRESENTATIVE REPORT ON THE APPELLATE BODY OF THE WORLD TRADE ORGANIZATION – STATEMENT BY THE UNITED STATES

11.1. The Chair noted that the item was on the agenda at the request of the delegation of the United States.

11.2. The representative of the United States recalled that on 11 February, the United States Trade Representative had issued a Report on the failure of the Appellate Body of the World Trade Organization to respect WTO rules. The Report detailed how the Appellate Body had repeatedly failed to interpret the rules of the WTO agreements consistent with the text of those agreements, as negotiated and agreed by WTO Members. In so doing, the Appellate Body had undermined a rules-based trading system by persistently breaking those rules.

11.3. The Report discussed the following examples of the Appellate Body's failure to follow WTO rules:

- a. The Appellate Body consistently ignored the mandatory 90-day deadline for deciding appeals set out in the Dispute Settlement Understanding (DSU);
- b. The Appellate Body allowed individuals who had ceased to serve on the Appellate Body to continue deciding appeals despite the fact that only WTO Members in the Dispute Settlement Body had the authority under the DSU to set the term of appointment for a person to the Appellate Body;
- c. The Appellate Body had made findings on issues of fact, including issues of fact relating to WTO Members' domestic law, although the DSU explicitly limited appeals to issues of law and legal interpretation;
- d. The Appellate Body had issued advisory opinions and had otherwise opined on unnecessary issues even though the DSU limited panel and AB findings to those necessary to assist the Dispute Settlement Body in making recommendations to resolve the dispute;
- e. The Appellate Body had insisted that dispute settlement panels treated prior Appellate Body interpretations as binding precedent absent cogent reasons despite express text giving the exclusive authority to issue authoritative interpretations to the Ministerial Conference and General Council;
- f. The Appellate Body had asserted that it could choose not to issue a recommendation despite explicit DSU text that mandated such a recommendation to a WTO Member to bring a WTO-inconsistent measure into compliance with WTO rules; and
- g. The Appellate Body had overstepped its authority to address the matter at issue in a dispute and had instead opined on matters within the authority of WTO Members acting through the Ministerial Conference, General Council and Dispute Settlement Body.

11.4. The Report also discussed how the Appellate Body had altered Members' substantive rights and obligations through erroneous interpretations of WTO agreements. The Appellate Body had attempted to fill in gaps in those agreements, reading into them rights or obligations to which the

United States and other WTO Members had never agreed. Examples of the Appellate Body's erroneous interpretations highlighted in the Report included the following:

- a. The Appellate Body's erroneous interpretation of the term "public body" threatened the ability of Members to counteract trade-distorting subsidies provided through SOEs, undermining the interests of all market-oriented actors;
- b. The Appellate Body had intruded on Members' legitimate policy space by essentially converting a non-discrimination obligation for regulations into a "detrimental impact" test;
- c. The Appellate Body had prevented WTO Members from fully addressing injurious dumping by prohibiting a common-sense and historically widespread method of calculating the extent of dumping that was injuring a domestic industry (zeroing);
- d. The Appellate Body had invented a stringent and unrealistic test for using out-of-country benchmarks to measure subsidies that weakened the effectiveness of trade remedy laws in addressing distortions caused by state-owned enterprises in non-market economies;
- e. The Appellate Body's creation of an "unforeseen developments" test and severe causation analysis prevented the effective use of safeguards by WTO Members to protect their industries from import surges; and
- f. The Appellate Body had limited WTO Members' ability to impose countervailing duties and antidumping duties calculated using a non-market economy methodology to address simultaneous dumping and trade-distorting subsidization by non-market economies.

11.5. The United States had been raising those concerns about the Appellate Body's disregard for WTO rules for many years. Unfortunately, the problem had only worsened as too many WTO Members had remained unwilling to do anything to rein in that conduct. Worse, some Members still refused to admit there was a problem.

11.6. But those failings did not impact the United States alone – they had dire consequences for all WTO Members. And the Appellate Body's failure to follow the agreed rules had undermined not only WTO dispute settlement but the effectiveness and functioning of the WTO more generally. For example, the Appellate Body's failure to follow the agreed rules had undermined the World Trade Organization as a forum for negotiation of new rules and for discussion to reach a deeper understanding of the meaning of existing rules.

11.7. The United States had published the Report – of about 170 pages – to examine and explain the problem, not to dictate solutions to the membership. Members should first come to terms with the failings of the Appellate Body if they were to achieve lasting and effective reform of the WTO dispute settlement system. That would require WTO Members to engage in a deeper discussion of why the Appellate Body had felt free to depart from the role Members had assigned to it. Without that understanding, there was no reason to believe that simply adopting new or additional text, in whatever form, would solve those endemic problems.

11.8. The United States had brought forward some ideas and some Members and commentators had begun to contribute their ideas as well. For example, some had noted that Appellate Body members had not been more familiar than panellists with the subject matter of the WTO agreements, and could have been even less familiar. Some had pointed to the difficulties an institution could have in admitting that it had made an error. Others had pointed to the type of Secretariat support received by WTO adjudicators. The United States welcomed further thoughts and deepening their conversations on those issues.

11.9. The United States looked forward to discussing the Report with the membership. As had been stated in the Report, the United States would engage with any WTO Member committed to restoring the WTO dispute settlement system to the role given to it by WTO Members and ensuring that the

dispute settlement system supported rather than weakened the WTO as a forum for discussion, monitoring, and negotiation.

11.10. The representative of Chad, on behalf of the LDCs, recognized the usefulness of laying out the details of the United States' position on those issues in a single document so that Members could take them into consideration. The LDC Group invited the United States to express its opinion on the specific and practical measures it believed were necessary to resolve the Appellate Body impasse. The LDC Group likewise invited the United States to further elaborate on its opinion on requiring Members to engage in a deeper discussion of why the Appellate Body had felt free to depart from the role they had assigned to it. Considering that the "why" question was of vital importance, the LDC Group asked the United States if it would be prepared to share its response on it.

11.11. As had been stated in the LDC Group's recent communication in JOB/GC/223, a well-functioning dispute settlement system, including fair and effective appellate review, was essential to the WTO's role. Fair and effective appellate review provided the credible foundation for a rules-based system that served all Members, including LDCs. The LDC Group therefore called on the United States to provide a practical and specific road map for resolving the issues regarding the functioning of the Appellate Body.

11.12. The representative of Canada said that the report presented the most comprehensive compilation to date by the United States of its concerns with the operation of the Appellate Body. The report did not however present any concrete proposals to address those concerns. Canada reiterated its deep concern that the Appellate Body had had to cease operation as a result of the impasse over new appointments. Indeed, the background section of the new US report demonstrated clearly how important the new dispute settlement system had been and remained to Members.

11.13. The suspension of last week's DSB meeting was a direct result of the disabled appeal function and represented a worrisome further degradation of the dispute settlement system. That reminded Members again how critical it was that they redoubled their efforts. Canada remained open to engaging in any further in-depth discussions on the concerns outlined in the report as well as the steps that could be taken to restore appellate review in the WTO as soon as possible.

11.14. The representative of Benin highlighted the importance of the Appellate Body. The institutional architecture of the WTO had been shattered due to the damage caused to one of its important pieces. The LDCs, SVEs and the rest of the Membership needed the Appellate Body given the importance of its harmonious functioning to the rules-based multilateral trading system. Members should break out of the impasse that had significantly strained the Appellate Body since 10 December due to the lack of sufficient members who could deal with the appeals brought before them.

11.15. In that regard, the substance of intense work which had been carried out over many months in 2019 through an informal process facilitated by Ambassador Walker should be used. Members should work in a spirit of openness and should be constructive enough to be able to take the necessary and relevant measures to relaunch the Appellate Body. The first stage of the process was of course the appointment of its members.

11.16. The representative of Thailand believed that the binding, two-tier dispute settlement system was one of the core elements of the WTO. Thailand had been a regular participant in the system, both as complainant and defendant, and considered that the system provided Members like it with an essential means of securing the outcomes of its negotiated rights and obligations. As long as the Appellate Body impasse continued and the selection process blocked, there would be uncertainty not only on the status and future of the dispute settlement system but also on the rules-based multilateral trading system.

11.17. The current inability of the Appellate Body to function affected the ability of Members to secure a positive solution to their disputes. As one of the Members with pending appeals, Thailand's rights under the DSU were at risk and had felt the impact that was being generated as a result of the impasse. The longer the impasse continued, the greater the risk would be for the multilateral trading system and the greater the risk that Members would begin to ignore the DSU and start to take the kinds of unilateral actions the DSU was designed to prevent.

11.18. With regard to the membership's efforts to find a solution to the impasse, Thailand did not see huge differences between the conceptions of Members as to how the Appellate Body had been intended to and should work. Thailand therefore strongly encouraged all Members involved to redouble their efforts with a view to finding a solution to the situation as soon as possible.

11.19. The representative of the Philippines said that the concerns of the United States had been heard loud and clear. As a responsible Member of the WTO and a prudent user of the WTO dispute settlement system, the Philippines would continue to engage in constructive discussions with the United States and other Members in order to address all areas of concern.

11.20. The Philippines continued to study the report carefully and wished to express some preliminary views. The Philippines agreed that the prompt settlement of disputes was a cornerstone of WTO dispute settlement. The USTR Report correctly cited Article 3 of the DSU in which Members had agreed that the prompt settlement of disputes "is essential to the effective functioning of the WTO and the maintenance of a proper balance between rights and obligations." Moreover, the principle of prompt settlement was enshrined in other provisions of the DSU, including Article 17.5, which limited the length of appellate proceedings to a maximum of 90 days.

11.21. When the 90-day rule was not kept, the rights of Members were diminished, particularly that of the complainant in a dispute, since the other party's unfair trade practices – which had already been ruled by the original panel or a compliance panel as WTO-inconsistent – persisted during the pendency of the dispute, which in itself took several years to resolve. As a result, delays in appeals reduced the benefits for a complainant and emboldened erring Members to continue disrespecting their WTO obligations. Indeed, justice delayed was justice denied. That, in turn, could diminish the Members' confidence in the WTO's rules-based trading system, and could even cast doubt on the ability of leaders of the relevant bodies to decide and act. That was indeed the time for the friends and guardians of the rules-based dispute settlement system to act with leadership and to preserve the integrity of the WTO.

11.22. The Philippines would continue its internal review of the USTR Report and could revert with further comments in due course. A meaningful and careful consideration of the concerns raised was integral to resolving all matters before the WTO dispute settlement system. The Philippines stood ready to participate in future discussions constructively on the reform of the Appellate Body in hopes of moving forward towards a more effective multilateral economic dispute resolution mechanism.

11.23. The representative of China said that it was extremely worrisome that the Appellate Body had stumbled into paralysis in December. Like any other mechanism, the Appellate Body was not perfect but its imperfection could not be used as the mere excuse to block the Selection Process of Appellate Body members and paralyse the system. The United States had repeatedly asked Members to reflect on the "why" question. Members surely could and should reflect on issues of their concern. In that sense, the USTR report could be used as an instrument for their reflection.

11.24. The purpose of such reflection should not however be to degrade the system or to deny its value. Over the past decades, many disputes had been effectively resolved through the Appellate Body and Members could not simply override its credit. From the institutional perspective, it was indisputable that the WTO needed a two-tier, impartial and independent mechanism for dispute settlement. The discussion on the why question was not the only part of the story. Members should come back to and focus on the how question.

11.25. He had just come back from Pune in India for the Asia Economic Dialogue. The trip reminded him of a book on Buddhism. The book had talked about the parable of the arrow in which the Buddha had used a metaphor to answer the philosophical questions raised by a young monk. If a man had been wounded by an arrow smeared with poison, the most urgent matter was not to investigate the background of the man responsible or studied the underlying intent of the attack. Rather, the priority should be the treatment. Learning from the parable, Members should take immediate and concrete action to unblock the paralysis rather than dwelling on philosophical discussions on the "why" considering that the WTO was a trade institution and there was a more pressing crisis.

11.26. The representative of Argentina noted that the report, the objective of which was not to suggest specific solutions to the problems identified, provided important information on the vision of the United States regarding the functioning of the Appellate Body and the WTO dispute settlement

system. The WTO dispute settlement system faced an unprecedented crisis. Since 11 December, its Appellate Body had ceased to function due to a lack of consensus to launch the selection process for its members.

11.27. The situation was of great concern to Argentina. Therefore, during 2019, Argentina actively participated in different discussion formats aimed at finding a solution to the concerns raised. At the meeting of the General Council in December 2019, Argentina had been prepared to support the draft decision circulated by Ambassador Walker, the Facilitator of the Informal Process, which addressed some of the concerns raised and to join the consensus to start the selection process for Appellate Body members. Unfortunately, that had not happened.

11.28. Multilateralism was based on essential elements of cooperation and coordination, on agreements and understandings. Argentina regretted not seeing all those elements present in the discussions around the Appellate Body, which undoubtedly had a decisive impact in reaching the situation Members currently found themselves in. For Argentina, the restoration of the operational functions of the Appellate Body was of absolute importance. The Appellate Body agreed by Members in creating the WTO was part of the multilateral trading system that Argentina endorsed and supported.

11.29. Any potential change in the dispute settlement mechanism should preserve the essential characteristics of the system: independent, two-tiered, inclusive and efficient, and quality of legal work. Argentina remained ready to hold constructive discussions to reach the necessary consensus to restore the functioning of the Appellate Body which could hopefully happen in the not too distant future. As it had always been, Argentina remained flexible to reach, by consensus, the solutions that the current serious situation demanded. Argentina trusted the Director-General's leadership to reach a political agreement that would allow Members to move in the right direction.

11.30. The representative of the European Union noted that the report provided additional clarity and detail on the nature of the US concerns with respect to WTO dispute settlement. The issues addressed in the report were well known to all. The United States had raised them before in other documents or statements. The European Union had taken a position on the specific issues on other occasions including in the DSB but it was always useful to have clarity as much as possible on the concerns raised.

11.31. As it had indicated on previous occasions, the European Union was open to engage in forward-looking discussions on specific issues of concern to find a way out of the current blockage. In that respect, the European Union noted that the report did not shed more light on what the United States wanted to achieve or how it proposed to move forward from the current blockage including the blockage of appointments to the Appellate Body.

11.32. The European Union, together with other Members, had made formal proposals to address a number of the US concerns. That had been the objective behind the informal process led by the Facilitator, Ambassador Walker. The Facilitator had produced a draft decision that would effectively and efficiently address those concerns, and that had been submitted to the General Council last December. The United States had not agreed with the decision. In those circumstances, the logical step forward would be to receive counter-proposals. Yet the United States had made none to date – and one could ask why.

11.33. Without prejudice to their position on the substance, the European Union and other Members had also clearly signalled in the General Council in December 2018 their openness to discuss matters with respect to which, in the United States' view, overreach had occurred and which could potentially benefit from amendments or clarifications through authoritative interpretations by the Membership. The European Union looked forward to proposals, not dictated but constructive proposals, and reiterated its willingness to discuss them constructively and in a solution finding mode.

11.34. The representative of India said that, as a major user of the WTO dispute settlement system, India was gravely concerned about the continuing crisis in the Appellate Body. With four appeals to which India was a party to stuck in limbo, the paralysis was a concrete example of the nullification of its negotiated rights under the WTO agreements. The resolution of the Appellate Body crisis deserved utmost priority and should precede other reforms. Any interim arrangement that was not multilateral in nature and did not ensure the same standards of impartiality and automaticity as the

Appellate Body system was vastly inferior to the restoration of the Appellate Body as envisioned in the DSU.

11.35. India was disappointed that the conclusion in the recently issued USTR report on the Appellate Body stated that "the purpose of this Report is not to propose solutions to the problems facing the WTO's dispute settlement system but to have an honest and candid dialogue about how and why the WTO arrived at the current situation." The WTO Membership had in fact been engaging on the "why" question. India did not agree with the assertion that "the Membership has so far not touched upon 'why' the Appellate Body digressed from the clear text of the DSU." Members' comprehensive discussions over a year as part of the Informal Process had considered the "why" question.

11.36. Under the Walker Process, Members had agreed that the increase in the frequency and the complexity of appeals had been the main reason for the Appellate Body not being able to deliver its report within the 90-day period. The solutions suggested in the Walker Report were based on the identification of that problem. Regarding transitional Rule 15, it had been noted that the reason why the Appellate Body's Working Procedures had been used to fill-in the gap had been because the DSU had been silent on how to ensure an orderly transition of Appellate Body members and the WTO Membership had not stepped in to make rules regarding that. The draft General Council decision proposed a solution which would ensure that the right to appoint Appellate Body members rested only with the WTO Membership.

11.37. It was therefore clear that when the Walker Process had suggested solutions to the issues the United States had raised, it had been based on the identification of the problem and its cause – the "why" of it. In other words, the "how" or the solution proposed had been based on an understanding of the "why" or the cause of the problem. Thus the "why" and "how" questions were not divorced and the "how" embraced the "why".

11.38. India remained committed to ensuring an effective, multilateral resolution of the Appellate Body crisis and asserted that that needed to be done before MC12. To that end, India was willing to further discuss the "why" question provided that there was a definite scope to it, a solution-focus, and the discussion would not devolve into an unending conversation to fill the time from then until MC12. Any negotiated solution to the Appellate Body crisis should preserve the essential features of a two-tier dispute settlement system, negative consensus and independence of the appellate mechanism.

11.39. The representative of Barbados noted that the rules-based multilateral trading system was critical to the proper functioning, relevance and continued existence of the WTO. Such a system however existed only if the two-step dispute settlement system was operable and Members had recourse to utilize it. According to the US statement and what had been outlined in the report, the United States' intention was not necessarily to dictate a solution to the problems that it considered to have plagued the Appellate Body but to help the Membership examine and explain the problem.

11.40. Barbados was in agreement that the Appellate Body should not be allowed to add to, or diminish Members' rights and obligations. Barbados however remained deeply concerned that the Appellate Body had gone into abeyance and that Members to date had been unable to break the stalemate in launching the selection process for new Appellate Body members.

11.41. Over the past few months, Barbados had heard reports about the initiative by some WTO Members aimed at establishing a multi-party interim appeal arrangement intended to permit participating Members to maintain the operability of the two-step dispute settlement system as disputes arose among them. Barbados however continued to be cautious about such alternatives which could potentially stymie Members' efforts aimed at finding a reasonable solution to the Appellate Body impasse.

11.42. Barbados took note of the US comments in the report with regard to non-market economies as well as the US draft decision regarding the "importance of market-oriented conditions to the world trading system." Barbados was therefore curious as to whether achieving a decision on market-oriented conditions was a precondition to resolving the impasse on the Appellate Body. While discussions on breaking the impasse on the Appellate Body were ongoing in various formats in the

WTO, such discussions should remain open, transparent and inclusive. Barbados remained open to a dialogue to bring the matter to a resolution.

11.43. The representative of Switzerland said that the WTO dispute settlement system was vital for the security and predictability of the multilateral trading system and the Appellate Body was a pillar of the system. As Switzerland had already pointed out at previous meetings of the General Council, it was essential that all Members engaged in joint efforts to find the means to rectify the current situation and reactivate the Appellate Body. Switzerland would continue to participate constructively in discussions to be held under the auspices of the General Council and hoped that concrete solutions could be found as soon as possible.

11.44. The representative of Jamaica, on behalf of the ACP, stood by its previous statements on the issue of the functioning of the Appellate Body and reiterated the urgent need for Members to find a speedy resolution to the Appellate Body impasse. The establishment of alternate appeals mechanisms was a concern for small developing countries such as those of the ACP Group as that approach raised questions of inclusivity and access and could create conditions for attention to be diverted away from restoring a fully constituted and functioning Appellate Body. Restoring the Appellate Body as embedded in the DSU should be a priority. That was critical for the proper functioning of the multilateral trading system on which all Members relied for predictability and stability. The ACP Group stood ready to continue to engage constructively on that important issue.

11.45. The representative of the Russian Federation said that Members should not pretend that there had been no problems with the operation of the Appellate Body before 10 December 2019. There was no benefit in doing so either for the Appellate Body itself or for the Membership. Problems had existed including several of those identified by the United States. Some of them had resulted from the conduct of the Appellate Body, some from the rules as they had been set in the books or rather different reading of those rules by various Members.

11.46. Destruction was easier than creation. The United States, who had been among the Members that had actually created the rules as they were at present, should know that well. Russia was highly disappointed that the United States, in particular in the USTR report on the matter, still evaded proposing any solution to the concerns that it raised. The blockage of the Appellate Body work did not facilitate finding the necessary solutions but to the contrary created more problems.

11.47. The United States advocated for faster adjudication in the WTO, for adherence to the established rules, including at the appellate stage. At the same time, the United States increased the period for resolution of disputes involving a number of Members including Russia from the number of days set by the Appellate Body for each respective dispute to indefinite number of days due to the suspension of the Appellate Body work. The number of days set out by the Appellate Body could exceed 90 days set out in the DSU. That number was however still limited and less than the eternity that the behaviour of the United States had doomed Members to.

11.48. Moreover, the blockage of the Appellate Body work impeded to the attainment of the objectives of not only the Dispute Settlement Understanding but of the WTO Agreement as a whole by undermining its stability, predictability and any progress achieved since 1995. Russia called on all Members including the United States to engage constructively in work in any format regarding the improvement of the functioning of the WTO dispute settlement mechanism including the Appellate Body and to urgently launch the Appellate Body selection process.

11.49. The representative of Japan noted that the report explained the US views on the Appellate Body which should be conducive to concrete discussion on the problem. Japan shared many of the concerns depicted by the report regarding the functioning of the Appellate Body including the issue of overreach. At the same time, the Appellate Body should restore and discharge its proper function to serve an ultimate goal of the system to secure a prompt, positive solution to a dispute under the WTO Agreement. Although provisional measures could be needed to secure a resolution to pending cases, Japan's priority was to find a longstanding solution to the Appellate Body matter. Japan stood ready to engage in a deeper and constructive discussion and would continue to work with other Members to that end.

11.50. The representative of Botswana, on behalf of the African Group, remained concerned about the status quo. Members had been engaged in the Informal Process on matters related to the

functioning of the Appellate Body led by Ambassador Walker – making legitimate efforts to address the concerns raised by the United States, some which were shared among the membership. To date, however, Members had not had concrete proposals from the United States on the best way forward. The presentation that day regrettably did not take them any further on that path. That said, the African Group reiterated that all Members should engage in a multilateral, solution-based approach that would help them move forward and unlock the impasse in the interest of all Members. It would therefore be desirable that all Members put their views on the table to enable discussions to find a solution on the issue. The African Group stood ready to play its part in that regard.

11.51. The representative of South Africa noted that the report did not attempt to provide solutions but was rather a more comprehensive articulation of concerns. The absence of the Appellate Body meant that the dispute settlement system had lost a mechanism to review panel reports, a quasi-automatic adoption of reports, and a mechanism to provide consistency between disputes. If the impasse was not resolved soon, traders and Members would lose faith and trust in the multilateral trading system as it would increasingly fail to promote predictability in trade, reign in on unilateral and protectionist measures and promote compliance with agreed rules.

11.52. There was a need for a speedy resolution of the impasse and for the Membership to build on the Walker process. South Africa remained available to engage in a solution-oriented process that preserved an independent, impartial two-stage dispute settlement system that was in the interest of all Members. Such a process should address the concerns of all Members including accessibility, costs and representation. It should also result in the selection of the members of the Appellate Body.

11.53. The representative of Australia acknowledged that the recent USTR report had comprehensively outlined the US concerns. The United States had raised those concerns for over 20 years including in the General Council. As Members would be aware, Australia had raised a number of those issues in previous discussions about the dispute settlement system and had been actively engaged in efforts to reform the system for many years. Australia was committed to ensuring an efficient and effective multilateral dispute settlement system that was faithful to the DSU and worked in Members' collective interests.

11.54. The representative of Mexico recalled that since the beginning of the Appellate Body crisis, Members had taken great interest in understanding the concerns raised and had been open throughout the informal process to discussing and addressing them. That had been reflected in many of the proposals presented. As with many Members, Mexico remained open to constructive discussions to resolve the impasse. Mexico hoped that beyond technical discussions, Members would find the political will in order to arrive at a solution to the current crisis.

11.55. The representative of Indonesia regretted what happened with the Appellate Body which would impact Members' rights and obligations under the WTO. Indonesia hoped that the report could be used appropriately for future dialogue and discussion in the organization to reactivate the Appellate Body. Resolving the Appellate Body impasse was crucial to rebuild trust in the organization. Indonesia hoped that Members could have a clear pathway ahead towards the reactivation of the Appellate Body and MC12 could be used in that regard.

11.56. The General Council took note of the statements.

12 APPOINTMENT OF OFFICERS TO WTO BODIES

12.1. The Chair recalled that in accordance with the Guidelines for Appointment of Officers to WTO Bodies approved by the General Council in 2002 (WT/L/510), and the related practical steps to improve their implementation (JOB/GC/22), she, together with the Chairman of the Dispute Settlement Body, Ambassador David Walker, had conducted consultations on a slate of names for the appointment of Chairpersons to WTO regular bodies listed in Groups 1, 2, 4 and 5 in the Annex to the Guidelines.

12.2. At the General Council meeting in December, she had noted that she would be meeting first with the coordinators of the four broad groups, namely: (i) developed countries; (ii) Latin America and the Caribbean (GRULAC); (iii) African Group; (iv) Asian Group of developing Members and the Pacific. They had first met with the coordinators in early January. The coordinators had subsequently conducted rounds of consultations and discussions within their respective groups with a view to

submitting candidates for the various positions. They had then met with the Group Coordinators at regular intervals over a period of some five weeks. She thanked the coordinators for the constructive cooperation that they had received from them during the process.

12.3. The process had included an Informal General Council meeting which had been held on 21 February where she had shared with delegations a partial slate of names where there appeared to be consensus – those had been for the General Council; the DSB; the TPRB; the Goods, Services and TRIPS Councils; and the Working Groups on Trade, Debt and Finance and Trade and Transfer of Technology. She had also noted that, for the other bodies, consultations had still been ongoing with the respective groups to finalize the slate and that she had been confident that a solution was within reach. Those consultations had continued until that morning, and as a result, they were in a position that day to present a complete slate of names for the General Council's consideration. She hoped that all Members would consider it favourably and that it could be agreed.

12.4. The full slate of names for the WTO regular bodies in Groups 1, 2, 4 and 5 resulting from the consultations read as followed:

General Council	H.E. Dr. David Walker (New Zealand)
Dispute Settlement Body	H.E. Mr. Dacio Castillo (Honduras)
Trade Policy Review Body	H.E. Mr. Harald Aspelund (Iceland)
Council for Trade in Goods	H.E. Mr. Mikael Anzén (Sweden)
Council for Trade in Services	H.E. Mr. Tan Hung Seng (Singapore)
Council for TRIPS	H.E. Ms. Xolelwa Mlumbi-Peter (South Africa)
Committee on Trade and Development	H.E. Mr Mohammad Qurban Haqjo (Afghanistan)
Committee on Balance-of-Payments Restrictions	H.E. Mr. Refiloe Litjobo (Lesotho)
Committee on Budget, Finance and Administration	H.E. Mr Manuel Teehankee (Philippines)
Committee on Trade and Environment	H.E. Mr Chad Blackman (Barbados)
Committee on Regional Trade Agreements	H.E. Mr. Mārtiņš Kreituss (Latvia)
Working Group on Trade, Debt and Finance	H.E. Dr. Rashidi Said (Malaysia)

Working Group on Trade and Transfer of
Technology

Mr. Stephen Fevrier (**Saint Lucia**)

12.5. Appointments for those bodies would be for one year and they would be made formally by the WTO bodies concerned at their subsequent meetings in 2020. She noted that an adjustment had been made concerning the chairmanship of Working Group on Trade, Debt and Finance with respect to what she had announced on 21 February, further to the additional consultations within the groups.

12.6. She had also noted that, as Members had heard from the names that had just been read out, there was agreement on the appointment of the current Chairman of the TRIPS Council in Special Session, Ambassador Castillo (Honduras), as the new Chairman of the DSB. Therefore, consultations would be conducted by her successor to appoint a new Chair for the TRIPS Council in Special Session.¹⁰

12.7. With those words, she invited the General Council to take note of her statement and of the consensus on the slate of names for the appointment of officers in the WTO bodies that she had mentioned.

12.8. The General Council so agreed.

12.9. The Chair congratulated the colleagues on their selection and wished them well in the year ahead. She recalled that a subsequent process of consultations would be conducted by the outgoing Chairpersons of the Council for Trade in Goods and the Council for Trade in Services to select Chairs for the bodies established under their respective Councils. Ambassador Cancela (Uruguay), the outgoing Chair of the Goods Council, and Ambassador Muylle (Belgium), the outgoing Chair of the Services Council would soon begin their consultations in their respective areas. Relevant communications concerning those consultations were going to be sent out shortly. She understood that for the Goods Council it had already been sent.

12.10. The representative of the United States paid tribute to Ambassador Kangvalkulkij and thanked for her leadership over the past year. She had been very fair and steady during a very difficult period at the WTO and the United States extended its appreciation to her.

12.11. The General Council took note of the statements.

13 OTHER BUSINESS

13.1 Statement by the Chair on Administrative Measures for Members in arrears

13.1. The Chair, speaking under "Other Business", noted that the revised Administrative Measures for Members in arrears in WT/BFA/132 required that, at the end of each meeting of the General Council, the Chair of the Committee on Budget, Finance and Administration should provide information with regard to which Members and Observers were under Administrative Measures.

13.2. Ambassador Dagfinn Sørli (Norway), Chair of the Committee on Budget, Finance and Administration, reported that the Administrative Measures applicable to Members and Observers with arrears in contribution had been in place since 1 March 2013. In accordance with the Decision of the General Council, he should state all Members and Observers under all categories of administrative measures. As at 3 March 2020, there had been 20 Members and 7 Observers under Administrative Measures. The following 7 Members were currently in Category I: Plurinational State of Bolivia, Cuba, Ghana, Guinea, Tanzania, Tonga and Zambia. The following 5 Members were in Category II: Democratic Republic of Congo, Liberia, Senegal, Yemen and Zimbabwe. The following 8 Members were in Category III: Antigua and Barbuda, Burundi, Central African Republic, Congo, Guinea-Bissau, Niger, Sierra Leone and Bolivarian Republic of Venezuela. The following 3 Observers were in Category I: Equatorial Guinea, Iran and Syrian Arab Republic. Comoros was the only

¹⁰ On 3 and 5 April, the newly-elected General Council Chairman sent a communication to the Group Coordinators concerning consultations for the chairmanship of the TRIPS Council in Special Session.

Observer in Category II. The following 3 Observers were in Category III: Libya, Sao Tomé and Príncipe and Somalia.

13.3. The Chair said that she was also required at each Council meeting to request Members and Observers in Categories II and III of the Measures to inform the Secretariat as to when their payment of arrears could be expected.

13.4. The General Council took note of the statements.

14 ELECTION OF CHAIRPERSON

14.1. The Chair said that it had been both an honour and a privilege to serve as the General Council Chair. While it had been a challenging term with the multilateral trading system and the WTO facing unprecedented challenges throughout the year, it had nevertheless been a challenge that she had been ready to confront alongside with the Membership. The privileged position of a Chairperson, not just of the General Council but also of all other WTO Bodies, entailed trust and confidence of the Membership. She had therefore taken to heart that the primary role of the Chairperson was to live up to that trust – to listen and hear the concerns and interests of all Members with the view to arriving at outcomes acceptable to all.

14.2. Her tenure had certainly proven to her that, in the consensus-based organization, trust often led to engagement, flexibility, compromise and ultimately fair and mutually advantageous results. She thanked all Members for the support and cooperation they had provided to her during her tenure which enabled them to maintain the functionality of the WTO as well as to achieve tangible results that ensured continuous stability and predictability in relation to the extension of the e-commerce and TRIPS non-violation and situation complaints moratoria and to MC12.

14.3. She thanked the Director-General for his friendship and the valuable advice he had offered to her over the course of the year. She also expressed her appreciation to Victor do Prado, Stefania Bernabe and the whole Secretariat for their support. Their hard work and assistance had enabled her to perform her duties in a smooth and efficient manner.

14.4. As her term as the Chair of the General Council came to an end, issues that were important to all Members still remained – whether it was fisheries subsidies, Appellate Body matters, agriculture or WTO Reform. Some would require more time to resolve than others but all would require trust and action especially in that unique organization driven by 164 Members.

14.5. Throughout 2019, one thing that she had always heard was that all Members reached for the same goal – for the WTO to continue to deliver meaningful and tangible results, results that entailed stable, predictable and fair trade. Thus, no matter how divergent the views and positions, if Members still wanted to reach the same goal, they needed to immediately act. They could not allow the words flexibility and compromise to only remain on paper.

14.6. While Members' active engagement were fundamental to their success, she could not underscore enough the importance of the guidance and leadership from the Director-General and the professional support from the Secretariat whose profound institutional knowledge and expertise would be indispensable in achieving their goals. She had no doubt that concerted action from all sides would help meaningfully address the challenges before them. As a WTO Member, there was nothing that she would like to see more than the continued success of the WTO starting with a successful MC12 in Nur-Sultan.

14.7. She likewise thanked all the Chairs of regular bodies for their close working relations and the support they had provided to her during her term, and wished Ambassador Walker every success in his Chairmanship of the General Council.

14.8. She then proposed to move to the election of the new Chairperson. On the basis of the understandings that had been reached on the appointment of officers to WTO bodies, she proposed that the General Council elected by acclamation H.E. Dr. David Walker (New Zealand) as the next Chairperson of the General Council.

14.9. The General Council so agreed.

14.10. The Director-General said that the leadership and judgment demonstrated by Ambassador Sunanta Kangvalkulkij during her term had helped the General Council carry out its functions throughout a challenging year. 2019 had been a year of records at the General Council. Under her leadership, the General Council had dealt with an unprecedented number of issues over some of the longest meetings in the body's history. Tackling those issues had often required them to work in close coordination. He therefore thanked her for her support and wise advice.

14.11. He thanked her as well for her tireless efforts to help Members find solutions, whether on extending the moratoria on e-commerce and TRIPS non-violation complaints, or on selecting new Chairs for WTO bodies – not to mention the many other challenges they had had to tackle, often together. He also acknowledged her personal contribution in helping Members lay the groundwork for a successful MC12. She could be leaving that Chair that day, but he hoped to continue counting on her support and wisdom in the way ahead from her national seat. Following the tradition, he then presented Ambassador Sunanta Kangvalkulkij with the engraved gavel as a memento of her time as Chair of the General Council.

14.12. He then congratulated Ambassador Walker on his election. His appointment stood as testament to his contributions to the organization as DSB Chair at a challenging moment for the system and as New Zealand's Permanent Representative to the WTO not once but twice. He recalled that Ambassador Walker had served as New Zealand's Permanent Representative from 2009 to 2011, before returning to Geneva for his current term. As Members looked ahead to MC12, his skills and extensive experience would be essential to keeping Members on track to deliver in Nur-Sultan, a critical event of systemic value to the organization. He did not doubt that his wise judgment would be called upon many times between then and June. He could count on his full support, and that of the Secretariat, to that end and wished him all the best in his new role.

14.13. The newly-elected Chairman noted that it was a great honour to serve the WTO membership as Chairperson of the General Council. He thanked all colleagues for their trust and confidence in appointing him to that position. He also thanked the Director-General for his warm words of welcome and looked forward to working with him closely in the year ahead. He likewise paid tribute to the outgoing Chair, Ambassador Sunanta Kangvalkulkij. He had learnt a lot in observing her leadership and working with her over the past year. He looked forward to continuing to benefit from her wise counsel in the challenges ahead, including in preparing for the upcoming Ministerial Conference. He paid tribute to his wife Fredericka for her unwavering support including over the many years they had spent together in Geneva. He expected to be drawing even more heavily on that support in the coming months.

14.14. Over the past 25 years, New Zealand and New Zealanders had made many varied contributions to advancing the WTO system. Successive Ambassadors had served as Doha Round Negotiating Group Chairs. And over those past days they had been remembering the contribution of Rt. Hon. Mike Moore as the WTO's third Director-General. Like him, some delegations could recall that early in the WTO's history two New Zealand Ambassadors – Wade Armstrong and Roger Farrell – had served as Dispute Settlement Body Chair. Neither had been able to take the General Council Chair so he thought particularly of Wade Armstrong and the memory of Roger Farrell at that moment.

14.15. As was the case with all Members, those past weeks had become increasingly weighed with thoughts of the challenges of the new coronavirus. First and foremost, the situation with COVID-19 was a public health issue with already too many personal tragedies and hopefully not too many more to come. But, as they had started to understand, the potential effects of a virus such as that also risked to significantly impede connectivity between people and markets thus threatening to imperil livelihoods and prosperity more broadly.

14.16. In the WTO – referring to the longer term, not the measures being taken to fight the global health emergency of COVID-19 – they were Members of an organization whose purpose was exactly the opposite: to contribute to enhancing employment, incomes, prosperity and sustainable development through progressively opening markets and eliminating discriminatory treatment in international trade relations between Members.

14.17. The Director-General the previous day and Ambassador Sunanta at the start of the meeting that day had paid tribute to the contribution of Mike Moore to the organization, as had many delegations throughout the meeting. He therefore urged Members to redouble their efforts to work

together over the next twelve months – in preparation for MC12 and beyond – to further that common purpose as Members of the WTO. It would be a most fitting way to honour his legacy.

14.18. The representative of Chad, on behalf of the LDCs, thanked Ambassador Kangvalkulkij for her leadership, sympathetic ear and her efficient manner in which she had led Members' work during her term as Chair of the General Council. The LDC Group recalled the intense discussions that had taken place on the Work Programme on Electronic Commerce and other matters where she had shown great patience which the LDC Group paid tribute to. The LDC Group hoped that the spirit embodied by Ambassador Kangvalkulkij could lead Members towards tangible outcomes for the good of the global trading community – as they all needed a spirit of understanding.

14.19. The LDC Group likewise wished Ambassador Walker every success as he assumed his new role as Chairman of the General Council. As the Director-General had mentioned, that was no easy task. It was a challenging role but the future offered possibilities and the LDC Group was certain that Members would be able to achieve tangible outcomes under his Chairmanship. The LDC Group assured Ambassador Walker that he could enjoy the support of all Members of the LDC Group as he undertook his task.

14.20. The representative of Seychelles congratulated Ambassador Walker on his election and wished him success. Seychelles also thanked Ambassador Kangvalkulkij for her leadership during her term.

14.21. The representative Benin expressed profound gratitude to Ambassador Kangvalkulkij for the major contribution she had made to Members' work in the course of her term. It had been a great pleasure to work with her as Benin had coordinated the African Group in 2019. During that time, Benin had engaged in consultations and conversations with her. She had facilitated their work and was very grateful for her for that. Benin also welcomed and congratulated Ambassador Walker to his new role as Chairman of the General Council and wished him every success.

14.22. The representative of Jamaica, on behalf of the ACP, congratulated Ambassador Walker on the assumption of the Chairmanship of the General Council. He could count on the support and constructive engagement of the ACP Group and from Jamaica as well from a national perspective. The ACP Group likewise thanked Ambassador Kangvalkulkij for her service and leadership for the past year. As a group coordinator, Jamaica knew first-hand how tirelessly and effortlessly she had worked in trying to foster cooperation to achieve consensus and to manage the whole process that Members had gone through in 2019. She had also managed to remain cool under all of that. The ACP Group wished Ambassador Kangvalkulkij and Ambassador Walker well.

14.23. The representative of the Philippines, on behalf of ASEAN, welcomed Ambassador Walker to his new role as Chairman of the General Council. He could count on ASEAN's continued collaboration. To ASEAN's pride, Ambassador Sunanta Kangvalkulkij who, apart from being the General Council Chair, also chaired ASEAN in 2019, ASEAN thanked her for all her hard work which ASEAN Members fully appreciated.

14.24. The General Council took note of the statements.

14.25. The newly-elected Chairman recalled that, as Members had heard, during the course of the meeting, Ambassador Kangvalkulkij had announced that he, as incoming Chair, would be looking to engage with Members on preparations for MC12 and he would be in touch with Members very shortly on consultations in that regard.¹¹

¹¹ On 12, 17 and 19 March, following the outbreak of COVID-19 and the WHO declaration of a pandemic the Director-General and the General Council Chairman, Ambassador David Walker, sent communications to delegations concerning MC12 date and venue. In consultation with the Delegation of Kazakhstan, it was their considered view that holding MC12 as had been previously agreed would not be feasible. Conference call consultations were held on 23 March by the Director-General and the General Council Chairman. The report on the consultations can be found in JOB/GC/227.

ANNEX 1

**STATEMENT BY THE SULTANATE OF OMAN ON THE DEMISE OF HIS MAJESTY QABOOS
BIN SAID BIN TAIMOR, SULTAN OF OMAN**

I would like to thank you Madam Chair and thank Director-General Azevedo, the DDGs and all WTO Members for expressing their condolences and sympathy with the Government and the People of Oman for the passing of His Majesty Sultan Qaboos bin Said bin Taimor. His Majesty Sultan Qaboos was a supporter of multilateralism especially of the multilateral trading system. Under his leadership, Oman joined the WTO, chaired the accession of Seychelles and provided support for the accession of Comoros and some other countries.

Our late Sultan was a man of vision and a man of peace. He focused his efforts on building and development of Oman and its people. He made all the efforts to guarantee that Oman becomes a friend of all nations in the world. He was known for his efforts and initiatives to bring peace and stability around the world. Today, Oman is one of the most peaceful countries in the world. May his soul rest in peace.

Our new Sultan His Majesty Sultan Haitham bin Tariq pledged to continue on the same path and policies of the late Sultan of bringing stability and peace around the world. Thank you again for your sympathy and support.

ANNEX 2

ADDRESS OF H.E. THE RT. HON. ELIZABETH TRUSS TO THE GENERAL COUNCIL OF THE WORLD TRADE ORGANIZATION

Introduction

We meet a month after the sad passing of former WTO Director-General Mike Moore – a pioneer of world trade liberalization and the Uruguay round.

I am delighted to be the first Trade Secretary to represent the UK's independent voice at an international meeting since Peter Walker, almost half a century ago.

The UK has now, following its exit from the EU, resumed its independent membership of the WTO, taking back control of our trade policy, our sovereignty, and our future.

Free Trading Nation

The UK is and always will be, an open, liberal, outward looking nation.

We are the home of Adam Smith and his 'invisible hand'...

... of David Ricardo and his theory of comparative advantage...

... of the abolition of the Corn Laws, seeing ports like Liverpool, Glasgow and Teesside flourish with new commerce, trading cheaper goods more efficiently, and overcoming the objections of vested interests and wealthy landowners to the benefit of the majority and levelling up Britain in the 19th century.

The UK was one of the original signatories of GATT, cementing the most favoured nation principle in international commerce, and ushering in a wave of industrial tariff reductions and trade liberalisation.

And this year, Britain is back, as an independent trading nation.

I believe that we retake our seat at an opportune moment.

World trading volumes are lagging behind global growth, which is itself anaemic, 2019 being the slowest year since the 2008 recession.

The rate of decline in global poverty is also beginning to slow.

And in some cases, we are seeing a worrying retreat from market principles.

Now that the UK has left the European Union, I know some of you are wondering what kind of member we are going to be.

First of all, the UK wants to turn the rise in protectionist measures around. We are at our heart a free trading nation and we see the WTO as central to this vision.

We know that human ingenuity has limitless potential.

The more we allow people to shape their own lives, remove barriers to enterprise within and between nations, and allow human ingenuity to flourish, the more rewards we will all reap.

The greatest economic advances from steam engine to the internet, have resulted from increasing international trade and connectedness, the ideas chain reaction.

So we will work with all nations to share this multilateral vision, to lead the defence of free, fair, rules-based international trade, pioneering a route to prosperity that lies through working together, not through protectionism. That is why the MC12 in June is so important.

And I am delighted to announce today that the UK is contributing £50,000 through our TAF 2 project, to ensure that Trade Ministers from developing countries can attend.

WTO reform

Secondly, we will work to make sure the rules-based system is based on open, market orientated policies and is transparent and fair.

When it works, the multilateral system allows for us to deliver outcomes that are better in aggregate for all of us.

And as we retake our independent seat at the heart of world trading, the UK is more committed than ever to ensuring that, the WTO, is forward looking, modernized and reformed.

The UK will, like every other sovereign country, assert its ability to set its own laws and regulations in line with our WTO commitments, reflecting our own circumstances and ideas, while working tirelessly alongside other WTO Members to drive reform.

We will make the case to update the WTO rulebook to tackle underlying trade tensions such as industrial subsidies, state-owned enterprises and forced technology transfer.

We will encourage and empower small countries to play a role in shaping the global trading system, to trade their way out of poverty, and seek a fairer deal.

And we will support WTO negotiations wherever we can by providing quality data analysis and policy research – and above all, the full political weight of the UK.

Leaders in services, tech and the environment

Thirdly, we will seek to advance trade for the modern era.

The WTO and GATT has had many successes.

Average import tariffs globally have fallen by two-thirds.

Global trade has tripled in volume.

And 75% of global merchandise trade takes place on WTO's most favoured nation terms.

But the stark reality is the system of rules-based trade has not moved on since the Uruguay round, while non-tariff barriers have proliferated.

Meanwhile the world has experienced a revolution in technology and automation.

This revolution itself came about through an 'ideas chain reaction'...

From the invention of numbers in ancient India...

...through Ada Lovelace and Alan Turing's pioneering conception of the first computers in Britain...

...to the development of the modern World Wide Web and Silicon Valley in America...

And while these services changed our world and account for close to half of the value of international goods and services, the barriers to trade in services are around three times higher than the barriers to trade in goods.

As a services orientated economy, a world leader in sectors ranging from tech to finance, and the world's second largest services exporter, this is a huge opportunity for the United Kingdom.

So we will push to ease restrictions on cross-border data flows...

... preventing unnecessary data localisation requirements...

...and ensuring customs duties do not apply to electronic transactions.

We will do this through multilateral or plurilateral groups at the WTO, a coalition of the willing, such as the JSI on e-commerce...

... And through wider reform to trade in services, the UK seeks to be a future leader in these areas.

Free trade is allowing us to use resources better and find new ways of producing energy and managing resources.

We will take the lead in tackling climate change, not least as hosts of COP26.

The UK has already cut our carbon emissions by 44% since 1990 while growing our GDP by around 70%.

And we are proud the UK has undertaken to become carbon neutral by 2050.

We will stand up to end environmental wasteful practices that arise from state subsidies, such as illegal, unreported, and unregulated, fishing, and press for successful conclusion of the fisheries subsidies negotiation at MC12.

Conclusion

After almost 50 years of EU membership, Britain is back as a fully independent Member of the World Trade Organization.

Our vision is of a newly independent UK, championing the cause of free, fair, and rules-based trade.

I am proud of the UK's record in pioneering, firstly, the liberalization of agricultural tariffs with the abolition of the Corn Laws, and secondly, industrial tariffs with GATT.

A UK that explores the new frontiers of the 21st century global economy, pushing for that same liberalisation in trade in services and data, helping to turn around the recent protectionist trends and to help deliver the benefits of the global digital revolution for all Members, large and small.

To push for a WTO that not only retrains its role as the repository of the rules that govern our global economy, but one that does so while continuing to enjoy the confidence of all of its Members.

ANNEX 3

THE REPORTS BY THE DIRECTOR-GENERAL AND THE CHAIRS OF THE NEGOTIATING GROUPS AT THE INFORMAL TNC AND INFORMAL HODS MEETINGS HELD ON 2 MARCH 2020

The Director-General's Tribute to Former Director-General Mike Moore

Good morning everyone.

Welcome to these informal TNC and HODs meetings – the first in what will be an eventful year.

I want to start by taking a moment to pay tribute to Mike Moore, the WTO's third Director-General, who passed away last month.

I did not know Mike Moore well, but I know that he was committed to a just and equitable trading system that delivered for all its Members – and especially for poor and disenfranchised people. He worked tirelessly to rebuild trust among Members after the Seattle Ministerial Conference, and served as the first Chair of the TNC. Both before and after his time at the WTO, he also had a distinguished career in the service of New Zealand, including as Prime Minister.

Our thoughts and prayers are with his family, friends and the people of New Zealand.

I understand that New Zealand has asked to say a few words. Ambassador Walker, you have the floor:

"On behalf of New Zealand, let me thank the Director-General for those thoughtful and generous remarks. Thank you also to all those colleagues, delegates and Secretariat staff – current and former – who have expressed their thoughts and condolences on the passing of Rt. Hon. Mike Moore. New Zealand appreciates also that the WTO was represented at Mike Moore's funeral, fittingly by John Adank, Director of the Legal Division and also a New Zealander.

On a personal note, I had the privilege of knowing Mike Moore from the very outset of my time in this business. Literally one of the first things I did, in early 1987, was to help take the summary record of a meeting of Trade Ministers that Mike hosted in Taupo, New Zealand to talk about progressing the then newly initiated Uruguay Round – a gathering which would be termed now as a 'mini-Ministerial'.

From Trade Minister, Mike Moore went on to be Prime Minister of New Zealand, Director-General of the WTO at the time of the launch of the Doha Round, and New Zealand's Ambassador to the United States at the time of the conclusion of the Trans-Pacific Partnership negotiation.

Throughout all of these many contributions he made to New Zealand and internationally, Mike Moore was a great believer in the multilateral trading system and in the power of trade and opening markets to contribute to the betterment of people's lives. Let us hope we can appropriately honour his legacy in the work we continue to do in this house."

Thank you. Let us observe a moment of silence in honour of DG Mike Moore.

[The Director-General and the Membership paused for a moment of silence.]

Thank you.

Report by the Director-General¹

I have had useful exchanges with many Members since the start of the year.

In January, during the World Economic Forum in Davos I attended the traditional informal ministerial gathering on WTO issues hosted by Switzerland. I was also invited to speak to groups of Members negotiating on Electronic Commerce and Investment Facilitation for Development.

I shared views with representatives from the private sector and labour groups, and met bilaterally with several Ministers. I also had a useful exchange with US President Donald Trump.

Since Davos, I have been to Washington, where I participated in the Washington International Trade Conference, and met with senior government officials including US Trade Representative Robert Lighthizer.

The ACP Group invited me to Evian for their retreat.

Here in Geneva, in addition to regular contact with Members, I met with a number of Ministers who were in Geneva for the Human Rights Council meeting.

In every one of these discussions, MC12 featured prominently.

One thing I was repeatedly told was that delivering in Nur-Sultan is critical for the credibility of the WTO. A successful MC12 would position the WTO to be a predictable anchor for cross-border economic cooperation in the years ahead.

As you well know, what we accomplish at MC12 is entirely in the hands of Members.

I would like to share a few words on how I see the process between now and Nur-Sultan.

I have prepared for several WTO Ministerial Conferences (actually all of them, except Cancún), both as a delegate and as Director-General.

From my experience, every Ministerial is different. No ready-made template exists for pre-conference preparations - or for what happens after Ministers arrive.

But there are important lessons we can draw from the past.

One such lesson is that what is achievable at a Ministerial is shaped to a great extent by the substantive progress negotiators make in Geneva before the conference.

So the road to MC12 needs to be substance driven.

Looking at Nur-Sultan, there are broadly three baskets of issues as I see it.

First, the multilateral track – that's the first basket – where our top negotiating priority must remain an agreement on fisheries subsidies by MC12.

I share Ambassador Wills' concern that we are well behind where we need to be, lacking even a text to serve as the basis for negotiation. The main protagonists in these discussions must work to agree, particularly on approaches to overcapacity and overfishing. Political sensitivities are the major factor impeding progress. Negotiations must be raised to a higher political level. I strongly urge you to support Ambassador Wills in his efforts to develop a consolidated draft negotiating text based entirely on elements you have created, without prejudice, of course, to any Member's position. I intend to attend Friday's closing session of this week's fisheries cluster to get a sense from the Chair and from you on how we are progressing. Also, Ambassador Wills and I are considering the best way forward, especially on how to engage more directly with decision-making authorities. We may explore that with you as we conclude this week's cluster.

¹ Also issued as JOB/TNC/78.

We must also advance on agriculture – an issue of enormous significance to many – if not most – Members. I agree with Ambassador Ford's assessment that Members need to narrow and focus the discussions, first classifying elements based on their prospects to generate outcomes, and then devising ways to get there.

Development is another area in which Members will have to bridge different perspectives and sensitivities to find a way forward. As we heard, Ambassador Hassan is continuing to consult with Members.

In Nur-Sultan, we will also have to decide on the future of the moratoria on e-commerce and TRIPS non-violation complaints, which you extended through to MC12. I look forward to tomorrow's discussions on the ongoing work on these two moratoria.

The second basket of issues potentially on the table in Nur-Sultan comes from the Joint Statement Initiatives that groups of members have been taking forward on issues such as investment facilitation for development, services domestic regulation, MSMEs and e-commerce. I understand from the coordinators and participants that concrete outcomes – and in some cases even full agreements – are envisaged by MC12. I will leave it to the coordinators to report to the membership. And finally, in our third basket, we have a number of institutional issues and proposals for improving our regular work in areas such as transparency, committee operations, and small economies. This basket also includes the most pressing institutional challenge at the moment, which is of course dispute settlement.

As I promised last December, I have been consulting with Members both here and in capital to find a way forward on appellate review of WTO dispute rulings. Unfortunately, I have not come away from these discussions optimistic about a clear path forward. In light of these circumstances, I do not believe that any kind of more intensive process trying to find a fix for the Appellate Body itself would make sense at the present time.

In the meantime, several Members are exploring multi-party interim arrangements for second-step review of dispute panel decisions. In a similar vein, I would also like to remind delegations that my good offices are open to any Member that wishes to make use of them.

Turning more specifically to MC12, one thing that stands out is the sheer number of issues you have been considering. But while the array of topics before you is wide, your time in Nur-Sultan will be very limited. Ministers will simply not have the time to discuss and resolve differences on each issue under consideration.

Past experience shows us – and I have seen this happen very very often – that leaving inadequately prepared issues on the table for Ministers to determine is, more often than not, a recipe for getting nothing.

Making the agenda for MC12 manageable would enhance our prospects for success there.

This means determining now – well in advance of the Conference – which issues can realistically be harvested with Ministerial input in Nur-Sultan.

On all other issues, we should work to finalize outcomes here in Geneva, probably bringing to Nur-Sultan roadmaps for post-MC12 work.

Let us save Ministerial engagement for where we need it most – and where it will be most productive. For example: getting an agreement on fisheries subsidies.

I also want to address another issue that many of you have raised with me: the question of how we capture outcomes from MC12.

Experience points to at least three possible options for a Ministerial outcome document:

- First, we could have a fully agreed multilateral document, with consensus negotiated text – what we typically call a Ministerial Declaration.

- The second possibility is a Chair's Summary capturing key issues discussed at the Ministerial. This is what we had at our last Conference in Buenos Aires. This summary would be done in the personal responsibility and capacity of the Chair of the Ministerial Conference.
- The third option is a hybrid of the first two: namely a document that is part consensus text, and part Chair's summary.

The conversation about the MC12 outcome document is one that we will have to start soon. I have been consulting with members on this, and will continue doing so together with the new General Council Chair as a priority over the coming days. As with previous Ministerials, I am committed to a preparatory process that is transparent and open, where all members will have the opportunity to put forward their views.

As we embark on this conversation, let me be very clear about one thing: the measure of our success in Nur-Sultan will not be whether we have a Ministerial Declaration. Success will be measured by the substance of what we deliver there. If we deliver new rules that curb overfishing and foster greater certainty and inclusiveness in the 21st century global economy, it does not matter what the outcome document is called. If we do not deliver any of these things – well in that case the document's name will not matter, either.

Finally, many of you have approached me to ask how our ongoing efforts on WTO reform will fit in to MC12.

As you know, I am open to any reform that improves and strengthens the system. That said – and this will sound familiar – I do not think that it will be useful to have a negotiation to try and define what 'reform' is. Based on what each of you tell me about how you think reform should look, I am pretty sure you will not agree.

But even without seeing eye to eye on every aspect of the future of the multilateral trading system, you can agree on meaningful updates to the WTO rulebook, and the way in which we do our work. These improvements would help governments, businesses, workers and consumers better adjust to changing economic conditions. This is all part of the reform process. And that is why we should focus on concrete deliverables, not on time-consuming theoretical debates that may prove inconclusive.

Now, this does not mean we cannot attempt to provide some guidance to reform efforts. And one logical place to do this is precisely in the context of the discussions on the Nur-Sultan outcome document that I think we have to start very soon. But WTO reform has been, and always will be, the product of your ultimate decisions here.

In conclusion, let me say once again that MC12 will be a critical landmark for the future of this organization.

The weeks ahead are a window of opportunity. It is within your hands to prove that multilateral rule-making is still feasible. To deliver outcomes that will help prepare the WTO for the next 25 years. I believe this is within reach. But only if we all take an open-minded, creative and compromise-oriented approach.

I therefore urge you to be pragmatic, realistic and flexible as we search for common ground. This concludes my report.

One last point on MC12: we are now in the process of updating our website for the Ministerial. In addition to practical information on travel and accreditation documents, and background notes on the issues under negotiation, there will be a section for Members to provide any information that you deem relevant to MC12. Please let the Secretariat know if you would like anything added to that section.

Reports by the Negotiating Group Chairs:**1. Negotiating Group on Rules**

This is my second report to the TNC on the activities of the Negotiating Group on Rules, all of which have been in the area of fisheries subsidies, since I took the job as the Chair of the Group in November last year. Since my first report there has been a lot of activity and several new proposals. Therefore, for the purposes of this brief report I would like to divide my comments into two parts, the first on process and the second on substance.

Process

On process, two week-long clusters of meetings were held in the weeks beginning 13 January and 6 February, with a third starting at 11h00 this morning. However, the negotiations have essentially been continuing without a pause since the end of the Christmas break and I do not expect this to change until the Ministerial Conference in Nur-Sultan is over, hopefully with an agreement.

At the meetings of the Negotiating Group at the Head of Delegation that I held last November, I was asked to keep Heads of Delegation informed about the negotiations, and I was told that I should meet with you in various formats to get political guidance and practical assistance. To this end I held a meeting of the Negotiating Group on 13 February at HoD level where I reported on the work undertaken since the previous such meeting in November. I also outlined how I intended to work toward MC12.

At that meeting everyone agreed that time was short and that all Members have to be flexible and pragmatic. Many of you also supported the idea of having a meeting of senior officials, while indicating that to be useful there would need already to be a single consolidated text that narrowed down some of the many options still being discussed, so that the senior officials could make decisions.

With that in mind I held consultations with nearly thirty delegations or groups of delegations during the week beginning 17 February. In those consultations we discussed the timetable to MC12, including necessary steps along the way. I also sought views on how to move forward on overfishing and overcapacity, which is widely acknowledged to need particularly focused attention, given that the work in this pillar is much less mature than in the other pillars.

Once again, everyone said they were aware of the limited time left, of the amount of work we have to do, of the need for compromise, and of the need to move immediately to text-based negotiations. On this last point, I informed delegations that I intended to distribute a consolidated document in the middle of this month that could be used as the starting point for the text-based negotiations. Interestingly, I also noted that in some cases when the meetings involved ambassadors there was more flexibility and openness to compromise than I sometimes detect from delegates.

Still on process, on 27 February I also held a short meeting with a small group of Heads of Delegation – mainly proponents – to discuss some ideas on overfishing and overcapacity. I did not circulate discussion questions in advance, as I wanted the attendees to be spontaneous and to react on the spot to issues that I raised in the room. It turned out to be a good first exploratory discussion of some ideas for moving forward the negotiations on this pillar.

Finally, as you know this week is another cluster of meetings for the Negotiating Group. I have reserved all day today up to 9 p.m., plus Friday morning, for plenary meetings of the Negotiating Group on Rules at the usual technical level. The three days in the middle are reserved for bilateral and other meetings organized by delegates, and by facilitators. In addition, to close out the cluster, as I wrote in my e-mail of 25 February to the NGR, Friday afternoon has been reserved for a meeting at the HoDs level where you, Chair, also have been invited to join us.

Substance

Turning to substance. Obviously, I cannot report on the work to be done this week because today's plenary session of the Negotiating Group has not started yet. I hope that when we meet again on Friday afternoon, I will be able to tell you about good progress in all areas over the course of the

week. I can only urge you to provide your delegates with the necessary flexibility to fully engage in and contribute to our collective quest for bridging solutions that can be acceptable to all.

Concerning contributions from Members, I can say that there has been a lot of activity since the start of the year. Several new proposals were received, distributed and discussed – or will be discussed this week. These include:

- one from Canada on overcapacity and overfishing;
- three from the ACP group on scope, IUU fishing and overcapacity and overfishing;
- one from the EU, Japan, Korea and Chinese Taipei on overcapacity and overfishing; and,
- one from Brazil, also on overcapacity and overfishing

The facilitators have also been busy with meetings and have made progress in some areas.

That said, however, progress is insufficient. From where we are now, we need to move immediately to the consolidated text that I mentioned at the beginning. And this text needs to be built from what Members have created in our collective work, including the facilitators' working documents. Yet we still have many different ideas and approaches on the table for outcomes in the different pillars of the disciplines, while the final outcome will reflect only a single compromise in each area. So, to get from here to there, we need a vehicle, namely a consolidated text that is as simple as possible, which will be amended through the final, text-based phase of negotiations. This simple, initial document is the sort of text that I intend to put together and circulate by the middle of this month.

For this to work, all delegations will have to exercise restraint. If Members insist that the starting point text needs to contain the full details of every Member's preferred drafting on each issue, we will fail – for sure. We already have such a document, and we know from experience that it is simply not usable as a basis for negotiation.

So I would ask for the support of delegations in giving me the latitude to apply common sense and assemble in a logical order well-known elements that we have before us, in a document that is as simple as possible – and that will be used as a starting point. The time for introducing additional elements would be the negotiating phase, not while creating this stripped-down starting point text. Everything in the document will look familiar – there will be no surprises. And of course, by definition such a document will be without prejudice to any Member's position – it will only be the starting point.

As we then move forward into the text-based phase it will be important for delegations, in bringing forward new elements, to focus on those that they believe could lead to compromise.

Conclusion

In conclusion, there is no doubt that we need to move to a text-based discussion, and we need to have a meaningful outcome by MC12. Many delegations are calling for a senior officials' meeting, in the near future, which would have a clear set of points for decision. For such a scenario to be feasible, we need a great deal of flexibility and pragmatism in our work here – much more than has been evident to date. I hope to see this demonstrated this week.

2. Committee on Trade and Development in Special Session

In my last report to this body in December 2019, I informed Members of a room document submitted by the G90, which was considered at an informal, open-ended meeting of the CTD SS last November. I had explained that the room document contained the same ten proposals submitted by the G90 in 2017, since the issues raised in these proposals remained of relevance and concern to the proponents. In addition to listing the ten proposals, the new submission attempted to explain the rationale behind each of the proposals.

Since then, I have been in touch with the G90 coordinators. I have also continued my bilateral outreach efforts with other Members to explore the possibilities that may exist to advance the work in the Special Session.

It was in continuation of these efforts that, last week, I held two rounds of informal consultations with the G90, and with different configurations of Members.

The discussions in these small group consultations were useful in allowing me to get a better idea of the positions of Members, the level of ambition in certain areas, and the nature of the concerns expressed by some. This will also help me in identifying the elements that could help to take the work forward in the CTD SS in the coming months.

During the consultations, the G90 once again explained the rationale for their proposals. Other delegations, once again, said that it would be difficult to make progress in the CTD SS if the same G90 proposals are the basis for discussions.

The representatives of the G90 indicated that they were willing to consider further revisions to their proposals. However, for this to happen, they would need to have substantive engagement and text-based responses from other Members. Only such a collective effort would help break the impasse and help to arrive at an outcome that is acceptable to all.

The short time that remains until MC12 was also touched upon in the consultations. In this context, some Members did express doubt as to whether it would be realistic to expect a concrete outcome on S&DT in time for Nur-Sultan. However, other Members expressed their willingness to make all efforts so as to allow a positive outcome on S&DT to be possible at MC12.

I will continue to meet with Members in order to explore the possibilities that may exist to advance the work on these proposals before MC12. I will also be seeking views from Members as to how the work of the Special Session could be structured after MC12.

In the coming weeks, I will be convening a formal meeting of the CTD SS. This will allow the G90 to introduce their proposals in a formal setting. It will also provide Members with the opportunity to take stock of where things stand at the moment, and to look ahead to MC12 and beyond.

3. Committee on Agriculture in Special Session and Sub-Committee on Cotton²

There are three key words in my report this morning. Those three words are: urgency, complexity and sequencing.

As envisaged, I circulated on 14 February 2020 a new Report entitled "Elements and processes for a possible outcome in agriculture at MC12" (JOB/AG/180). This Report is a follow-up to my July 2019 Report entitled "Working towards doable elements for meaningful outcomes" (JOB/AG/163).

The July Report provided the options that were being considered in respect of the seven areas in the Agriculture negotiations. The new Report goes further by identifying elements and processes related to the options in each of these areas, essentially those that might be considered for agreement at the Twelfth Ministerial Conference (MC12).³

Members had the opportunity to discuss my February Report at the last meeting of the Committee on Agriculture in Special Session (CoA SS) and at the Dedicated Sessions on Public Stockholding for Food Security Purposes and Special Safeguard Mechanism held on 24-25 February 2020.

In addition to my Report, two new submissions on Domestic Support - one by the United States of America (JOB/AG/181) and another by the Russian Federation (JOB/AG/182) - were introduced and discussed. The C-4 also presented the Koudougou Ministerial Declaration on Cotton (TN/AG/GEN/50 and TN/AG/SCC/GEN/22).

² The report was delivered by Deputy Director-General Karl Brauner, on behalf of the Chair of the Special Session of the Committee on Agriculture and Sub-Committee on Cotton. This report was subsequently circulated in document JOB/AG/183.

³ The elements referred to in this document are within the seven areas of the agriculture negotiations, namely, Domestic Support, Market Access, Export Competition, Export Prohibitions and Restrictions, Cotton, Special Safeguard Mechanism and Public Stockholding for Food Security Purposes. An element is, for example, AMS in Domestic Support or Tariff Rate Quotas in Market Access. Processes refer to the engagement and work that needs to be undertaken to increase the possibility of reaching agreement.

Some important points emerged from the discussions.

In Domestic Support, the need to tackle trade distorting domestic support was unanimously recognized. One recent submission suggested a numerical target to cap and reduce the sum of global agricultural trade distorting domestic support (TTDS) entitlements by at least half by 2030. Submissions by other Members have also introduced ideas on how trade distorting domestic support may be addressed. These ideas give us the opportunity to achieve the overarching objective of reducing TTDS. Nonetheless, many divergences remain, including which sub-categories of Domestic Support should be earmarked for reduction. Against this background, I invited Members to engage on the proposals on the table and agree on a shared objective towards capping and reducing trade distorting domestic support with numerical goals, commitments on key elements and how to achieve them. I will continue to hold consultations with Members to agree on principles and parameters as well as processes and approaches towards achieving this shared objective.

In the Market Access discussions, certain specific elements are being considered in the context of a possible MC12 outcome; these include transparency of changes in applied tariffs and the treatment of consignments *en route*; transparency of TRQ administration; and reporting of *ad-valorem* equivalents (AVEs) of tariffs bound in non-*ad valorem* terms. These elements, also included in my February Report, are principally in the spirit of enhanced transparency and facilitating agricultural trade. Simultaneously, some Members have started working on a possible agreed framework and principles to guide market access negotiations post-MC12.

In Export Competition, the proponents are working on more specific proposals aimed at enhancing and making more effective the current monitoring and transparency mechanisms in this area. The clear intention is that additional information and understandings reached among Members will facilitate further discussions on reform addressing what can be considered as unfinished business in this export competition pillar.

In Export Restrictions, the discussions confirmed that exemption of foodstuffs purchased for non-commercial humanitarian purposes by the World Food Programme from the application of Export Restrictions is on the table for MC12. Further work is expected on the other issues related to notification requirements and clarification elements.

An outcome on Cotton is supported by a large group of Members, but it is also the case that according to available notifications Cotton Trade Distorting Support is provided by a few Members only. Several Members also confirmed their support for the cotton-related development efforts.

In SSM, the linkage made between an SSM and market access continues to constrain progress in the discussions. I have urged both the proponents and non-proponents to redouble their efforts and engage constructively so that they can fully understand each other's positions and concerns to take the discussions forward.

The PSH issue remains a priority issue for many developing country Members and the call for a Permanent Solution by MC12 has been renewed in recent communications⁴ and discussions. I have therefore called upon Members to develop proposals based largely on the elements discussed before MC11 and invited Members to reflect on whether there is room for treating differently some country groups (e.g. LDCs) or some types of programmes (e.g. new programmes, small programmes).

The last CoA SS meeting showed – as expected – that as our discussions focus more on specifics, they become more difficult, the discomfort of Members is more apparent and their positions are expressed more forcefully. The agriculture negotiations have always been complex, and as we move closer to MC12, it is to be expected that we will have to urgently facilitate the increasing complexity being better understood and negotiated.

At the same time, I also sensed a real commitment on the part of Members who are convinced that further reforms are necessary. This commitment is being used as a foundation on which to build a process toward meaningful outcome at MC12 and beyond. This is now urgent.

All the areas under the agriculture negotiations are priorities. All do not have the same breadth of interest or commitment to find a solution before or at MC12. All do not have the same level of

⁴ JOB/AG/173 and JOB/AG/179.

maturity in terms of convergence around some elements. For this reason, I mentioned the word sequencing at the beginning of this statement. It is now urgent, recognising the complex work to be done and the little time between now and Nur-Sultan, that Members agree to sequencing the treatment of issues and elements. We need to sequence our work, focusing more over this coming period on the issues and elements that have a better chance to be part of an outcome at MC12. Sequencing for treatment now does not imply any hierarchy between the elements but rather given the urgency of time Members deciding to focus on those elements which are more mature and have the greatest chance to attract consensus among Members.

To repeat, time is short, we have to move forward with an increased urgency. The next meeting of the CoA Special Session is scheduled for 23-24 March, and the one after for 23-24 April, including the Dedicated Sessions on PSH and SSM, as mandated. After these meetings, we will have only one month left before MC12.

Many important suggestions were made during the February CoA SS and the consultations since then. In the next few weeks before the March CoA SS further efforts will be made to build on the just circulated 14 February Report to see how we can sharpen the engagement around the possible options to increase the chances of an incremental balanced meaningful outcome at MC12. More specifically, to urgently accelerate our work in a more focused and sequenced manner towards an objective of having a final draft document in May, at the latest, that would be as precise as possible for consideration by Ministers at MC12. This document will arise from an enhanced process between now and May based on the feedback I would be receiving from my consultations with Members as well as my reports and submissions by Members.

I continue to encourage Members to submit new proposals and ideas to complement my Reports, especially those that attempt to bridge the remaining differences and build consensus.

I also urge Members to engage with each other in a constructive and more focused manner before the next CoA Special Session.

I will continue my own consultations with Members in several formats. I remain committed to working with all Members towards a meaningful outcome at MC12. Despite the complexity of the agriculture negotiations we are all committed to reducing distortions in global agriculture and food markets. We need to act with urgency and realism, we must sequence our work between now and June, and beyond Nur-Sultan.

ANNEX 4**STATEMENTS BY MEMBERS AT THE INFORMAL TNC AND INFORMAL HODS MEETINGS
HELD ON 2 MARCH 2020**

Following the Director-General's statement at the above-mentioned meeting, the statements made by: Switzerland; Brazil; Botswana (African Group); Singapore; Chad (LDCs); European Union; Morocco; Canada (Ottawa Group); Angola; Iceland; Jamaica (ACP); Montenegro; China; Mexico; Japan; United States; New Zealand; Uruguay (Informal Working Group on MSMEs); India; Norway; Peru; Egypt (NFIDCs except Peru); Barbados (CARICOM); Afghanistan; Russian Federation; Malaysia; Republic of Korea; Turkey; Philippines; Costa Rica (Joint Initiative on Services Domestic Regulation); Nigeria; Argentina; South Africa; Pakistan; Thailand; Hong Kong, China; Indonesia; Bolivarian Republic of Venezuela; United Kingdom; Viet Nam (ASEAN); Nepal; Solomon Islands (Pacific Group); Australia (Joint Statement Initiative on Electronic Commerce); Cambodia; Panama (Article XII); Chinese Taipei; Burkina Faso (C-4); St. Lucia (OECS); Ecuador; Chile (Structured Discussions on Investment Facilitation for Development) and Paraguay are included below as part of the Minutes of the General Council meeting.

1. Switzerland

In my statement, I would like to give a summary of the Informal Ministerial Gathering on WTO issues hosted by the Swiss government on 24 January in Davos. The aim of the informal meeting was to discuss challenges facing the WTO, including ideas for reforming the organization.

The Informal WTO Ministerial Gathering was attended by Ministers and high officials from 35 Members representing a broad spectrum of the WTO membership, including the coordinators of the WTO Least-developed countries Group, the WTO African Group, and the WTO African, Caribbean and Pacific Group.

For the information of the wider Membership, I will read out the Personal Concluding Remarks by the Chair, Federal Councillor Guy Parmelin. He summarized his impressions from the discussions as follows:

- "Ministers stressed their commitment to a successful outcome of the 12th Ministerial Conference in Nur-Sultan (MC12). They expressed their resolve to preserve the credibility of the rules-based multilateral trading system. The need to reform the WTO and to improve its functioning was also widely acknowledged.
- Ministers emphasized the need to adopt by MC12 a comprehensive and effective agreement on fisheries subsidies consistent with the commitment made at MC11. Given the significance of these negotiations for sustainable development and the WTO, Ministers instructed negotiators to step up efforts to ensure the WTO delivers on the Sustainable Development Goal 14.6 and contributes to the long-term sustainability of global fisheries.
- Ministers recalled that the WTO dispute settlement system is a central element in providing security and predictability to the multilateral trading system. They therefore underlined the urgency of taking the necessary actions to restore a fully functioning dispute settlement system in line with its fundamental principles. Some participants indicated that they were working towards contingency measures that would allow for appeals in their trade disputes, in the form of an interim appeal arrangement, until the Appellate Body returns to be operational.
- Several participants addressed the diverse development levels of Members and how these should be taken into account in order to advance multilateral negotiations.

- Many interventions supported tangible headways in negotiations on longstanding issues relevant to a range of Members, including developing and least developed countries. Several participants called for further progress in agricultural trade policy reform at MC12. Among these, many wanted to address the issue of domestic support.
- Numerous interventions stressed the necessity to foster greater transparency of trade policy measures and to stimulate the deliberative function of the WTO. Several participants highlighted the importance of adapting WTO rules and commitments to today's realities.
- While multilateralism remains the preferred option, many considered that it is important to continue to apply new approaches that allow Members to pursue, in an open and inclusive manner, initiatives of interest to them.
- In this context, many Ministers welcomed the progress achieved in the Joint Statement Initiative negotiations such as on E-commerce, Investment Facilitation, Micro, Small and Medium-Sized Companies as well as Services Domestic Regulation. Some also called for an extension of the moratorium on customs duties on electronic transmissions, while others considered that they needed to deepen their understanding of these issues.
- Furthermore, Ministers heard the reports on the work of the "Ottawa Group", the JSI on E-Commerce and Investment Facilitation. The G20 Presidency made a presentation of the "Riyadh Initiative on the Future of the WTO".
- Ministers undertook to remain involved in the preparations for MC12 in order to advance key issues."

These personal concluding remarks – made under the Chair's own responsibility – have been published on the website of the Swiss State Secretariat for Economic Affairs (SECO) as well as on the WTO's website, along with a list of attendees.

With this, I conclude my report on the Davos gathering.

I would like now to make a few comments on behalf of the Swiss delegation.

- As the Director-General has mentioned, about three months ahead of the Ministerial Conference in Nur-Sultan, Members need to rapidly agree on the nature and scope of the expected results in order to focus efforts on realistic objectives.
- There is, however, one objective that leaves no room for ambiguity: the conclusion of a meaningful agreement on fisheries subsidies. This is our utmost priority. It is high time to focus work in this area on efficient disciplines that prohibit subsidies contributing to overcapacity and overfishing. Without a solution to this issue there will be no success in Nur-Sultan.
- Apart from an outcome on fisheries subsidies, it is also important, that the trade community take further action to implement the SDGs. Switzerland strongly supports the work currently underway on a statement on trade and environmental sustainability to be adopted in Nur-Sultan. We invite any other interested member to join this initiative.
- The dispute settlement system of the WTO is a central element for the security and predictability of the multilateral trading system. It is necessary that all Members engage collectively to find solutions to overcome the present situation.

2. Brazil

We finished 2019 at a critical juncture. I wish I could say now that progress has been made in these few months of 2020, but the reality is quite the opposite. We still have a lot to do and only three months left before Nur-Sultan.

On the Appellate Body process, Brazil has always been prepared to engage in an open-minded and constructive manner. Our position has not changed. As my delegation indicated in Davos, the sooner specific reform proposals are presented the better.

At the same time, Brazil sees the convenience of an interim solution that can enable interested Members to bring their disputes to a resolution. We are actively participating in discussions aimed at reaching agreement on such a multi-party interim arrangement. In that exercise, Brazil is seeking to ensure that, whatever is done, an interim solution helps, not hinders, the process of finding a long-term, multilateral solution for the functioning of the Appellate Body.

Reform of agricultural trade rules is imperative for the success of MC12 and key to a package in Nur-Sultan. Domestic support seems to be the area where more convergence and a meaningful outcome can be achieved. Through the "Framework for Negotiations on Domestic Support", circulated in January as JOB/AG/177, Brazil, along with a wide and diverse group of Members, advocated for the reduction of current agricultural trade-distorting domestic support entitlements by at least half until 2030.

Combined with the proportionality principle, this framework can promote fairness and a levelled playing field, by requiring commitments that are consistent with each Members responsibilities. Transparency is a central part of a solution in Agriculture, but it is only a tool that will help us along the way - not an end in itself. By itself, it is not enough. We need meaningful progress in agriculture.

On fishery subsidies, we missed the deadline and there is, now, very little time left. This is an important issue with trade, environmental and systemic repercussions for the WTO. Brazil remains fully committed to a result in the fisheries negotiations. We have recently circulated a text with a suggestion of a possible mechanism to limit and reduce subsidies. We believe this mechanism can help us build strong disciplines on fisheries subsidies, in line with our mandate.

We would like to thank Canada and the United States for their collaboration in elaborating a Ministerial Declaration on SPS that we expect will be endorsed in Nur-Sultan. We do believe that this declaration is an opportunity for all Members to recall the central role of the SPS Agreement in promoting a fairer and more predictable international agricultural trade for the last 25 years.

It is also a unique opportunity for all WTO Members to identify and to address implementation issues with some of the provisions of the Agreement. Moreover, it is a chance to strengthen the application of the WTO SPS Agreement in order to face new challenges that lay ahead for agricultural production and trade. We hope that this initiative will be met with the engagement of all Members in the SPS Committee.

Brazil is prepared to work plurilaterally and multilaterally towards outcomes that constitute a realistic and substantial package for MC12 – in agriculture; industrial and agricultural subsidies; sustainability; fisheries subsidies; e-commerce; investment facilitation; domestic regulation; transparency notifications; development and S&DT.

3. Botswana (African Group)

I deliver this statement on behalf of the African Group. At the outset we would like to thank the Director-General for his report and the Chairs of the Negotiating Groups for their updates.

With about fourteen weeks ahead of the Twelfth WTO Ministerial Conference, the African Group would like to stress the importance of advancing our work and identifying priorities for substantive deliverables in Nur-Sultan. We hold the view that for the WTO to deliver, then it would need to deliver for the majority of its Membership. This means that it must address the needs, concerns and priorities of the developing Members, and least-developed countries. These are the smallest and vulnerable Members whose plight is further exacerbated by trade tensions, and the rise in protectionism that undermine multilateralism.

As we transition to the Ministerial Conference, the Group would like to highlight a number of issues of high interest to our economies:

Agriculture

Agriculture is the main unfinished business of the Uruguay Round. Reforming the global landscape on agriculture trade, per Article 20 of the Agreement on Agriculture and the Doha mandates is a top

priority for Africa. In this context we would like to express our appreciation to Ambassador Deep Ford for his report in document JOB/AG/180, and we wish to underscore the following:

- Substantial reduction of trade distorting domestic support shall be a priority for MC12. The first step of such reduction should be correcting the historical imbalances of the Agreement on Agriculture and eliminating the AMS beyond de minimis. This reform should take into account the special needs of Net Food Importing Developing Countries (NFIDCs) and LDCs, who are increasingly confronted with the challenges of food security, with negative implications on livelihoods;
- The agreement on a permanent solution for Public Stockholding for Food Security Purposes (PSH), and the establishment of a special safeguard mechanism – are of importance to developing and least-developed countries, and shall thus be among the MC12 deliverables; and,
- With regard to our long-standing mandate on cotton, the African Group supports the proposed modalities for the reduction of domestic support with trade-distorting effects on the international cotton market, as introduced by the C-4 in document TN/AG/GEN/49/Rev.1.
- We commend the efforts of the C-4 in this regard and welcome the Koudougou Ministerial Declaration on Cotton. We also support the request by the C-4, for the members of Quad-plus to get more involved in the cotton negotiations, with a view to achieving a concrete and meaningful outcome on cotton in Nur-Sultan.

Development

The Group holds the view that discussions on development should be aimed at bridging the development divide. In this connection, Special and Differential Treatment provisions were enshrined in the WTO Agreements to specifically help the developing countries to better integrate into the global trading system.

However, developing countries, particularly in Africa, continue to be marginalized in international trade, as is self-evident in our decreasing share in global trade. More than eighteen years down the line, the Ministerial mandate, which called for strengthening of S&DT provisions to make them more precise, effective and operational, remains outstanding and relevant for our development needs.

With that said, we call on Members to engage constructively with the G-90 on the Agreement Specific Proposals on S&DT, under the Committee on Trade and Development in Special Session. It would be remiss of me not to underline that for the African Group, an outcome on this issue is of priority for us in Nur-Sultan.

Fisheries Subsidies

The African Group reaffirms its commitment to reach an effective, equitable and balanced outcome that conforms to the mandate. As we have stated previously, it is our understanding that the mandate seeks to address IUU, overfishing and over-capacity all of which contribute to the depletion of fish stocks around the world. Therefore, it is our Group's view that the disciplines to be agreed must target harmful subsidies in line with the mandate. In addition, it must target large scale industrial fishing with appropriate special and differential treatment for developing Members and LDCs.

The African Group is exploring its landing zones and has already indicated its strong opposition to discipline fisheries management at the WTO or to transform this body into a fisheries management organization.

We look forward to engaging with Members, with the view to draft a text that can serve as basis for negotiations.

Appellate Body Crises

The African Group is concerned by the protracted stalemate on the launching of a selection process to fill vacancies in the Appellate Body which by attrition has led to the disfunction of the WTO Appellate Body with effect from 11 December 2019.

We also note the positive efforts by some WTO Members in agreeing on an alternative appeal mechanism around the arbitration procedure envisaged under Article 25 of the DSU. However, we would like to highlight the African Group's preoccupation and interest to contribute to the resolution of the impasse and the reconstitution of a fully operational Appellate Body.

The African Group therefore continues to support the Facilitator-led process under the auspices of the General Council, with a view to move towards a mutually acceptable outcome in the interest of all Members. We call on the General Council Chair to continue this process and encourage all Members to contribute substantively to ensure that we move forward with a solution-oriented multilateral process that seeks to find landing zones on this matter urgently.

WTO Reform

We are concerned with the lack of a structured approach that would enable the African Group as well as lesser resourced delegations to effectively contribute to discussions on finding possible ways to improve the operation and effectiveness of the WTO. In this connection, we hold the view that the principles of inclusivity, transparency, multilateral approach and consensus should frame the discussions on WTO reform.

The African Group will not be in a position to support any outcome on WTO reform that either directly or indirectly dilutes our core developmental negotiating mandates and objectives.

4. Singapore

As we are just three months away from MC12, I would like to share three thoughts as we prepare for Nur-Sultan. As this is also the period of Lent, allow me to borrow some wise words from the book of Ecclesiastes, which tells us that "to everything there is a season".

First, there is "a time to plant, and a time to harvest that which is planted". In the WTO, we have sowed the seeds and tended the fields for many years, and MC12 should be an opportunity to harvest some of the fruits of our labour. Fisheries subsidies is a prime example. The seeds for today's fisheries subsidies negotiations were sowed almost two decades ago, when the 2001 Doha Ministerial Conference launched negotiations to "clarify and improve" existing WTO disciplines on fisheries subsidies. Much work and effort have since gone into the fisheries subsidies negotiations. While the pace of the negotiations may not be as fast as we would have liked, it is timely to quicken the pace, exercise flexibility and put our shoulders to the plough in order to harvest a meaningful outcome at MC12.

Second, there is "a time to keep, and a time to cast away". With the clock ticking, we must zoom in on the deliverables that we want our Ministers to adopt at MC12. We cannot take a kitchen sink approach and bring every pet issue to Nur-Sultan. This will require the WTO Membership to exert discipline and cast away unrealistic goals. Equally important, we must identify potential deliverables for the Ministerial Conference in a realistic and pragmatic manner. The sooner we reach agreement on what is achievable the better so that Members can focus our minds on identifying the outstanding work that must be done over the next three months to transform these potential deliverables into tangible outcomes. As the Director-General had said earlier, the road to MC12 must be substance driven.

Third, there is "a time to break down, and a time to build up". For a small trade-dependent Member like Singapore, MC12 presents a golden opportunity to build up the WTO. The rules-based multilateral trading system, as embodied by the WTO, is critical to Singapore and all other small developing Members because it has provided the foundation for our countries to trade freely and fairly, to grow our economies and most important of all, to improve the livelihoods of our people. Hence, Singapore is absolutely committed to strengthening the WTO and the rules-based multilateral trading system.

A small example is Singapore's proposal to exempt foodstuffs purchased for non-commercial humanitarian purposes by the World Food Programme, from the application of export restrictions. It is a non-controversial and well-intentioned proposal that is aimed at addressing Sustainable Development Goal No. 2, which is to combat hunger and help the most vulnerable among us.

Singapore has also been working with Australia and Japan on the Joint Statement Initiative on E-Commerce, to make "substantial progress" by MC12. This is no mean task given that there are still several complex issues, including those concerning data, that must be addressed. But we must not be daunted by the challenges given that E-Commerce has become a fact of life and has attracted intense interest from the business community. More importantly, it will be a litmus test of whether the WTO can keep pace with technological advances and remain relevant.

It is easy for Members to highlight problems without proposing solutions at the WTO. We therefore welcome the efforts of other WTO Members who have been working tirelessly to table creative solutions to move discussions forward, including by fellow small and medium-sized Members like Paraguay and Costa Rica. We encourage all Members to take on a problem-solving approach as we work towards MC12 and seek to build up the WTO together.

To conclude, there is "a time to mourn, and a time to dance". Let us work together to achieve meaningful outcomes so that MC12 will be a time to dance rather than mourn.

5. Chad (LDCs)

I am making this statement on behalf of the LDC Group and thank the Director-General and the Chairs of the Negotiating Groups for their useful and informative updates.

There are only three months left before MC12. With this in mind, the LDC Group wishes to achieve concrete results which will on the one hand help to strengthen and accelerate our integration into global trade with sustainable development in mind and on other hand, concrete results that will serve to strengthen multilateralism as the one and only system for moving towards a fairer, more equitable and more inclusive trade.

The LDC Group is impacted by the collateral effects of the Appellate Body impasse even though we are not frequent users of the system. We therefore support all initiatives that have been put forward to try to solve this blockage in a sustainable way.

Turning to our expectations for results at MC12, we think that we should be focused on several priorities.

Agriculture

There is no point in reminding us the extent to which agriculture, agricultural production and the possibility to trade in agriculture is a very important matter for us to create jobs, for food security, for contributing to rural development and in terms of safeguarding the small farmers. It gives us a real and fair opportunity to ensure that these farmers can develop and access global markets. It is therefore essential for us to reach an agreement which has been long time coming that will help to reduce drastically levels of domestic support that distort markets and that have a negative impact on LDCs' farmers.

Concerning domestic support particularly in terms of the linkage with the trade in cotton, the LDC Group fully supports the position of the C-4 which is to achieve a result at MC12 that eliminates domestic support to cotton production. This is a crucial issue for jobs, national wealth within C-4 countries and by extension to any other LDCs.

On public stockholding for food security and SSM, the LDCs wish to ensure that there is a solution found to public stockholding that will encompass the ability of LDCs to develop non pre-existing programmes and on the other hand to ensure that there is a special safeguard mechanism that will protect small, vulnerable farmers against market volatility.

Fisheries Subsidies Negotiations

Another priority important for the LDCs in relation to MC12 is the negotiations on fisheries subsidies. These are difficult negotiations but the LDCs hope that a result will be found and that will take into account the preservation of marine resources as well as the application of special and differential treatment that will ensure that food security goals are protected, create employment and more generally, preserve the rights of fisheries communities in LDCs as well as LDCs that are currently graduating.

We believe that the position of the LDCs on fisheries subsidies make sense and is in line with SDG 14.6 of the United States.

Special and Differential Treatment

S&DT is a very important principle for LDCs. It is essential and it is within the WTO's DNA and in its agreements. S&DT should be applied adequately and effectively – this is the same as ensuring there is a fair contribution towards our integration into global trade as well as our social and economic development. We therefore see S&DT as an instrument that helps to consolidate the multilateral trading system. It allows those economies to which it benefits the position to meet their obligation. We do not see any antagonism between S&DT and these obligations. In fact, we see that they are complementary.

The LDC Group calls upon all Members to take a constructive consideration of our proposals for S&DT measures. Furthermore, when it comes to negotiations that are being held within the framework of the CTD SS, we call upon all Members to have an open mind and to make their contribution to ensure that discussions on the G-90 proposal move forward with a view to a result at the upcoming Ministerial Conference.

Turning to S&DT and the particular importance that the LDC Group attaches to countries that are currently in a process of graduation, we call on Members to allow the graduating LDCs to continue to benefit from flexibilities for a reasonable period after their graduation. This will ensure that there is a smooth and long-lasting transition towards economic development. This was the goal that was set out by Ministers at MC11 in Buenos Aires.

WTO Reform

The LDC Group is in favour of a more effective and transparent WTO. But that cannot be done to the detriment of the potential of LDCs to positively benefit from its healthy functioning. There is no point in recalling that LDCs all face significant constraints in terms of their institutions, infrastructure, human resources and available financial resources. Therefore, any new measures that penalize LDCs by adding to their administrative burden or exposing them to financial sanctions would not be sustainable.

With that said, we take a constructive and positive view and we would like to thank the Secretariat and the Members for their support which has ensured the official representation of our capitals at fisheries subsidies negotiations.

The LDC Group would like to reassure the Director-General that he has our ongoing support with the view to MC12 as well as to the benefit of all Members and to securing a fair, equitable and inclusive multilateral trading system.

6. European Union

The European Union remains alarmed about the state of affairs at the WTO. The Appellate Body has come to a halt and it is an entire pillar of our organization that is under existential threat. The EU is determined to find structural solutions. The foremost priority should be to ensure a meaningful and productive Twelfth Ministerial Conference.

As far our negotiation agenda is concerned, and this is the focus of my intervention today, this means that WTO Members need deliver on the Fisheries Negotiations, E-commerce Moratorium, transparency and discussions of trade concerns, as well as the Joint Statement Initiatives. We

moreover welcome the ongoing work of the Friends of Advancing Sustainable Trade toward raising sustainability within the WTO.

The EU lays great emphasis on fisheries subsidies negotiations. A successful outcome would be favourable for marine fishing resources, would strengthen the WTO and showcase that the WTO is able to deal with sustainability issues. The EU has recently taken important steps to achieve a successful outcome. In the revised version of our proposal on subsidies contributing to overcapacity and overfishing we made significant moves. We have considerably tightened the criteria that determine whether a subsidy is harmful or not. We have addressed the difficult question of special and differential treatment in a meaningful way. And we also indicated our readiness to support proposals prohibiting subsidies to fishing vessels not flying the Member's flag and subsidies contingent upon fishing in areas beyond national jurisdictions. Now it is time for other WTO Members to also move.

EU fisheries subsidies reform implemented some 15 years ago consisted in putting sustainability at the core of our common policy on fisheries, moving from harmful to beneficial subsidies and implementing proper fisheries management. This brought tangible positive results on the ground. We cannot and will not accept that this reform is jeopardized through some obscure insistence that all subsidies are bad. We will never accept results that would motivate Members to move from positive to bad subsidies in order to squeeze within a cap. We all must acknowledge that harmful fisheries subsidies must be treated differently than positive subsidies. Proper fisheries management must have a place in the negotiations because it can neutralize any negative effect a subsidy might have. A large group of WTO Members advocates this. Any attempt to ignore such a group is doomed to failure.

Finally, let us reiterate the importance of the mandate. Indeed, SDG 14.6 directs us toward a prohibition of harmful fisheries subsidies. Let's remind ourselves of that mandate and work with proposals that comply with that mandate.

We thank the Chair of the Special Session of the Committee on Agriculture for his report on "Elements and processes for a possible outcome in agriculture at MC12". We appreciate his efforts to define elements for possible outcomes at MC12 and beyond. Large divergences remain among Members on key agricultural issues. A realistic outcome might include some transparency improvements and a statement on the future work. Our goal on agriculture for MC12 should be to avoid a repeat of the failure at MC11 and to contribute positively to the overall efforts on WTO reform.

The European Union will continue to engage towards the best possible preparation for the Ministerial Conference.

7. Morocco

My delegation endorses the African Group statement delivered by Botswana and would like to give additional comments.

We thank the Director-General as well as the Chairs of Negotiating Groups for their valuable reports. We also thank the Secretariat for their hard work.

The economy and trade are threatened because of not only the ongoing protectionist measures but also several factors such as currently the Coronavirus which could have serious effects particularly for the developing countries with limited capacities. Some are already predicting that the global economic growth will fall from 3% to 1.5% in 2020 with severe impact on vulnerable economies as I said before.

In this context, the challenges that the WTO is facing are monumental while all of us recognize that there are things that can be done in the WTO that cannot be done unilaterally, bilaterally or regionally. It is therefore in our common interest to engage fully and constructively in order to convene at MC12 and reach a meaningful and concrete outcome. What could this meaningful and concrete outcome be like? The responses are several, but let us recognize that:

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- A critical mass of Members are insisting as we heard this morning on the priority of adjusting domestic support's programs in agriculture, this should be taken as major element for MC12.
 - Almost all concerned Members are fully engaged in the discussion on fisheries subsidies within our view an obligation to conclude.
 - Almost all Members plead for an acceptable solution by consensus regarding the Appellate Body, while preserving its fundamental characteristics.

Morocco remains committed in favour of transparent, inclusive, equitable and relevant multilateral trade system.

- Concerning transparency, my country has submitted last year its notification on fisheries subsidies to encourage other Members to do so.
- About inclusivity, my delegation will spare no effort to contribute in a constructive manner in order to move forward.
- As for equity, we understand that this principle should go hand in hand with pragmatism in order to reach a consensus. With this spirit, concerning fisheries, my delegation has proposed a text on overcapacity and overfishing to bridge the gaps. We have shown flexibility in this respect. However, we are insisting on the necessity of focusing the disciplines mainly on the large-scale industrial fisheries. We insist also on the necessity to avoid extreme positions such as so-called "S&DT case by case" or any differentiation based on irrelevant criterion.
- Regarding the relevance of our multilateral trade system, we are of view that its updating should be undertaken by improving the understanding. In addition, any step should be taken based on the consensus; hence from a win-win perspective. In this respect, we would like to recall that Morocco is organizing on 17 March 2020 an African conference on e-commerce which hopefully the Members and the Director-General could come given the circumstances.

We assure Members and the Director-General of our support in order to reach a meaningful outcome at MC12.

8. Canada (Ottawa Group)

Ottawa Group Ministers met on the margins of the World Economic Forum in Davos and underlined their common commitment to strengthening the WTO and ensuring its continued relevance. Ministers agreed on the importance of achieving a meaningful outcome on fisheries subsidies by MC12. They also noted the opportunity at MC12 to demonstrate progress on the joint statement initiatives, including on e-commerce and investment facilitation for development.

Ministers also discussed the importance of transparency, including ensuring notification requirements are followed. Finally, the Ottawa Group Ministers expressed disappointment that the Appellate Body had ceased to fully function and agreed that the only way to resolve the situation will be through constructive discussions involving all WTO Members. They also noted that there are options available to those members interested in preserving their rights in the interim and discussed the possibility of a multi-party interim appeal-arbitration arrangement. Ottawa Group Ministers also discussed enhancing engagement with business communities on the importance of a well-functioning WTO.

On the various initiatives discussed in the Ottawa Group, Brazil circulated in mid-February a revised version of the proposal it has been coordinating on strengthening the consultative function of the SPS Committee. The document will be discussed in the next informal SPS Committee meeting on 17 March.

On Rules of Origin, the co-sponsors presented a revised version of the proposal at an informal committee meeting in December last year. At the meeting, no WTO Member raised any objection to

the proposal. The co-sponsors decided to put the proposal for adoption on the agenda of the next formal meeting of the Committee on Rules of Origin on 5 March 2020.

With respect to fisheries subsidy negotiations, the Group has continued to share perspectives on how to reach a successful conclusion to these negotiations, and treat the group as a "sounding board" for ideas.

9. Canada

Canada is pleased that the two WTO moratoria were extended to MC12, but Canada trusts that Members can agree to further extend the two moratoria beyond MC12. Renewing both moratoria would help ensure predictability of the system and increase certainty for Members, businesses and stakeholders.

On the agriculture negotiations, Canada welcomes the report from Ambassador Ford in JOB/AG/180 and his efforts to advance the discussions. In our view, the report accurately reflects the state of play across all areas under discussion and provides directions for Members to intensify their work to develop an outcome on agriculture. For our part, Canada will continue to play a constructive role and plans to bring forward pragmatic proposals across the negotiations as we approach MC12. In our view, the framework for negotiations on domestic support that was agreed by 19 Members at the Cairns Group Ministerial meeting in January of this year should form the basis of an outcome on domestic support. In addition, Members should take steps forward to increase transparency in agriculture. Such outcomes would place the agriculture negotiations on a solid footing moving past MC12.

In the fisheries subsidies negotiations, Canada recently tabled a proposal on overfishing and overcapacity that offers a middle ground solution that is simple but would also produce a meaningful result. Recent discussions have been constructive, but we must intensify our dialogue on this discipline, as well as on IUU fishing and Overfished stocks, to produce outcomes that we can all get behind by MC12.

Canada would also like to thank the three co-conveners of the JSI on e-commerce, and the facilitators of the focus groups, for their leadership and efforts to further advance these discussions. Canada is pleased with the new pace and is confident that we will have consolidated text by MC12.

On services domestic regulation, Canada is pleased with the level of ambition expressed through the scheduling process. Canada encourages all participating and interested Members to submit draft indicative schedules. Canada is looking forward to work with all interested Members to resolve outstanding issues and ensure we have a result at MC12.

We are pleased that the supporters of the Buenos Aires Declaration on Trade and Women's Economic Empowerment are working on defining next steps in our work on this important topic. We look forward to achieving new momentum at MC12 and to meaningfully advancing this work.

We are also pleased to be working with likeminded partners in developing a ministerial statement on trade and environmental sustainability that will be launched at MC12. We will be ramping up our outreach efforts shortly and look forward to your support.

The MSME Informal Working Group has made great progress in the last few months. Canada is fully committed to the multilateralization of this discussion, and I encourage those members not yet part of the Informal Working Group to reach out to Uruguay, our coordinator, or to the other Working Group members to discuss how to participate.

Canada would like to thank Brazil and the United States for their efforts in spearheading a multilateral Ministerial Declaration on SPS measures for endorsement at MC12. Such a declaration would highlight the benefits that have accrued to all WTO Members since the SPS Agreement's adoption in 1995 and will reaffirm the continuing importance of adhering to its obligations. The intent of the declaration will not be to launch negotiations on new SPS obligations or to reopen the SPS Agreement, but rather to commit to future work to enhance the implementation of the SPS Agreement in light of the evolution of the global agricultural landscape. The Ministerial Declaration will be presented at the upcoming SPS Committee in March and we are hopeful that this draft statement will garner support from the Membership.

Finally, we are very concerned by the Appellate Body's inability to hear appeals due to the appointment blockage. We value the solution-oriented dialogue that has taken place between interested Members. We remain open to engaging in constructive discussions with Members.

Canada will continue to contribute to the establishment of a multi-party interim appeal arbitration arrangement amongst Members wanting to preserve their rights to binding two-stage adjudication between them.

10. Angola

I would like to thank the Director-General and the Chairs of the Negotiations Groups for their comprehensive and informative report on the state of negotiations on priority issues.

Angola aligns itself with the statements made by Chad, Jamaica and Botswana on behalf of the LDCs, the ACP and the African Group, respectively.

My delegation therefore supports any proposal for a reform of the multilateral trading system on the condition that this reform reinforces the objective of "raising standards of living of our population everywhere" as set out on preamble of Marrakesh Agreement. Indeed, any reform that allows the development of our countries deserves our support.

With regard to the DDA negotiations, allow us to highlight the importance of S&DT, which must be an integral part of any future multilateral outcomes and be precise, effective and operational to enable developing countries, particularly LDCs, to effectively address their development needs.

We agree with those Members that expressed the view that negotiations should remain guided by the mandates of Ministers who have been constantly explicit in several issues and maintained that S&DT must be an integral part of all WTO Agreements, as well as, that future multilateral outcomes should be operationally effective so as to enable developing countries, in particular LDCs, to succeed on responding to their development challenges. The framework for trade reforms must continue to support the economic development needs including technical assistance requirements of all Members.

Domestic support continues to be a priority in negotiations and are needed to prevent subsidies from distorting agricultural trade. We need to reduce drastically or, at least, eliminate subsidies that distort agricultural trade. The Aggregate Measurement of Support (AMS) is the most important component of this distortion and needs to be eliminated.

Access to markets, particularly in the context of unilateral preferences, is also of paramount importance in achieving the objectives of a more diversified economy, including in the trade sector (export diversification). We congratulate the Members that have been granting preferences in a rational way and without applying technical barriers.

On cotton, we consider unacceptable to continue to observe that the levels of domestic support provided to it, remain high, and they continue to create distortion to cotton trade in the international market so, we will continue to support C-4 and other Members' positions in this area, mainly for the fact that Angola is revitalising its industry sector including cotton production to supply national emerging textiles factories.

On the fishery cluster, we are concerned about ideas or methods that will place the sovereign rights of our coastal and island nations in peril/jeopardy while aiming at prohibiting subsidies that contribute to depletion of our resources and might downgrade the objectives of SDG 14.6. Those methods are also prejudicial as they highlight special and differential treatment targeting our food security and sustainable development of our fisheries industry that is mainly artisanal and of subsistence. We cannot accept subsidies disciplines that make it very difficult for us to support our fishery communities. Angola agrees to preserve ACP coastal state determination of the IUU fishing violations, overfishing and overcapacity in waters under their jurisdiction. In this line, we consider essential to fulfil the mandate of the Ministers to conclude the negotiations on fisheries subsidies.

We all can see that the current impasse in the appointment of Appellate Body members is a matter of concern as it weakens the multilateral trading system. The preservation of the rules-based system

requires the quickest resolution of the deadlock over the selection of the Appellate Body members and the issues that the Dispute Settlement Body is currently facing. The tenuous light brought to this issue by some countries needs further discussion.

Finally, we appeal to all Members to continue a frank and constructive dialogue, and not to lose the focus that "developing countries' needs and interests" should always be at the heart of this Round.

11. Iceland

Fisheries

Regarding the negotiations on fisheries subsidies – Iceland considers it an absolute priority that the Membership concludes an agreement in time for the Ministerial meeting in Nur-Sultan. Once again, we should not forget that the WTO was mandated to conclude an agreement delivering on Sustainable Development Goal 14.6 by the end of 2019. Unfortunately, we cannot turn back the clock, and the deadline is already behind us.

There have been positive developments in the last weeks – and we thank Ambassador Wills for his constructive efforts. Iceland remains engaged to reach our common goal. We need a meaningful end-product that answers the mandate that we are working towards fulfilling. We need an agreement that is focused and answers the core concerns – that is to prohibit subsidies that contribute to overcapacity and overfishing.

WTO is not on fisheries management organization, and our agreement should target subsidies. Again, Ambassador Wills has our full support and we remain confident that under his leadership we will achieve the progress needed to reach a conclusion before the MC12.

Trade and Women's Economic Empowerment

I would like to give you an update on the Buenos Aires Declaration on Trade and Women's Economic Empowerment. As set out in the Declaration the Trade Impact Group will report back on the work done under the Declaration at the MC12 in Nur-Sultan. A publication with these results is being prepared.

We hope to see the issue of Trade and Women's Economic Empowerment gaining more visibility in the WTO. The co-chairs of the Trade Impact Group held a meeting for WTO members on the review of the Buenos Aires Declaration on 5 February 2020. In the meeting, support was given to the work established under the Buenos Aires Declaration. Further, Members expressed support for the establishment of a framework for following-up the work of the Buenos Aires Declaration beyond MC12.

An informal group of WTO Members is currently developing a proposal for such a framework focusing on trade and Women's Economic Empowerment. The meetings are open to all Members that wish to contribute or observe the development.

12. Jamaica (ACP)

I would, on behalf of the ACP Group, convey my thanks to the Director-General and the Chairs of the Negotiating Groups for their reports.

The ACP Group wishes to begin by identifying what has unfortunately become the practice of scheduling negotiation meetings at the same time as the Informal TNC and the General Council meetings. This raises serious concerns for the ACP Group due to the small size of our delegations which makes it impossible to cover these meetings simultaneously. Our understanding is that this is not the first time such concern has been raised. We call on the Director-General and the Chair of the General Council to address this issue in a time sensitive manner and with the seriousness it deserves. The reality is that we have ACP delegations in Geneva with only one delegate covering all WTO issues. This organization should accommodate these inescapable realities if it is to be regarded as inclusive.

MC12 is only 3 months away. Yet, significant divergences exist among Members on key issues. As we advance our preparation for the Conference, we will have to agree on areas of priority and doable

elements. MC12 provides an opportunity for the WTO to exhibit its relevance and reassure the Membership of its ability to produce inclusive outcomes for the benefit of all. At the same time, while MC12 will help to shape our future engagement in the WTO, its results should be seen as a means to an end and not an end in itself. These are difficult times which require diplomacy, flexibility and accommodation.

For us to achieve a progressive and balanced package in Nur-Sultan, the WTO must deliver fisheries subsidies, agriculture and development.

Importantly, also, we must, in the shortest time possible, restore the full functioning of the Appellate Body to preserve the WTO's dispute settlement mechanism as embodied by the DSU. This should begin with the urgent unblocking of appointments to the Appellate Body.

On fisheries subsidies, the ACP Group remains committed to a high ambition outcome in line with the mandate of SDG 14.6. Our legitimate expectation is for a comprehensive outcome on Fisheries subsidies, in Nur-Sultan, one which covers all the pillars including S&DT. We stand ready to work towards that goal.

Special and Differential Treatment remains an important issue for Members of the ACP Group. We support the reissuing of the G90 proposals for further discussion in the CTD SS. We should continue working hard to find a constructive way forward. Addressing the challenges faced by developing countries and LDCs is becoming more urgent in order to enable the social and economic transformation required to achieve the Sustainable Development Goals and to ensure that no one is left behind. The ACP Group believes that the next Ministerial Conference should deliver on this very critical issue.

On Agriculture, the ACP Group wishes to thank the Chair for his document on the elements and processes for a possible outcome at MC12. Agriculture is of fundamental importance for our members. Correcting the imbalance in the Agreement on Agriculture and addressing the impact of trade distorting support on our farmers and societies remain a priority for the ACP Group. So, too, is the need to fulfil our Ministerial mandates on PSH and SSM. We are in the process of preparing a submission to contribute to this endeavour. Further, the ACP Group expresses its support for the efforts of the C-4 on cotton.

Moving to the amorphous question of WTO reform, the ACP Group convened a high-level retreat earlier this year during which we had a reflection on the issue. The ACP Group concluded that WTO Reform is not new. The Uruguay Round was predicated on the need for reforms although it resulted in deepening the imbalances faced by developing countries and LDCs. Again, the ACP Group supported reform as outlined in the Doha Declaration. Unfortunately, we are yet to implement the Doha mandate almost 20 years later. The ACP Group is not opposed to discussions on Reform. However, any such discussion be structured, holds development at its core, and be inclusive, transparent and fair. In this regard, we are concerned with the fragmented and largely opaque process through which these discussions are being pursued, especially given the small size of our delegations. The Group stands ready to play its role in this process.

Regarding e-commerce, the ACP Group continues to have substantial interest in the E-commerce Work Programme, particularly as it relates to its development dimension. The ACP Group notes the convening of a workshop to look at different aspects of the moratorium. In fulfilment of the December decision, we would wish to indicate that in addition to the three issues itemized in the decision on the Work Programme, we also would want to have discussions on the treatment of other duties and charges; any discriminatory treatment between physically traded goods and the digital version of those goods; the consequences of the digital divide; costs to developing country and LDC consumers and businesses and the application of internal taxes on electronic transmissions.

In concluding, the ACP Group wishes to reiterate its commitment to the preservation of an inclusive, transparent, predictable and rules-based multilateral trading system with the WTO as its core institution. While not discounting the challenges we face, we have to collectively redouble our efforts to ensure that the WTO deliver on the trade and development goals of all its Members, especially the most vulnerable among us.

We continue to reiterate that no one should be left behind.

13. Montenegro

At the outset, I would like to welcome the progress made in the negotiations on illegal fishing subsidies. I hope that the negotiations in parallel with this meeting, and lasting until Friday, will bring new convergence and that we will continue to move towards a common understanding of the need to limit illegal subsidies to protect and preserve the Fisheries Fund. We want to reiterate our position that our fleet is old and needs to be rebuilt, but in a way that will not bring in additional fish supplies. We also believe that specific and different treatment in this area should be considered depending on the specificities of the country and the situation in the sector.

Montenegro supports the extension of the moratorium on the introduction of customs duties on e-commerce. We believe that extending the moratorium will support business, especially MSME, with the necessary predictability and further promotion of digital commerce growth. We commend work on the e-commerce session on finalising a consolidated text for the future work for MC12.

As a signatory to the Joint Declaration on the Domestic Regulation, Montenegro reaffirms our commitment to moving forward on unresolved issues and hopes to achieve results that will allow us to improve the political environment for trade in services.

Montenegro is a beneficiary of the WTO and a framework of rules that help promote and protect an open global trading system, and we join the members concerned about the state of the WTO's underlying mechanism, which is its ability to effectively resolve disputes.

In conclusion, let me emphasize the need of continue our work in good faith and shared strong commitment to working together to deliver meaningful outcomes at MC12.

14. China

At the outset, I would like to take this opportunity to thank all those Members who have provided generous support to China in fighting against the outbreak of the coronavirus disease. China is committed to working with all others to uphold global public health security.

Back to our business. We should bear in mind that, the multilateral trading system is faced with multiple unprecedented challenges, including the paralysis of the Appellate Body. A positive and successful Ministerial is much needed. To make it happen, we should keep a reasonable level of ambition for the conference. And I tend to agree to what Director General just suggested: a "substance-driven" approach should be taken and our limited resources should be concentrated on what is achievable at MC12. We should spare no efforts in Geneva to wrap up the deliverables so as not to ask our Ministers to engage in too much detailed negotiations in Nur-Sultan.

Undoubtedly, the issue of fisheries subsidies is a touchstone of a successful Ministerial, and should be the top priority for MC12. And no matter what will be the final approach of disciplines, an indispensable element of a meaningful outcome must include significant reductions on current fishing subsidies. All major subsidizers shall commit to make substantial reductions. In this regard, Norway has set a good example for us.

There is one issue I would like to clarify that, fish resources in the high seas are in the possession of all members. We can't simply presume that all fishing activities in the high seas contribute to overcapacity or overfishing. We must bear in mind that the issue of the high seas fishing is very complicated. Many members, including China, have serious concerns on the RFMO quota allocation. It will be difficult for us to accept any additional disciplines on high seas on the top of such disadvantageous quota allocation. For China, high seas fishing is very important to the nutrition of 1.4 billion people. A blanket ban on subsidies for high seas fishing is beyond our mandate and unreasonable by itself.

For MC12, outcomes are also touchable for some joint statement initiatives (JSIs), among which, investment facilitation for development is currently in a good shape. We are pleased to see the tremendous progress in the past three years. Particularly, more and more members are interested and actively engaging.

China will also work closely with others to make breakthroughs on e-commerce, MSMEs, services domestic regulations, etc. While we are advancing those initiatives in a pro-multilateral approach,

we should never forget our commitment to keeping the process open, inclusive and transparent to all.

On the broader reform of the WTO, in China's view, the reform should reinforce the centrality of the multilateral trading system in international trade liberalization and facilitation. Macroeconomic issues, such as market practices, industrial policies or economic models, are by no means within the functions or capabilities of the WTO as stated in Marrakesh Agreement. The moon is simply too far to reach.

15. Mexico

Although I am a recent arrival in this city, I have been involved in multilateral topics since the start of the Doha Round, and since then there have been very few opportunities for reaching agreements of major impact and importance.

The forthcoming Ministerial Conference (MC12) once again gives us a great opportunity to show that despite differences we are able to reach agreements, not only in terms of negotiations but also, as have been clearly indicated, in a ministerial document that expresses our vision of our organization now and in the future.

With regard to negotiations, the priorities and mandate at the highest level relate to fisheries subsidies. We are looking forward to the text to be presented by Ambassador Wills, which could identify differences and give rise to agreements that make the presence of high-level officials in Geneva relevant before MC12.

This would provide a template for Ministers to have a negotiating scenario in Nur-Sultan that is both reasonable and possible.

In agriculture, it is encouraging that there is renewed interest in moving forward in the negotiations on domestic support, which is reflected in the discussions that some Members are holding to seek innovative options for reducing such support. In this regard, we agree that all of us who are granting subsidies must assume a proportionate amount of responsibility for this issue of our making.

With regard to joint initiatives, we welcome the fact that the one on domestic regulation in services is at a very advanced stage. This gives us clear indications that we could reach an agreement in Nur-Sultan. However, more Members need to present their draft schedules of commitments. With regard to electronic commerce and facilitation of investment, we are satisfied with the work done and the progress made. We trust that concrete outcomes will be achieved at MC12.

For all the above and other topics, we only have three months to go. At all costs we need to avoid MC12 becoming another meeting at which ministers are faced with a full and complex negotiating agenda. This has occurred at previous ministerial meetings and we ended up with unsatisfactory outcomes.

Understandably, we would all like to have the most perfect and ambitious agreements possible. However, in order to create a multilateral consensus we must act with flexibility and pragmatism, taking counterparties into consideration, otherwise we will continue reaching outcomes below what is expected of this organization.

We all have the distinction of representing our economies *vis-à-vis* the WTO. This privilege entails the primary responsibility of safeguarding the interests of those we represent but it inevitably implies contributing to strengthening the tasks and objectives of the WTO.

It is the shared responsibility of us all to help bolster the relevance of this institution, built with the talent, tenacity and vision of those who came before us. It is time for us to contribute towards preserving and reforming what is relevant. The upcoming MC12 is a good opportunity for doing our utmost in terms of effort and political will, showing that the cooperation and trust on which the WTO is built will continue to strengthen international economic governance.

Lastly, it should be emphasized that this heads of delegation meeting is, regrettably, the first in the entire history of the WTO where the dispute settlement system does not have a functioning Appellate Body.

Our country negotiated and agreed the outcomes of the Uruguay Round as a balance between rights and obligations, and one of these rights is that our private sector could have recourse to a second body for resolving disputes.

Even though Mexico and other Members are working on finding an interim option, we must not lose sight of the primary objective to restore the functioning of the Appellate Body. On no account must what we are experiencing today become "our new reality". It will be important that energy is found for the constructive work needed to find an effective and reasonable solution to the current crisis.

16. Japan

This is the first time for me to attend the TNC/HODs meeting as Ambassador of Japan. I am pleased to join the discussion at this very important juncture for the WTO. MC12 is fast approaching, and we must accelerate our efforts to achieve meaningful outcomes at MC12.

For the multilateral negotiation function of the WTO, much depends on the ongoing fisheries subsidies negotiation. We have not made much progress since the last TNC/HODs meeting in December. As Japan repeatedly said, in order to agree upon a meaningful outcome at MC12, we need to stick firmly to our mandate; that is, to prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, and eliminate subsidies that contribute to IUU fishing. In line with this mandate, Japan and other co-sponsors submitted and revised a joint proposal that prohibits only harmful subsidies, while allowing non-harmful subsidies with proper fisheries management. In this regard, we would like to stress that when shaping our new discipline we have to take into account the reality of fisheries, including fisheries management for sustainability, since this reality is deeply linked to the effects of subsidies. Japan will continue consultations with all Members going forward.

On agriculture, we appreciate the efforts by the Chair to advance discussion in a realistic and progressive manner from the mid- to long-term perspective. Japan believes it essential to aim for a balanced outcome in terms of the broad issues for agriculture. We will continue to actively take part in the discussion.

Japan very much appreciates progress in the areas of joint statement initiatives (JSIs), and we believe these JSIs will add important values to MC12 and contribute to its success.

In particular, we welcome good progress on e-commerce negotiations. In order to develop a consolidated negotiating text, as agreed by Ministers at Davos, and to achieve substantial progress in the negotiations by MC12, we should further intensify our efforts through active and dedicated discussions. We also reiterate the importance of maintaining the current multilateral practice of the customs duties moratorium. Japan stands ready to make further contributions to discussion on the moratorium in order to allow our Ministers to reach consensus at MC12.

As for the joint statement initiative on investment facilitation, Japan would like to contribute to formulating advanced rules in this area based on our experience of concluding high-quality bilateral investment treaties. We also welcome progress in services domestic regulations, and we will continue to contribute to the discussion in the aim of agreeing on the reference paper by MC12.

There are also other issues that we place much importance on. Japan and many other Members have repeatedly stressed the need to strengthen international rules on industrial subsidies. This January, the trade ministers of the EU, the US and Japan discussed ways to strengthen existing WTO rules and agreed on specific measures for that purpose. Japan continues to emphasize the need to address market-distorting government supports and subsidies by taking further steps to eliminate them, including through coordinated actions with like-minded Members.

Transparency and notification is an important part of the WTO reform. We are working on revising the proposal with co-sponsors to garner wider support and reach consensus at the WTO at the earliest possible juncture.

Last but not least, I would like to touch upon the Appellate Body issue. No one denies the urgent need to restore the proper functioning of the dispute settlement system. Notwithstanding this common recognition, it appears we are losing momentum, at least for now.

Our priority has always been and continues to be to find a long-lasting solution to the Appellate Body matter. The Appellate Body was established by WTO Members acting as the DSB. It is the Members' responsibility as the creators of the Appellate Body to resolve the issues associated with it. Building on the groundwork we have done so far through the Walker Process, we should focus our next step on outstanding issues, including the fundamental ones, however difficult they may be to address.

To conclude, Japan will continue to work hard to achieve meaningful outcomes at MC12. I look forward to working with you all.

17. United States

I would like to use today's meeting to highlight the importance of meaningful WTO reform to the United States given the publication this past weekend of the US President's Trade Policy Agenda. This important report provides direct guidance to me and the rest of the Executive Branch in the US Government on trade policy priorities.

The WTO and WTO reform feature prominently in the Agenda. This is a significant development and demonstrates the attention paid to this institution at the highest levels of our Government.

The Trade Agenda highlights current shortcomings of the WTO, including its inability to keep pace with changing global realities over the past 25 years and to negotiate new rules in response. These changing realities include the rise of large emerging economies, the growth of non-market practices and policies, and technological advances fostered by the evolution of the Internet.

Equally important, the Agenda also sets out some of the reforms the United States believes would bring about a WTO that can deliver on its initial promises.

These reforms include reaffirming our original mandate to promote trade liberalization based on free and fair competition through the adoption of market-based policies across the WTO's Membership.

We are also focused on reform that will repair the WTO's negotiating function by addressing imbalances created by outdated special and differential treatment for advanced economies as well as improve transparency and compliance with existing rules to ensure we can negotiate based on the most up-to-date information.

We have already advanced proposals in these areas. Members are familiar with our proposals on differentiation and transparency, and tomorrow I will introduce a draft General Council Decision on the importance of market-oriented conditions to the world trading system.

These are all essential building blocks that would allow the WTO finally to move forward with some important negotiating objectives – reducing tariff disparities that have been left unaddressed since the Uruguay Round; creating new rules to respond to trade-distorting industrial subsidies; and finding a means to alleviate forced technology transfer and other deeply concerning practices.

Despite the serious challenges facing the WTO, the United States continues to value this institution and we are working to find solutions.

I also want to spend some time today emphasizing the critical state of the Fisheries Subsidies negotiations. It is incumbent on all of us to recognize that the negotiations are in serious trouble. With just three short months to Nur-Sultan, the WTO remains far from delivering on what Ministers directed us to do at MC11 – that is, to reach an "agreement on comprehensive and effective disciplines."

The impasse we face is both significant and familiar here at the WTO:

- On the one hand, certain Members are working to create meaningful new prohibitions on fisheries subsidies that will actually change the way governments have been irresponsibly providing government support over the years; and

- On the other hand, another group of Members is fiercely defending its right to continue to subsidize – or to develop subsidies policies in the future – and advocating little, if any, meaningful change to the WTO rules.

If we want the WTO to be taken seriously, we must produce fisheries subsidies rules that are strong and clear and that will meaningfully change the status quo that has led to the current, dire situation in which nearly 90 per cent of the world's fish stocks are "fully exploited, overexploited or entirely depleted."

Lastly, I wanted to echo the comments made by Brazil and Canada concerning a new SPS initiative, and that it is our shared intention to seek a ministerial declaration at MC12 reaffirming the vital role of the SPS Agreement and calling for its enhanced implementation. We appreciate our collaboration on this effort and welcome the support of other Members.

18. New Zealand

We have three months before Ministers gather at MC12. I need not underscore the importance of MC12 in demonstrating that this organisation can still function and deliver, despite the global and systemic challenges facing the multilateral trading system.

I will briefly outline New Zealand's multilateral priorities for MC12. New Zealand's key multilateral priorities for MC12 are securing a concluded outcome on fisheries subsidies in fulfilment of SDG 14.6, reaching an outcome on agricultural domestic support and renewal of the moratoria.

Conclusion of fisheries subsidies remains our number one priority. The time for repetitive debates is over. We must negotiate landing zones now. This includes prohibitions on subsidies contributing to overfishing and overcapacity which are the most harmful subsidies. We fully support the Chair's efforts in this regard, and will continue to take a constructive and pragmatic approach to ensuring that we fulfil SDG 14.6.

On agriculture, an outcome at MC12 is essential. We failed to do so at MC11 and cannot afford to do so again. As Members will know, reducing trade distorting domestic support is a key priority for New Zealand and a large number of Members including developing Members. We welcome Ambassador Ford's recent report setting out potential elements and processes for an agricultural outcome at MC12. On trade distorting domestic support we welcome the Chair's recommendation for Members to fully engage the proposals on the table and agree "on a shared objective towards capping and reducing trade distorting domestic support".

We also continue to enthusiastically support outcomes for JSIs at MC12 and beyond, and emerging work on trade and environment. MC12 however must deliver substantive multilateral outcomes.

Finally, we must continue and strengthen our efforts to restoring a fully functioning dispute settlement system without delay.

19. Uruguay (Informal Working Group on MSMEs)

I make this statement as Coordinator of the Informal Working Group on MSMEs.

The Informal Working Group has hit the ground running in 2020 as we get ready for MC12. The Group is working on its draft ministerial package which will include a general Ministerial Declaration and several non-binding texts on specific issues.

Since MC11, the Group has worked towards developing concrete outcomes linked to MSMEs, which I think are evident in the group's draft ministerial package. We are ready to show that MSMEs truly matter for the WTO and that the WTO can matter for MSMEs. From supporting the publication of relevant and verified trade information, to promoting MSMEs' inclusion in trade rule-making, the Informal Working Group is actively looking for ways to support the world's largest business demographic to trade.

Our efforts aim at making trade rules work for MSMEs and promote MSME-friendly implementation of trade agreements. Another important part of our work is to develop concrete tools to help MSMEs access information, through the development of a MSMEs platform and the Global Trade Helpdesk,

for example. Our approach is anchored in the sharing of good practices and the development of concrete tools.

The Group held its first open-ended meeting of the year on 25 February. A series of informal consultations will be held in the coming weeks to finetune language prior to our next open-ended meeting on 26 March.

Our aim is to stabilize our ministerial package by the end of March to have time to build further support for our initiative before MC12. The more Members we have on board, the more successful we will be in helping our MSMEs. I hope that many of you will join us in this endeavour in the months ahead. Please come to our meetings and do not hesitate to reach out to me or to Members of this Group to better understand the spirit in which we work. The dates of our next open-ended meetings are: 26 March, 29-30 April and 18-19 May.

Making trade work for MSMEs means making trade work for development and for our economies. We count on your support in the lead up to MC12 – and beyond. Small business is a big issue.

20. Uruguay

Agriculture

Uruguay would like to thank Ambassador Ford for his report and his ongoing efforts to ensure progress in the agriculture negotiations.

A little over three months away from the Twelfth Ministerial Conference, we have a lot of work to do to bring positions closer together and achieve a tangible outcome that is needed on this subject of vital importance for the vast majority of WTO Members.

The outcome to which we aspire can include improvements regarding transparency in relation to the different pillars, but primarily it should include unequivocal steps in the direction of the long-term goal established in the preamble and Article 20 of the Agreement on Agriculture, to establish a fair and market-oriented agricultural trading system by means of substantial progressive reduction in support and protection.

In this regard, Uruguay invites all Members to work together on establishing specific arrangements that allow the objective proposed in document JOB/AG/177 to be achieved, namely to reducing the sum of trade-distorting domestic support entitlements by at least half by 2030.

Furthermore, we invite them to work on establishing the basis for negotiations aimed at gradually and substantively removing or reducing the considerable obstacles to market access for agricultural products, and to make a commitment to apply only sanitary and phytosanitary measures that are scientifically justified and not more trade-restrictive than necessary to fulfil a legitimate objective.

Two consecutive Ministerial Conferences without outcomes in agriculture would be a very poor indicator of the state of health of this organization.

Appellate Body

With regard to the situation of the Appellate Body, it is a source of concern for us that one the fundamental pillars of this Organization cannot function properly, a situation that has systemic consequences and that will be especially detrimental to the smallest economies, should it continue over a period of time.

Nevertheless, and without losing sight of this objective, we are working with other Members interested in a multi-party interim appeal arbitration arrangement to try to alleviate this situation. This is a solution that is not perfect but seeks to replicate and in some ways improve on the second arbitration body. In this regard, we invite other interested Members to support this initiative which we regard as sending an important political signal on the systemic level.

21. India

We thank the Director-General for convening this informal meeting of the TNC and for his report and assessment as the Chair of the TNC. We also thank him for the anti-Corona virus measures implemented by the WTO for preventing its spread and suggest that Members consider adopting the traditional Indian greeting of Namaste instead of shaking hands, without a detailed discussion on the "why" question related to the Corona virus spread. We also thank the Chairs of the Negotiating Groups on Rules, Agriculture and Development for their reports.

State of Play

The collapse of the Appellate Body, the attack on the principles that we have held dear, like non-discrimination and special and differential treatment, have cast a pall of hopelessness on the WTO. MC12, provides us an opportunity to address these grave challenges, if we can only get our act together.

Appellate Body

As a major user of the WTO's dispute settlement system and with four appeals involving India awaiting adjudication by the Appellate Body, we are gravely concerned. We believe that the resolution of the Appellate Body crisis deserves the utmost priority and it should precede all other reforms. We would, therefore, suggest that the US consider the solutions developed under the Walker Process seriously unless they have better alternatives to offer.

Fisheries Subsidies Negotiations

We must work rapidly to conclude the negotiations on ending harmful fisheries subsidies. Disciplines should focus on distant water and large-scale industrial fishing, provide exemption and carve outs for the needs of small and subsistence fishermen who operate in the territorial seas and EEZs and seek greater contribution from those who provide large subsidies, both in value and on per capita basis. We also need to quickly converge the various approaches for O&O on the table and start negotiating the consolidated text covering all pillars. Further, we need to be mindful that concluding this negotiation would be difficult without S&DT for developing countries who need it and for LDCs as agreed to by our Leaders in SDG 14.6 and by our Ministers at MC11. This is a very sensitive issue involving livelihood of millions of marginal fishermen and there could be nothing more unequal than an equal discipline for unequals. Without appropriate S&DT, these negotiations would be doomed to end in a deadlock.

Agriculture

There has been a recent push, including in the Chair's Report of 14 February 2020, for advancement of negotiations on domestic support with the narrative of capping and reducing all forms of trade and production distorting domestic support. Our views on this issue are the following:

- First, we are proponents of a sequential approach where FBT AMS entitlements are capped, reduced and eliminated first. Only once the playing field is levelled, should we have a discussion on disciplining other forms of domestic support. It needs to be kept in mind that FBT AMS is far more trade distorting than de minimis entitlements and reasons for this are clear. FBT AMS does not have any product specific limitations. All FBT AMS of a Member can be channelled into a single product, say cotton, thereby greatly distorting global trade in cotton. Further, members with FBT AMS entitlements can provide domestic support well over 10% of the value of production. In other words, the absence of a ceiling and flexibility of its application, make FBT AMS hugely more trade distorting than de minimis and, therefore, it needs to be disciplined on priority.
- Second, I would like to emphasize that Article 6.2 support is meant for low-income and resource-poor farmers in developing countries. This is a S&DT flexibility to support rural development, food and livelihood security of marginal farmers, therefore, by its very definition, it is minimally trade distorting. Therefore, there can be no question of accepting any limits or reduction in Article 6.2 support.

- Third, is the issue of proportionality. It is high per capita support that has the most trade-distorting effect on the global markets as it incentivizes large scale commercial production mostly for exports. Equating subsidies of 200 dollars per capita that Indian farmers receive with 60,000 dollars per capita in many developed countries is absurd. Therefore, domestic support disciplines need to be guided by per capita numbers as well.

To our mind, other mandated issues in Agriculture, like the permanent solution on public stockholding for food security, for which we have missed deadlines, need to be prioritized for MC12.

Conclusion

To conclude, we are at a critical juncture, only a few months away from the MC12. The results we achieve at Nur-Sultan, especially on fisheries subsidy disciplines and resurrection of the Appellate Body, can increase the trust that the world reposes in the rules-based multilateral trading system. In order to succeed, we need to prioritize a balanced agenda that is inclusive and development-oriented. I hope that all delegations will seize this opportunity with both hands.

22. Norway

Ninety-eight days. That is what is available to us until Ministers gather in Nur-Sultan. Luckily, most of them are working days. We will need all of them. Today, I will devote my allotted time to fisheries subsidies - the most urgent negotiations in the lead up to MC12. We have been instructed to fix it and should have done so already.

Many have pointed to the importance of the fisheries subsidies negotiations for the credibility of the WTO. But the organization cannot negotiate any deal. Only the Members can do that. The responsibility rests with us. I would like to congratulate the Chair of the Negotiating Group for having initiated an intensified process.

Furthermore, the Chair has focused our attention on subsidies that contribute to overcapacity and overfishing. This is the most important part of the mandate. On this point, we still have a way to go. The goal line is in sight. It is time to start talking about what a possible solution may look like.

First of all: The solution has to be meaningful. It must pass "the red face test".

- A solution, which does not reduce the total amount of global subsidies, will not pass the test.
- A solution, which allows major subsidizers to continue as before, will not pass the test.
- A solution, which does not include clearly operationalized instructions to "eliminate" and to "prohibit", will not pass the test.

Secondly: The solution has to be balanced. Without balance, no agreement.

This is obvious. The million-dollar question is how we find that balance. Agreements are made on the basis of trade-offs. In this case, there are no trade-offs available between fisheries subsidies and other areas of negotiations. Nor should we look for such linkages. It would be a recipe for failure.

Finding trade-offs within the fisheries subsidies file is no easy task either. The primary beneficiaries of an agreement on fisheries subsidies are future generations. Future generations are unfortunately not represented at the negotiating table in the same way as those who worry about losing income due to reform of existing subsidy schemes.

When concessions in one area cannot easily be balanced by gains in another, how can you explain concessions made? The only way out is that everybody ends up contributing something. Then one party can defend its concessions by pointing out that the others are contributing too. If we cannot balance contributions with gain, we have to balance the contributions. Not in a numerical way, but politically.

It is time to realize that any proposal that foresees a major contribution from the others, while leaving some completely off the hook, will never achieve consensus. Major subsidizers should show

leadership and visibly cut subsidies, immediately or over a certain period. We will all have to contribute. Norway is ready to do its part.

Those who do not subsidize today but wish to subsidize in the future, will have to accept limitations to their policy space. Furthermore, we will all have to accept that our fisheries subsidies will be reviewed by our peers.

We have shifted gear. We are in continuous negotiations. This is indeed welcome. Now is the time to change our positions as well. If we continue to repeat old proposals and old talking points, we will not get anywhere. Not in Nur-Sultan. Not anytime. It is time to leave "my way" behind and start looking for "our way". Ninety-eight days - and counting.

23. Peru

The WTO plays a fundamental role in promoting growth in trade and resolving our disputes in this area, fostering better levels of development in its Members' economies. The incomplete state of the WTO's dispute settlement system is regrettable. In a constructive spirit, we have given our attention to all initiatives that have been implemented to resolve the current situation, and we are maintaining constant follow-up in the matter. We note that there appears to be growing convergence on the need to include the subject of better functioning of the Appellate Body on the Organization's agenda of pending issues. On the other hand, we note that the US Trade Representative has recently put forward a more complete view of the United States' concerns in the matter. Furthermore, we have been considering initiatives that some Members have been preparing among themselves in order to establish an interim appeal arbitration arrangement, and we welcome the fact that these initiatives are open to the whole membership. This development should not mean that the need to work on renewing the full capacity of the dispute settlement system as soon as possible is forgotten.

We have the collective responsibility to place viable proposals for the next Ministerial Conference before our ministers for consideration. With regard to the negotiations on fisheries subsidies, we welcome and support the efforts of Ambassador Wills to ensure that the process moves forward. Peru considers that the consolidated text that has been announced will be beneficial for focusing negotiations and is essential in relation to the holding of a meeting of senior officials before the Ministerial Conference. We reiterate the call for flexibility on the part of the membership. Peru maintains its commitment to the negotiations and will continue to participate constructively in the group of six Latin American countries (6LAT).

Secondly, Peru supports and is grateful for the notable efforts of Ambassador Deep Ford to ensure progress on one of the major pending issues of this Organization: the agriculture negotiations. We welcome his last report on the status of the negotiations and agree on the need to focus our work on the search for areas of convergence. The importance attached by the membership to substantial progressive reduction in trade-distorting domestic support is encouraging. Identifying shared principles and common tasks in relation to this pillar should draw us closer to achieving a concrete outcome in Nur-Sultan.

Thirdly, Peru trusts that at the Twelfth Ministerial Conference (MC12) the WTO will be able to reach an agreement to make the moratorium permanent on customs duties on electronic transmissions. Bilateral and regional trade agreements of a significant number of Members contain this provision on account of its importance and appropriateness.

In the area of joint initiatives, we see signs of progress that it will be important to emphasize in Nur-Sultan. For example, in the joint initiative on the national regulation of services, we recognize the good prospects that exist for achieving an outcome at the next Ministerial Conference. Moreover, Peru recognizes the progress achieved in the negotiations on e-commerce and will continue to support this important process.

We trust that the initiatives being put forward by the Informal Group on Micro, Small and Medium-Sized Enterprises will take practical shape in specific statements and in a work plan that facilitates more extensive and effective involvement for these enterprises in international trade.

Lastly, on the subject of trade and economic empowerment for women, we believe that this Organization can contribute towards achieving Sustainable Development Goal 5, which promotes the economic empowerment of millions of women who in many cases live in conditions of violence and

poverty, in my own country and certainly in many other countries too. Peru is committed to analysing with you all the best way to drive forward the work begun with the Buenos Aires Joint [Ministerial] Declaration on Trade and Women's Economic Empowerment in the post-MC12 context.

24. Egypt (NFIDCs except Peru)

I deliver this statement on behalf of the members of the NFIDCs group excluding the delegation of Peru.

Agriculture is a vital sector for our group, not only due to food security challenges facing our countries, but also for the intensive labour force involved in agriculture, which is the main employing sector in the majority of our group members. Therefore, the multi-functionality of agriculture makes it a matter of utmost importance for achieving food security, poverty alleviation, inclusive economic growth, as well as enhancing nutrition, human health and social stability.

In this regard, our group reiterates its strong interest in the continuation of agriculture negotiations, and remains committed to reforming the Agreement on Agriculture in line with Article 20 of the agreement and the Doha Development Agenda, pursuing the long-term objective of the agreement "to establish a fair and market oriented agricultural trading system".

However, caution should be made along the reform process, so that our group members would not be exposed to additional risks, or subject to further challenges. It would be feasible only if due consideration is given to the needs of our countries in the course of negotiations. This should go in line with the acknowledgement of our Ministers in Marrakesh Decision to the possible negative effects of the reform process on LDCs and NFIDCs, and their reaffirmation in paragraph 25 of Nairobi declaration to fully implement the Marrakesh decision on NFIDCs.

The Marrakesh decision recognized the need of LDCs and NFIDCs to improve their agricultural productivity and infrastructure. We emphasize that an important tool to pursue that objective is to keep an appropriate level of policy space enabling our countries to adopt the required policies to develop their agricultural sectors and meet their increasing domestic demand for food.

I would like hereby to share some statistics on the evolution of the NFIDCs status. In the first WTO list of NFIDCs in document JOB/AG/5 of 1996, 63 countries were listed. However, the number of NFIDCs increased in the following years to reach 76 countries in 2005, and 78 countries as per the tenth revision of the aforementioned document in 2012.

Despite the rising number of NFIDCs, the evolution of production and trade figures give negative signals. The share of NFIDCs in world food production has actually decreased from 5.1% in 2006 to 4.8% in 2016, in spite of the increase in the NFIDCs share in world population from 15.5% to 17% during the same period, resulting in an accelerated food trade deficit from 15 billion USD in 2006 to 32.5 billion USD in 2016. We believe that if such figures persist, it would be highly unlikely to meet our global commitment of ending poverty and hunger by 2030 as per SDGs 1 and 2 respectively.

Against this background, and in the light of the 2020 UN International Year of Planet Health stressing the multiple impacts of climate change, including desertification, hunger and mal nutrition, there is a dire need to address the concerns of the NFIDCs encumbered with rapidly growing, low- income populations, and to put Non-Trade Concerns - on the top of which is food security - at the heart of the Agreement on Agriculture reform process as per Article 20.

To conclude, I would like to reiterate the position a number of our group members expressed in the Joint Ministerial Statement released during MC11 that any outcome on agriculture negotiations should accord specific measures and flexibilities to NFIDCs, in order to effectively pursue our objectives of food security and sustainable development as recognized by 2030 Agenda within a rule-based multilateral trading system embodied in the WTO.

25. Egypt

I thank the Director-General and the Chairs of the Negotiating Groups for their reports, and would like to endorse the statement made by Botswana on behalf of the African Group.

We are very close to MC12 and there is an urgent need to work towards convergence on various issues, particularly ones where we have prior Ministerial mandates, in order to achieve concrete outcomes in Nur-Sultan and reinforce our rules-based system.

In this context, I would like to enumerate Egypt's priorities.

Agriculture

We support having a fair and development-oriented outcome in Nur-Sultan, addressing the imbalances of the Agreement on Agriculture and level the playing field in agriculture trade.

We would like to express our appreciation for the work done by H.E Ambassador Ford. We take good note of the increased commitment of Members since last November, however, we are still concerned that such engagement has not really led to more convergence, and that some issues of interest to developing countries have yet to receive the aspired level of engagement.

We stress, once again, that due consideration should be given to the flexibilities needed by NFIDCs and LDCs. We reiterate our position that the reduction of trade distorting domestic support, the conclusion of negotiations on a permanent solution to Public Stockholding for Food Security Purposes and the establishment of a Special Safeguard Mechanism are Egypt's priorities for MC12, in addition to accelerating negotiations on cotton with the view to address the various forms of trade distortions in this vital sector. In this vein, we welcome the Koudougou Ministerial Declaration on Cotton.

Fisheries Subsidies

We support Ambassador Wills call for developing a consolidated legal text for an agreement to curb harmful fisheries subsidies as soon as possible for our ministers to consider in Nur-Sultan, based on the mandate fixed under the Ministerial Decision from MC11, and the UN Sustainable Development Goal (14.6). We continue to believe that any future outcome should fully consider the needs of the developing countries for appropriate and effective special and differential treatment.

We also reiterate our position that disciplines on fisheries subsidies should be applied only to marine capture and large-scale industrial fisheries. Disciplines shall also apply to subsidies as defined in Article 1.1 and Article 2 of the Subsidies and Countervailing Measures Agreement.

Special & Differential Treatment and G-90 Agreement-Specific Proposals

We would like to thank Ambassador Khadra Hassan for her efforts to help resume discussions in the CTD SS. As we all know this is one of the long-standing issues on the agenda of our ministerial meetings for a very long time now. We urge our development partners to view the ten proposals by G-90 in the context that they aim to provide concrete means to contribute to the achievement of SDGs through socio-economic, industrial and structural transformation of LDCs and developing countries by operationalising the existing S&DT provisions in the WTO Agreements.

The G-90 proposals do not seek blanket, permanent, unconditional carve outs. On the contrary, they seek effective implementation of existing S&DT provisions, including through the provision of assured technical assistance and capacity building, policy space, commercially meaningful export opportunities, and implementation timelines. They seek to provide stability, predictability and transparency in the implementation of existing S&DT provisions.

WTO Reform

We believe discussions must continue in an inclusive and transparent manner towards a realistic reform agenda, encompassing the variant perspectives of all Members. Reform should promote development aspects in its core and consider the flexibilities, capacity building and technical cooperation needed by developing countries, while preserving the basic principles and fundamentals of the organization. We also urge the membership to take collective action to build confidence and provide an enabling environment for resolving the appellate body crisis and start immediately filling its vacancies.

To conclude, Egypt encourages all Members to work together on the progress of the WTO with keen emphasis on advancing the aspirations of developing countries, and intensify our efforts to make

sure that MC12 will be fit to serve the interests of all Members. We need also to be clear which issues will be moved to a post MC12 work program – and how.

26. Barbados (CARICOM)

This statement is being delivered on behalf of the Caribbean Community (CARICOM) Group.

We wish to express our gratitude for the reports presented by the Chairpersons of the Negotiating Groups and for the report on the Director-General's activities. The TNC and Heads of Delegations Meeting affords greater transparency to the WTO Membership, and the CARICOM Group therefore appreciates the convening of this Meeting.

Investment Facilitation

The Structured Discussions on Investment Facilitation for Development took on added significance for the CARICOM Group since four of our Members cosponsored the Joint Ministerial Statement in Shanghai in November 2019. Even prior to this, our Geneva-based delegations followed the discussions closely because, whether in the context of the Joint Statement Initiative, our own individual efforts or through the adoption of non-binding principles promulgated in other international fora, creating a more enabling domestic framework for investment is critical to the health of our economies. We are net seekers of investment, particularly investment that contributes to decent work, resilient infrastructure, the transfer of technology, know-how and best practices, as well as sound and sustainable levels of economic growth and development.

The CARICOM Group calls on the participants in the JSI to keep the process open to all Members and transparent. We also call on them to aim for a highly ambitious outcome on development, technical assistance and capacity building, bearing in mind that undertaking new commitments on investment facilitation, particularly binding rules, can be onerous for developing countries and LDCs. Some of our Members are also keenly aware that, notwithstanding the significant momentum that appears to be accompanying these Structured Discussions, an attendant level of momentum and dedication should also be applied to our work in areas where we have significant interests, such as in Agriculture. Therefore, we call for a balance of interests and momentum regarding the so-called new issues and the long-standing issues on the multilateral negotiating agenda.

Agriculture

In relation to Agriculture, allow me to express our gratitude to Ambassador Ford for his continuing efforts in moving the negotiations on agriculture forward, given the complexity of the task.

Food and nutrition security continues to be of utmost importance to our economies. Agriculture is one of the key drivers for the export diversification programmes in our region. Our agricultural sectors are, however, very fragile, both in respect of our ability to compete with globalized and often highly-subsidized trade, as well as our susceptibility to natural disasters. At the multilateral level, as we continue to make the push towards meaningful disciplines on domestic support, the need to maintain the flexibilities currently afforded to SVEs and LDCs in the Agreement on Agriculture must be taken into account. The CARICOM countries are not significant subsidizers of our agriculture sectors, and even when we are able to provide some support, it is almost always targeted to our smallest and most vulnerable operators.

Electronic Commerce

Global electronic commerce is already valued at trillions of dollars and that figure will only grow in the period ahead. As the multilateral and plurilateral processes on e-commerce advance at the WTO, CARICOM Member States continue to consider the challenges and opportunities associated with possible WTO rules on the trade-related aspects of electronic commerce. In the last few months, CARICOM Member States have been consulting, both among ourselves and each of us internally, regarding these processes and their implications for our pursuit of development.

With MC12 quickly approaching, and notwithstanding the imperative to be realistic about what is achievable before then, it is important to recall the December 2019 General Council decision on the Work Programme on Electronic Commerce. The decision spoke to "structured discussions in early 2020 on all trade-related topics of interest brought forward by Members, including LDCs, including

on scope, definition and impact of the moratorium on customs duties on electronic transmissions". It is hoped that, despite the fact that the informal open-ended meeting held on 10 February focused primarily on the moratorium, the approach to the Work Programme in the months ahead will duly reflect the broader dimensions of the Programme and take into account the topics highlighted by developing countries to date. These include consequences of the digital divide and any discriminatory treatment between physically traded goods and the digital version of those goods. The development dimension remains, for us, integral to the work under the Work Programme.

Fisheries Negotiations

With respect to the Fisheries negotiations, we acknowledge the efforts of the Chair and the work of the Negotiating Group on Rules to maintain the momentum needed to conclude the negotiations by MC12.

The CARICOM Group notes the importance of facilitator and bilateral consultations in moving this process forward. In this regard, we take the opportunity to underscore that transparency and inclusiveness should remain at the core of the process, and that the negotiations should be accommodating of the views of smaller delegations, bearing in mind our capacity constraints.

In order to deliver on the mandate of these negotiations, it is important to focus our discussions on subsidies disciplines and not on fisheries management. We maintain that the WTO has no mandate or competence to make pronouncements on the latter. Our ambition is to achieve binding disciplines that will hold major subsidizers accountable for the harm that their subsidies cause in respect of large-scale industrial fishing.

It is important to ensure that any outcome on fisheries incorporates effective special and differential treatment for LDCs and small economies, such as those in CARICOM. Given the importance of the blue economy to food security and development in our region, we must be allowed space to grow our fisheries resources in a sustainable manner, in keeping with SDG target 14.6. Our shared mandate here at the WTO is to prohibit and eliminate certain forms of subsidies that contribute to overcapacity, overfishing and IUU fishing. However, we must ensure that our efforts do not also result in the elimination of beneficial subsidies. Any landing zones that may be explored must take these dynamics into account.

We remain hopeful for good progress in the months ahead, in line with the Buenos Aires decision, and reaffirm our commitment to working with all other Members to arrive at our goal by MC12.

Special and Differential Treatment

The discussions on Special and Differential Treatment remain important to the CARICOM Group. We firmly believe that special and differential treatment should continue to be afforded to developing countries, particularly LDCs and SVEs, in current and future WTO negotiations, as we seek to integrate more fully into the multilateral trading system.

The CARICOM Group remains attached to paragraph 44 of the Doha Ministerial Declaration, which states that all Special and Differential Treatment provisions shall be reviewed with a view to strengthening them and making them more precise, effective and operational. The Group believes that the efforts of the G90 in this regard constitute a constructive way forward on this issue.

The CARICOM Group encourages members to continue consultations in order to facilitate common understanding on these issues, with the objective of reaching a meaningful outcome for MC12.

Services

The CARICOM Group is disappointed with the lack of progress to date. Notwithstanding some exploratory discussions on market access in the Council for Trade in Services in Special Session, work in other important areas in recent times has suffered from inactivity.

WTO Reform/Appellate Body

The future of the multilateral trading system and by extension the WTO is of critical importance to the small, vulnerable developing countries of CARICOM. We therefore place great stock on the

deliberations in the WTO which speak to reforming the organization. We recognize that, while WTO Reform is now more mainstreamed in terms of the number of WTO Members putting proposals on the table, the discourse continues to be fragmented. In our view, this does not allow for small delegations to be fully involved in, or fully aware of, all the aspects of the discussions that fundamentally impact them. CARICOM is cognizant that there is a reluctance by some to have a dedicated discussion on developing a structure for negotiations on WTO Reform. However, we strongly believe that such discussions would facilitate the effective participation of small delegations in these discussions and genuinely ensure that the negotiations on WTO Reform are open, inclusive and transparent, taking into account the interests of all WTO Members.

We reiterate our concern with the inoperability of the two-tiered dispute settlement system in the WTO and consequently the inability of the Appellate Body to take on new cases. We remain cautious regarding any alternative that could detract from finding a solution to the impasse and could potentially become a de facto replacement for the Appellate Body. We therefore continue to urge WTO Members to seek an urgent resolution to the impasse regarding the launch of the selection process for new Appellate Body Members and the rekindling of the function of the Appellate Body.

In closing, CARICOM reiterates its strong commitment to a rules-based multilateral trading system that is transparent, inclusive, and consensus-based.

27. Afghanistan

I would like to thank the Director-General for convening this meeting, as well as for the comprehensive report. We express our appreciation to the Chairs of the Negotiating Committees for their respective updates on the current state of negotiations.

Afghanistan recognizes WTO as the only global institution for international trade and is of the view that the work of this Organization impacts all countries and their populations disregard of their different economic sizes. Hence, we believe that if this organization functions well, it will positively contribute to the economic development of Members and in particular to the livelihoods of the people living in the most vulnerable economies and conflict-affected countries like mine.

Hence, with the MC12, Nur-Sultan, in the horizon, we hold the view that we must overcome our organizational challenges and do our homework to deliver the substantive work to achieve concrete outcomes for all members and help them to reap the benefits of the global trade and development, based on fair, balanced, transparent, inclusive, sustainable and rules-based multilateral trading system.

My delegation supports the current negotiations, subscribe to the call to all Members to engage constructively to achieve possible convergence on the key and important issues such as G90 10 proposals, agriculture, fishery subsidies, cotton; based on solution-targeted and result-oriented approaches and efforts.

To this end, Afghanistan is committed to engage in these efforts and we are of the view that the current pace of the negotiations needs to be accelerated by prioritising them based on their mandates and urgency for balancing the benefit of global and inclusive trade for all members, especially LDCs.

Special and Differential Treatment is an essential part of the WTO Agreements for a fairer, more equitable, inclusive and transparent system. All S&DT measures must also be made more effectively - in compliance with the paragraph 44 of the Doha mandate - in line with the founding principles of the WTO.

We encourage Members to engage in a constructive manner with the G-90 on the substance of the 10 ASPs. Acknowledging the fact that there is room for further improvement, we should focus on text-based discussion of the proposals. In line with the position of the G-90 and LDC Group, we envision a political declaration by Ministers reaffirming the centrality of development in the WTO as the outcome for S&DT at MC12, with the hope that negotiations on the G-90's 10 ASPs before conclude before MC13.

Regarding to the DSB, Afghanistan is of the view that a well-functioning dispute settlement body is an imperative to the multilateral trading system and to the WTO itself to insure a full and fair

enforcement of rules and obligations by members, and Afghanistan reiterates the importance of DSS in promoting rules-based, open, transparent, inclusive, non-discriminatory and equitable international trade.

Afghanistan regrets that, we, the Members of the WTO, were not able to save the system. As indicated by LDC Group, LDCs are not the frequent users of the DSS but we can still be impacted negatively.

Hence, for my delegation, giving the importance of the dispute settlement system in the multilateral trading system, resuming the two-pillar dispute settlement system is an urgent and essential issue. We therefore call on all Members to engage constructively and find a pragmatic solution to the Appellate Body impasse before or during MC12. My delegation is ready to engage with all Members to overcome this challenge.

My delegation echoes the Article 12-Members' view. We expect that the commitments on domestic support, market access, and export competition of original Members with those who acceded the WTO under the Article XII Marrakesh Agreement and undertook significantly larger commitments and liberalization should be levelled. We expect that negotiations lead to closing these gaps.

On the joint initiatives, Afghanistan supports the work of Investment Facilitation, MSMEs and women empowerment through trade. Afghanistan subscribe to the work of the informal groups on the build-up of the respective frameworks and their inputs towards a multilateral working program under the WTO.

Particularly, regarding the Investment Facilitation, we thank Members for their efforts on developing a streamline text where further improvement is still required; but we are sure that members can achieve it through constructive discussions. Reaching to 100 Members, we call upon other Members to join this initiative.

We appreciate discussion on these initiatives and commend their proponents, coordinators and members for their extensive works and we acknowledge the opportunity through open, transparent and inclusive discussions where all members can participate and engage.

In conclusion, Afghanistan affiliates itself with the statements of the LDCs Group delivered by Chad and the statement of the Group of Article XII Members delivered by Panama.

28. Russian Federation

We thank the Director-General for convening this meeting and for his report and assessment as the Chair of the TNC. Let me also thank the Chairs of the Negotiating Groups for their reports.

At the outset, I would like to express concern about potential outcomes of the upcoming Ministerial conference in Kazakhstan. MC12 will take place in three months from now. Time is running out fast. We believe we have to do our utmost in order to prepare a meaningful package for the Conference and agree on it before we leave to Nur-Sultan.

Fisheries subsidies negotiations have a systemic importance for the WTO. Failure to meet the MC12 deadline would literally mean our inability to ever reach an agreement on this issue.

For these negotiations it is now existentially important to build a common understanding of the agreement's overall structure and general features of the disciplines. This decision must be elaborated with participation and full engagement of all main players potentially affected by the disciplines. Inclusivity and transparency are key principles to be observed.

On IUU pillar it is high time to explore alternative approaches to so-called "determination-based prohibition" that we have been discussing with no success for several years.

The mandate regarding overfishing and overcapacity can be fulfilled by carefully crafted disciplines with due appreciation of Members' efforts to manage their fisheries sustainably.

Caps approach has both political and technical drawbacks that unfortunately have not been resolved throughout a year and a half since the first proposal. Spending precious time on discussion of caps

from now on may be an inexcusable luxury. Let me stress that the Russian Federation will not agree to limit its own policy space on the basis of historical volumes of subsidies.

It is our task to ensure that the rules-based multilateral trading system responds adequately to the challenges of the global economic environment. In Russia's view, we should primarily focus our efforts on restoring smooth and effective functioning of the dispute settlement system, including the Appellate Body. All Members have agreed to a two-tier system, and it is important that it be maintained. We hope that Members' active engagement on this issue in various formats, as well as personal efforts by the Director General, will bring us to the resolution of the problem by MC12.

Russia has also put forward a number of specific proposals to improve the deliberative function of the WTO. In particular, we have tabled an initiative on the enhancement of transparency in applied tariffs. Russia held a Round Table at the WTO on this issue at the end of January. We appreciate Members' engagement in this event and are looking forward to achieving a balanced result by MC12.

One of the key priorities for Russia remains agriculture. We have proposed a new formula approach to the reduction of trade distorting domestic support. We believe that the "openness" of agricultural markets and the level of currently applied domestic support within the "Amber Box" are those instruments that could give Members enough policy space during the process of reduction. Flexibilities provided in our proposal could bridge the positions of the WTO Members and lead to a meaningful outcome in agriculture negotiations. In addition, we have put forward two initiatives on TRQ administration and transparency.

While multilateralism is a preferred option, it is important to continue to apply plurilateral approaches to allow Members to pursue initiatives of interest to them, in an inclusive and transparent manner.

Russia is proud to participate in the e-commerce initiative that supports progressive trade agenda. Developing new e-commerce rules requires striking the right balance between digital trade barriers removal and protection of Members' right to regulate. The most sensitive issues, like flow of information, access to data or security issues, must be addressed with jewellery caution. A balanced approach has the potential to attract more participants to this initiative.

An outcome on investment facilitation can be one of the deliverables at Nur-Sultan. We need to engage in textual discussions, with the view to establish the scope and structure of future Investment facilitation arrangements by MC12.

MSMEs issues are systemically important for the WTO. Given the complexities of the main negotiating tracks, MSMEs Working Group may well be among those few to deliver at MC12. We call upon members of the group to engage immediately and constructively in finalization of drafts of non-mandatory decisions and recommendations for their prompt presentation to those who are yet to join our initiative.

In conclusion, let me stress that we have an opportunity to ensure that the WTO continues to play a pivotal role in international trade for another 25 years.

29. Malaysia

At the outset, Malaysia associates itself with the ASEAN Statement to be delivered by Viet Nam. We also would like to thank the Director-General and the Negotiating Groups Chairs for their reports.

Malaysia takes cognisance of the challenges facing the multilateral trading system. We appreciate Member's efforts in continuing to preserve the system in ensuring that this house continues to stand.

Malaysia believes that the WTO has been effective in ensuring that global trade governance remains open, predictable and transparent, benefitting all Members. There is still however, a few key challenges that we need to address in light of MC12. We need to address them expeditiously.

Dispute Settlement Mechanism

Malaysia would like to re-emphasize that the full functioning of the dispute settlement system is fundamental to this organization. Malaysia stands ready to work with all Members towards finding a

solution for the Appellate Body Impasse in "any possible way" to ensure this fundamental pillar is preserved.

Fisheries Subsidies

Malaysia commends the efforts made by Ambassador Wills and is encouraged by the active engagement in fisheries subsidies negotiations.

Malaysia believes for an outcome in Nur-Sultan, we need to shift to the text-based negotiations as soon as possible. I welcome Ambassador Wills' remark that the consolidated text will be available middle March. It is high time that Members truly demonstrate flexibility and pragmatism to bridge the gaps in the negotiations, so that we can have draft texts to progress. Senior Official's engagement is important, but only if there is substance.

Our negotiations should follow the existing mandate to prohibit certain harmful fisheries subsidies with development as an integral part of the negotiations.

Joint Statement Initiatives

We welcome the various on-going discussions on the Joint Statement Initiatives on MSMEs, Investment Facilitation, and eCommerce. We see these initiatives as potential deliverables at some stages for MC12 and look forward for continued engagements.

Development

WTO Members should assume a more constructive role in narrowing the gaps in key areas of negotiations. Greater political will and flexibility are crucial if we want to see this through, bearing in mind that time is against us.

Having said that, we must recognize the foundation upon which this multilateral institution was built, that is development.

Before I conclude, the year 2020 presents us with challenges that we have never faced before. With the weakening of global trade in the first quarter of 2020 it is critical that Members cooperate and exercise flexibilities to resolve the bigger issues. We need to join hands to ensure that the credibility of the multilateral trading system is not undermined.

30. Republic of Korea

Various indices on world economy and finance including the WTO Goods Trade Barometer demonstrate a continuous downward trade overall. In such times, major economies and multilateral institutions such as WTO must play a key role for recovery with a prompt and coordinated response.

The most important part of this for the WTO and its Members would be to garner multilateral outcomes at MC12, which will matter greatly to the wider public and the business community. It is true that the level of ambition or expectation for the result might vary, but the fact that this multilateral organization can still deliver a concrete outcome will send a positive signal to all.

For the time being, my assessment is that we still have a long way to go. In this respect, I would like to emphasize the importance of seeking an appropriate balance between the level of ambition and the possibility of reaching consensus.

Fisheries subsidies negotiation is an area where such a balancing act is much needed. We should work to set an achievable and realistic goal that implements the mandate.

In particular, regarding the discipline on overfishing and overcapacity, we need to take into account two elements: positive subsidies and fisheries management.

Let us keep in mind that the goal of these negotiations is not to prohibit all kinds of subsidies, but to prohibit certain forms of harmful subsidies that contribute to overcapacity and overfishing. In this vein, "beneficial subsidies" should not be prohibited nor limited.

In addition, considering the ultimate goal of promoting the sustainability of fish stocks, combining fisheries management with the subsidies issue is inevitable for fulfilling the mandate.

Another important multilateral outcome is the extension of the moratorium on customs duties for electronic transmission. Korea aligns itself with many other Members calling for a permanent moratorium. Yet, Korea also welcomes structured discussions to assist all Members to better understand this important matter as was agreed at the last GC meeting.

In addition to working towards multilateral outcomes, Korea also supports the work in Joint Statement Initiatives and is actively participating in each area.

On services domestic regulations, Members made positive progress by finding a middle ground on more disciplines. Korea is committed to making necessary contributions in the run up to the MC12. The concerns or hesitations expressed by some Members are also well-noted, and Korea will maintain its active engagement with a view to addressing them to reach an appropriate balance.

On e-commerce, Members are making good progress. In particular, Members showed great flexibility and maintained a sincere approach to the drafting exercise. I have high hopes that this cooperative spirit will be maintained towards a successful and significant outcome before the MC12.

A meaningful outcome on investment facilitation is also important. Korea welcomes the streamlined text and appreciates the constructive engagement of one hundred Members.

Korea will continue to engage actively with other Members in all Joint Statement Initiatives including MSMEs, Women and Trade.

Almost three months have flown by after the paralysis of the Appellate Body without much, if any, progress on finding a solution.

On the one hand, as a stopgap measure, Korea, EU and other Members are working together to develop a multi-party interim arrangement (MPIA), which seeks to preserve a functioning two step dispute settlement system.

Nevertheless, Korea sees that restoring a functioning Appellate Body must remain our number one priority. Korea stands by its firm commitment to finding a solution to this urgent issue.

It is true that time is not on our side. But with an appropriate balance between ambition and flexibility combined with Members constructive engagement, concrete deliverables will be within our reach. Korea will continue to play an active role in this process with a realistic, pragmatic, and balanced approach.

31. Turkey

We thank the Director-General for holding this meeting and for sharing his views on the current state of play at the WTO. Let me also thank all Chairs of Negotiating Groups for their intense efforts.

Recent developments proved once again that multilateral cooperation is vital for global trade. As we said before, unilateral actions do not provide the answers we need to face the challenges of our times. On the contrary they risk crumbling the entire edifice of international trade, carefully built over decades.

We recognize that WTO is not perfect and some adaptation to current realities is needed. However, we should not underestimate that the WTO has been a success story. It has helped liberalize trade over the years. All members bear responsibility in continuing this role of the WTO.

As time is running out towards MC12, getting some concrete results will help send a rather positive message about the WTO and its agenda.

We should be focused in our goals. We must achieve our goal on fisheries subsidies. Frankly, we have been disheartened by rigidness in the positions of delegations. We all should rise above technicalities. Having a draft text soon may help move us forward. In this regard we support the Chair's proposed program.

We continue to believe that we should achieve an outcome on agriculture. Any outcome in agriculture should address the imbalances in the Agreement on Agriculture and deal with trade distorting domestic support. We must also derive a roadmap on Special Safeguard Mechanism, which is critical for livelihood and food security and rural development for many developing countries.

We are hopeful for the JSI's. Having a draft text for after MC12 on e-commerce presents a realistic picture. We commend the work on Investment Facilitation and MSMEs. We are looking forward to getting a concrete outcome on domestic regulation.

In the meantime, we should continue our efforts to overcome the crisis of the Appellate Body. Not resolving this issue will not only hurt the dispute settlement system, it will also damage the predictability of whole trading system. Turkey believes that a comprehensive multilateral solution is still possible. But this requires political will from all parties and active engagement towards a solution in addition to only registering complaints. Turkey remains open for a dialogue on what is required to fix this situation.

Finally, development remains a key concern for Turkey and for many members. Less developed countries are more fragile in face of the challenges of the current dynamics. Turkey is willing to engage discussions on this important issue, but in a constructive way. In this process, we need to keep the necessary policy space open for further industrialization needs for developing countries. Clearly, this entails a long discussion, and it cannot be a one-sided discussion.

32. Philippines

At the outset, the Philippines associates itself with the statement of ASEAN, to be delivered later by the Ambassador of Viet Nam.

With MC12 just around the corner, my delegation extends our appreciation to the Director-General and to the Chairs of the Negotiating Groups for their patience and hard work in advancing progress on all negotiating issues. Your collective efforts and able leadership will pave the way for a successful Ministerial Conference with meaningful outcomes.

The positive momentum in the fisheries subsidies negotiations and the facilitators' diligence have laid the groundwork for a potential outcome in MC12. The Chair's plan to circulate a draft consolidated text at the end of this month is another step in the right direction. In this regard, we must continue to fully empower our negotiators to build bridges and seek solutions, because it is only through constructive collaboration that we can produce multilateral disciplines on fish subsidies, as well as deliver on the Leaders' mandate in SDG 14.6.

The Philippines also takes note of the substantial output and good progress in the various MC11 Joint Statement Initiatives, specifically on MSMEs, electronic commerce, and investment facilitation, which could result in possible deliverables at Nur-Sultan. In Davos, our Minister was pleased to officially announce our full participation in the e-commerce and investment facilitation Joint Initiatives as concrete tools to enable development outcomes at Nur-Sultan. As we have noted at the last GC meeting, these Joint Statement Initiatives and our ongoing work on the DDA can co-exist and even mutually complement each other.

I truly appreciate the views shared by my fellow HODs who have spoken before me. It is clear that all Members share a deep and sincere commitment to this organization and the principles of the rules-based multilateral trading system. We all want the WTO to succeed. Ensuring the WTO's relevance, however, would require political will and a readiness to transcend legitimate national interests. As such, Members must work hard and hand in hand, and be fully committed to delivering at MC12.

33. Costa Rica (Joint Initiative on Services Domestic Regulation)

I welcome the opportunity to provide an update on the open-ended negotiations in the context of the Joint Initiative on Services Domestic Regulation.

In the most important development since my last report, 26 delegations have circulated their indicative draft schedules in which they propose to inscribe the draft Reference Paper on Domestic

Regulation into their schedules of commitments. They count for 53 WTO Members, out of the 60 participants of this Joint Initiative.

The exchange of indicative draft schedules constitutes an important milestone in these open-ended negotiations. In this context, several participants with fewer commitments have already indicated that they might be ready to apply the disciplines also to sectors not currently covered by their services schedules. This is a crucial step to further enhance the participation in this process and to ensure a meaningful outcome.

In addition, the group has recently started working on improving the legal clarity and the consistency of the draft Reference Paper. The objective is to finalize the text as soon as possible with a view to providing Members with enough time to prepare for the next Ministerial Conference.

Only a few outstanding issues in this process remain to be solved. All this demonstrates that participants' commitment to deliver a meaningful outcome for all Members, regardless of their level of development.

The outcome of these open-ended negotiations will be consistent with GATS obligations and follows well-established WTO procedures. The disciplines that Members would inscribe as additional commitments in their schedules would apply on an MFN basis, therefore benefiting all Members without diminishing in any way their established rights under WTO Agreements.

Crucially, participants are committed to continue working in an open, inclusive and transparent manner, and to address the concerns and interests of all WTO Members. Facilitating services trade and promoting economic growth and development is the key driver of the participants.

To conclude, I invite all Members not already part of this process to engage actively in the discussions and consider joining the Joint Initiative on Services Domestic Regulation.

34. Nigeria

Nigeria wishes to thank the Director-General for providing effective leadership and for his excellent report. We also wish to thank the Chairs of various Negotiating Groups for their report. At the outset, we wish to associate ourselves with the statement delivered by Botswana on behalf of the African Group and Jamaica on behalf of the ACP.

As we approach MC12, the question on our mind is how we sieve through respective Members and Groups conflicting and divergent positions on issues at the front burner at the WTO and achieve MC12 outcomes that are fair, balanced and equitable. In our view, it's of critical importance that MC12 does not deliver a Zero Sum outcome. We believe it is in the interest of all that we work collectively to salvage and strengthen the WTO, a key institution that underpin the integration of our economies.

Under the Agriculture negotiations, Ambassador John Ford, in his report contained in document JOB/AG/180 identified some commonalities that could enhance our engagement on how we can work towards balanced and meaningful outcomes at MC12. We commend him for his effort. However, for us, sustainable development of Agriculture is not just about enhancing the sector's contribution to our GDP, it's also about Survival. We believe no one is in doubt that whereas attaining SDG 1 on poverty and SDG 2 on food security is no more an issue for most Developed Countries, it still remains an uphill task for Africa given the incidence of poverty and hunger in the region. In our view, all it takes to foster inclusive growth and development of the Agricultural sector is a multilateral framework that enable all parties to compete fairly. Trade distorting subsidies by large economies incentivized by the imbalance and inequities of the current rule under the Domestic Support Pillar, are such that erode the competitiveness of Developing Countries in their domestic and export market. In order to achieve meaningful outcomes in Nur-Sultan, the suggestion of the Chair of the COA in his report to the informal TNC and HOD meeting of 14 October 2019 that some issues should be prioritized and phased for a meaningful outcome at MC12 and other issues post MC12, is one that is likely to guide us towards a meaningful outcomes in Nur-Sultan. In our view, priority should be given to addressing the imbalance and inequities of the current rule under the Domestic Support Pillar by eliminating AMS beyond de-minimis. We believe that this category of support has the most trade distorting effects. Priority should also be given to addressing mandated issues such as Public

stock holding for foods security purposes (PSH), and Special Safeguard Mechanism (SSM) that are of critical importance to Developing Countries.

On the Fisheries Subsidies negotiations, Nigeria is committed to achieving outcomes at MC12 in the ongoing negotiations that delivers on SDG 14.6. We believe SDG 14.6 which is consistent with the existing mandate is clear on the need for appropriate and effective S&DT for developing and least developed countries to be integral part of any outcome on fisheries subsidies negotiation. We therefore look forward to a balanced outcome at MC12 that will reduce unsustainable fishing practices, as well as take into account the development needs of Developing Countries. However, we are concerned that with only three months to MC12, Members are yet to come up with a streamlined text that will guide our discussions towards fruitful outcomes in MC12. Though we noted in the Chairs report that a streamlined text will soon be available for Members to commence a text-based negotiations, the question remain whether it is feasible to negotiate a text within three months for Ministers to adopt at MC12. This notwithstanding, we will continue to engage constructively with Members to achieve win-win outcomes under this file in MC12.

On WTO Reform, our position has always been that if WTO is to remain relevant in this 21st Century, the need for reforms cannot be overemphasized. However, such reforms should also take into account some of the unresolved 19th Century issues that are of critical importance to Developing countries especially as it relates to apparent imbalance in the current rules. We therefore look forward to outcomes under WTO reforms that is balanced, equitable, and take into account the unique challenges and needs of developing countries.

In conclusion, our delegation noted the report by the Director-General on the Joint Statement Initiatives and wishes to state that Nigeria is committed to the ongoing discussions under all the JSIs especially E-Commerce, Investment Facilitation for Development and Domestic Regulations. We look forward to fruitful outcomes under the JSIs in MC 12.

35. Argentina

I feel bound to express my concern at the situation of the dispute settlement system since it has been reduced to a single body. This has a clear systemic impact on the rights of WTO Members.

I regret to repeat myself but "fortunately" (to use quotes) this prerogative is not subject to consensus. It is natural to experience disagreements in a collegiate body – and these may even be welcome and appropriate if they stimulate positive discussion.

However, under no circumstances can we accept that the impasse is an appropriate way to express concerns. If that was the case, we wonder how many WTO bodies would continue to function.

Let me be clear: I am not talking – and I do not think anybody is talking – about abandoning national interests. Rather, I am referring to collective work that inevitably calls for a degree of flexibility.

Of course, no less dubious are certain trends that we observe relating to the trade in agriculture, which is distorted by vast subsidies and affected by a growing number of non-tariff barriers whose compatibility with the WTO Agreements is questionable.

The figures for agricultural trade may give some Members a feeling of serenity. We and certain others consider that in reality these figures merely reflect the relevance of the sector in our exports and the potential for exploring whether exports can operate with greater fluidity.

With regard to harmful practices, we think that the negotiations on fisheries subsidies are an accurate gauge of Members' true commitment to free, fair and sustainable trade and, moreover, of the coherence between their statements and the form in which these are expressed on the ground.

Thinking of the 12th Ministerial Conference, perhaps we are not in a position to demonstrate the activism of other delegations but I do not think that Argentina's constructive spirit can be doubted. I invite all to undertake an honest self-assessment regarding the correlation between our positions and the outcomes that we would like to see in Nur-Sultan.

We hope that this Organization will succeed in finding itself, in returning to its roots, origins and objectives. To do this, we must reflect deeply on the steps taken recently and look ahead together, with everyone involved in working out our own destiny.

36. South Africa

We thank the Director-General for his report and the Chairs of the Negotiating Groups for their updates.

We align ourselves with the Statement by the African Group and the ACP.

We are just over three months away from MC12. It is important that we clearly define outcomes to be achieved and these must be meaningful, balanced and development-oriented with priority put on issues with Ministerial mandates.

In our view the key outcomes for MC12 should include agriculture, a long outstanding issue for which we need a meaningful outcome which should include substantial reform of Domestic Support that addresses historical imbalances, concentration, preserve the architecture in Article 6 and deliver on the spirit of Article 20 of the AoA. Further, we need an outcome on cotton as advanced by the C4, a permanent solution for Public Stockholding that makes provision for new programmes and advance discussions on SSM. We underscore that S&DT must be integral to any outcome in agriculture. Transparency while important cannot be the only outcome.

On Fisheries Negotiations, to get an outcome, we need to narrow the approaches on the table to those that truly deliver on the mandate which is to prohibit harmful subsidies. The outcome should not constrain the use of beneficial subsidies. Disciplines must therefore target large scale industrial fishing, safeguard food security and livelihoods of coastal communities and allow members policy space to develop marine resources. The outcome must deliver on all the pillars of the mandate, S&DT must be an integral part of the outcome. Text-based negotiations will need to be inclusive and Member-driven.

In relation to S&DT, the G-90 will table its revised proposals for a meaningful outcome at MC12. Delivering on the G-90 proposals will contribute to the achievement of SDGs through socio-economic development, industrial and structural transformation of LDCs and developing countries by operationalising the existing S&DT provisions in the WTO Agreements in accordance with paragraph 44 of the Doha Ministerial Declaration. We look forward to text-based discussions on S&DT and we will continue to engage constructively with a view to have an outcome on this important issue.

In relation to the reform of the WTO. The reform must promote inclusivity, address historical imbalances, enhance integration of developing countries in global trade and deliver on the development mandate. The lack of a structured discussion on reform is resulting in unilateral implementation of measures that undermine the core principles of the WTO, including consensus decision making and S&DT on the basis of arbitrary criteria. These affect rights of Members under covered agreements and not only in current and future negotiations. The recent call for reform is selective since it cherry picks only certain issues, while mandated issues are ignored.

On the E-commerce and TRIPS moratoria, each moratorium must be considered on its merit as their mandates and contexts are different.

In relation to the E-commerce moratorium, we remain concerned that the moratorium is asymmetrical to developing countries from a revenue, economic and trade and industrial policy perspective. We welcome the structured discussions on the scope of the moratorium and feasibility of imposing customs duties which should enable Members to fully assess its implications. MC12 will need to assess all these issues to make an informed decision.

On the TRIPS NVC, we remain of the view that NVCs should not apply to the TRIPS Agreement. At the minimum, Members should agree not to launch NVC claims under the TRIPS Agreement until the scope and modalities are agreed.

The impasse on the appointment of AB members has significant implications for the preservation of rights and obligations of Members. We need a solution-oriented multilateral process to restore a two-stage DSS and unlock the impasse in the selection process of AB members.

The multilateral trading system is in crisis. We are witnessing an erosion of the WTO through a number of measures, including the impasse in the AB, preference for bilaterals, rise in unilateralism and the plurilateralization of the MTS. These are all contributing to the rise in trade barriers, loss of predictability and certainty for traders and governments alike, and the absence of a credible venue to mediate trade disputes and serve binding decisions. The crisis is taking place under an already fragile global environment that is facing pressures including from the corona virus. We need to promote global cooperation to find compromises, under win-win scenarios. If we allow the crises in the WTO to deepen, all will suffer, but the weaker, will suffer more. We must preserve the multilateral nature of the multilateral trading system to ensure that it delivers outcomes that serve the interests of all. The plurilateralization of the multilateral trading system does not result in an outcome that ensures that no one is left behind.

37. Pakistan

This is our first TNC meeting of 2020 and one where we have begun to contemplate outcomes for MC12. Unfortunately, if the case of our Appellate Body is anything to go by, it speaks volumes about our collective ability to agree on tangible, gains. Pakistan has always supported efforts to keep multilateralism alive and has striven for outcomes that deliver shared prosperity, especially for developing members. We remain hopeful that the two-tiered Dispute Settlement Mechanism will be restored to its proper functioning state soon and we will support interim efforts to maintain some semblance of it till it happens.

On Agriculture, while positions remain entrenched, we have seen Ambassador Ford work very hard to find some convergence. Pakistan supports cuts in Domestic Support to remove existing anomalies and to level the playing field in global agriculture trade. This will be possible only if bigger cuts are made by those with extremely large entitlements and expenditures. At the same time, specific entitlements for developing countries under Article 6.2, effective Special and Differential Treatment and the interests of NFIDCs are critical and need to be safeguarded. We hope to work towards a balanced outcome at MC12 that will be beneficial for the system, and for food security of every country and sustainability. As always, we continue to support an ambitious outcome on Cotton. We believe that the C4 have put forth a meaningful and useful proposal which can contribute in a big way to our cotton farmers.

Similarly, on fisheries subsidies, while progress is slower than ideal, we should not let the urgency brush aside fundamental concerns regarding the sustainability of small-scale and artisanal fishermen. Effective S&DT for all developing countries is a fundamental pillar in these negotiations and can ensure a balanced and effective outcome.

The moratorium on electronic transmissions is approaching a critical juncture. Rapidly evolving technologies dictate that indebted developing countries cannot ignore serious revenue and industrial implications. Any future decision on extending the moratorium must be taken after thorough deliberation and assessments.

Discussions on WTO reform will gather pace as we approach MC12. Consistent with our earlier stance, we feel it is imperative that reforms keep developing countries at the centre and are geared towards addressing their needs. Reforms should address our past failures and not create new avenues to repeat the same mistakes. That is the only way we can contribute to achieving realistic and effective progress on the Sustainable Development Goals to reduce hunger, poverty and inequalities; and ensuring sustainable economic growth and industrialisation.

38. Thailand

Thailand associates itself with the statement made by Viet Nam on behalf of ASEAN.

We thank the Director-General for his report as well as the reports by the Chairs of the Negotiating Group.

Given the disheartening downward trend of trade growth in 2019 and the economic and trade conditions so far this year, there is a real risk that things may get worse for the global economy.

The WTO is an important force to soften such economic blow and reverse this downward spiral by delivering meaningful outcomes in negotiations and WTO reform to ensure stable, predictable, and fair trade for all stakeholders. The pace and progress of our discussions suggests that this will be an uphill task, but if there is ever a time for Members to show real collaboration, it is now.

In terms of negotiations, the greatest signal that we could send out to our stakeholders would be to seal the long-overdue conclusions for Fisheries Subsidies and Agriculture negotiations.

While we are encouraged by the intensified efforts in the Fisheries Subsidies negotiations, substantial progress and demonstration of compromise remain lacking. Thailand supports an immediate start of a text-based negotiations and will put our utmost efforts with a view to ultimately finding convergence and delivering a meaningful outcome at MC12.

Agriculture remains a priority for Thailand, as a result of the Cairns Group Ministerial Meeting held in Davos on 23 January 2020, Thailand along with 18 other Members have submitted the Framework for Negotiations on Domestic Support for Members' consideration at the meeting of the CoASS in January, where it was received with a number of positive feedbacks. We note the need for continued discussions in this regard and urge Members to join us so that the WTO can deliver a balanced and meaningful outcome at MC12, which will positively impact global agricultural trade.

On the extension of the two Moratoria, it is imperative that we build on our success at the previous General Council Meeting and use the opportunity created to engage in a serious and constructive discussions with a view to delivering concrete outcomes on the extensions by MC12.

Resolving the Appellate Body impasse remains of critical importance, and has affected the full functioning of the Dispute Settlement System, Members' rights and obligations, and the overall credibility of the WTO. Thailand therefore urge Members to provide the needed flexibility to find a solution to the impasse as soon as possible.

Lastly, we must find ways to strengthen the WTO through gradual, inclusive, and meaningful reforms, consistent with key objectives of the WTO. We remain encouraged by the rising engagement from diverse range of Members on WTO reform and welcome further discussions in this area.

39. Hong Kong, China

I would like to thank the Director-General and the Negotiating Group Chairs for their comprehensive reports. As many colleagues have pointed out, MC12 is only three months away, and it is of paramount importance for Members to focus on what is realistic and pragmatic in our preparation for the Ministerial Conference.

On negotiations, I would reaffirm HKC's commitment to working constructively with other Members to achieve a meaningful outcome on fisheries subsidies rules by MC12, which would not only ensure the sustainability of our fisheries resources, but also demonstrate that the negotiating arm of the WTO is alive and well. We simply cannot afford to miss the negotiation deadline again.

Another important area where the WTO can demonstrate that it is able to make new trade rules corresponding to the evolving needs of international trade is for Members to continue to make headway under the various Joint Statement Initiatives, including e-commerce, investment facilitation for development, services domestic regulations and MSMEs. In this regard, HKC will continue to participate constructively in the relevant discussions.

On the Appellate Body issue, HKC is concerned that there has been no sign of progress in resolving the impasse even after the AB had lost its quorum to hear new appeals. Some Members have agreed, in good faith, not to appeal against panel reports to avoid holding up the dispute cases in the future, which is an honourable act, but it cannot and should not be a substitute for the appeal mechanism agreed to by Members and enshrined in existing WTO agreements. The AB is an essential element of the WTO's dispute settlement system, safeguarding the rules-based multilateral trading system and Members' fundamental interests. It is therefore important that the vacancies in the AB should

be filled as soon as possible to restore a proper two-stage adjudication system for settlement of trade disputes among Members.

We must not take the current situation as the new norm of the WTO and must continue with our constructive engagement to find solutions. It is in this same spirit that HKC initiated last year some discussions on improving the functioning of the Council for Trade in Goods and its subsidiary bodies. During those discussions, it was clear that there were plenty of interests among Members and the Secretariat to streamline and enhance the operation of the organization. We also saw a stronger connection developing between Members and the Secretariat, and we believe this will provide a solid basis for greater collaboration as we move forward.

We have considered a number of small steps to make operational improvements, e.g. a year plan of meetings to help smaller delegations to plan their attendance at various meetings, and to ensure that meetings of subsidiary bodies would be scheduled before their respective council meetings.

But such benefits would be limited if these facilitating practices are confined to the CTG and its subsidiaries only. In fact, soon after the WTO was established, Members put in place guidelines on the scheduling of meetings throughout the organisation. It is perhaps time for us to implement what we have agreed, and see for ourselves what a difference this could make.

We have pressing challenges on multiple fronts, but we also have opportunities for achievement on multiple fronts – opportunities for meaningful outcomes and positive changes, big or small. We believe that in the next three months before MC12 convenes, Members must demonstrate our determination to make progress, pursue concrete actions and exercise flexibility, if we are to further our common goal of safeguarding and strengthening our rules-based multilateral trading system.

40. Indonesia

My delegation would like to thank the Director-General and the Chairs of the Negotiating Groups for their reports and take note of the updates that have been provided.

While associating with ASEAN Statement which will be delivered by Viet Nam, our delegation would like further to make observations and share some views in this critical juncture.

We continue to pose serious concern over the dysfunction of the Appellate Body. The absence of the Appellate Body, which has last for nearly 3 months, has put severe stress to the Dispute Settlement System, led this system into an unpredictable situation, and fetches turmoil in the multilateral trading system.

We note that it becomes less possible for us to resolve the impasse of the AB. While options seem exhaustive, my delegation will always keep its door remained open for initiative towards permanent solution of the Appellate Body impasse that acceptable to all members.

The non-existence of AB is not the only thing that strains our effort in safeguarding the multilateral trading system and global economic development. The recent outbreak of COVID-19 has also wreak havoc to global supply chain and weakening the global trade. Looking at the scale and the situation, it would be wise for us to also assess how this situation will impact to the WTO's program of work in foreseeable future.

On Fisheries Subsidies, we support the effort to have a consolidated draft text as a basis for negotiation. Indeed, this is not an easy task. To this end, a strict observance to the SDGs and Ministerial mandate, including maintaining the rights and obligations of coastal States under the 1982 UNCLOS are required.

My delegation also wishes to emphasize on the need to ensure a strong discipline to the large-scale industrial fishing vessels. Studies show 90% of the global overcapacity and overfishing problem caused by large industrial fishing vessels operated deep in oceans beyond national jurisdiction. From overall SDGs perspective, our position is not without merit. Compare to small-scale and artisanal fishing vessels operated closer to the shore, the industrial fishing vessels provide negligible impact to the socio-economic of coastal communities, but in the other hand, appalling environmental impact to the ocean sustainability.

On the agriculture negotiation, we would like to reiterate the urgency to deliver outcome for MC12, in particular to establish a permanent solution for Public Stockholding for Food Security Purposes and operable Special Safeguard Mechanism. The fact that these longstanding, mandated issues have not been resolved in this organization should be a morning bell to all of us to engage more in the discussion. In this regard, proposals on PSH and SSM have been submitted and should be a decent point to move forward towards a successful outcome in MC12. The time is no later than now to prove to the world that the members of this organization have not turn a blind eye to the developmental needs.

Recalling to the history of the establishment of this organization, the founding members have clearly recognized and stated the necessity of sustainable development within the global trade. Today, we live in an era where sustainable development has become a common goal for all, while this organization, along with all of its Members, be the major players to bring the effort to achieve Sustainable Development Goals into success. Hence, the outcome in MC12 should integrate the key components in building success towards the achievement of SDGs, particularly in the area of where this organization has been expected to deliver.

Therefore, to conclude, MC12 should be an avenue for all of us to renew the political commitments so that trade be the major contributor to the development. Global trade should not only be the oil well for the major players, but also an oasis to the developing countries seeking for their developmental needs leaving no one behind.

The MC12 is around the corner. We need to consolidate our works and increase our engagement on the issues of common concern.

41. Bolivarian Republic of Venezuela

We endorse the statement made by Egypt on behalf of food importing countries, describing the particular issues that this group of countries is facing. For these reasons we ask that the agriculture negotiations incorporate specific areas of flexibility to enable us to effectively achieve our objectives with regard to food security, security of the means of subsistence and rural development.

With regard to the negotiations on fisheries subsidies, our delegation reiterates its commitment to participate actively and constructively, concentrating on the elements established in the negotiating mandate, reflected in target 14.6 of Sustainable Development Goal 14, especially the inclusion of special and differential treatment, which is appropriate and effective for developing countries and least developed countries. We hope to achieve more flexible regulations relating to small scale and artisanal fishing. In view of the little time remaining until the next Ministerial Conference, we consider it necessary to move on immediately to text-based negotiations.

We are perplexed regarding the impossibility of finding a solution to the situation of the Appellate Body on account of one single Member, despite the efforts of the vast majority of WTO Members. This same Member is now distracting us with proposals that do not come within the competence of this Organization and violate the principle of sovereignty of States.

Once again, we denounce the ongoing harassment of our country by the Government of the United States. The most recent instance of this occurred on 7 February 2020, when the US Government, through its Treasury Department, included the Conviasa airline in entities on the Specially Designated Nationals (SDN) list of the Office of Foreign Assets Control (OFAC).

This arbitrary measure is illegal and is designed to obstruct the supply of fuel and the provision of airport services, namely services providing maintenance, spare parts, hardware, software and insurance for Conviasa aircraft, and to force the suspension of the airline's operations.

In this way the programme for the repatriation of thousands of Venezuelan men and women who wish to return voluntarily to their country is being sabotaged.

These new actions form part of the systemic and generalized attack on the Venezuelan civilian population that is being carried out by the Government of the United States. On 13 February 2020, these facts were referred by the Venezuelan State to the Office of the Prosecutor of the International Criminal Court for an investigation into crimes against humanity, with a view to prosecution and

apportioning of liability to the relevant authorities of the United States, and in order to uphold international law and multilateral institutionalism in the quest for justice.

Since 2014, the Government of the United States has adopted more than 300 unilateral coercive measures in order to affect the functioning of the economy and prejudice the human rights of the Venezuelan people. This has caused losses of over USD 120 billion to our country. These criminal actions are a flagrant violation of international law and international humanitarian law.

The renowned United States economists Jeffrey Sachs and Mark Weisbrot have stated that these genocidal measures have caused over 40,000 deaths in Venezuela.

The multilateral trading system must defend itself against the imposition of a hegemonic philosophy; it must defend the principles that govern healthy coexistence between Members and it must also defend Members' right to have their own resources for meeting social needs, with the economic system that they decide to adopt on the basis of their own sovereignty.

42. United Kingdom

We thank the Director-General for his summary and the Chairs of the Negotiating Groups for their updates.

I wanted to start by joining the New Zealand Ambassador David Walker and others in paying tribute to Mike Moore. He was the nearest thing we have had to a British Director-General for a long time, and we in the United Kingdom are very proud of him, and of his legacy here in the World Trade Organization.

With the kind permission of the Chair of the General Council, my Secretary of State for International Trade will be here to address the General Council tomorrow, and so I will keep my remarks today brief.

As Members will be aware, the United Kingdom has circulated a document contained in WT/GC/206, which sets out some of the implications of our departure from the European Union. I would like to take this opportunity to thank all Members, as well as the Director-General and his team in the WTO Secretariat, for all of the constructive support we have received in this process.

I would now like to say a few words about the United Kingdom's approach to the ongoing negotiations in which we are all engaged, and our ambitions for 2020 and beyond.

We agree with the Director-General that success at MC12 will be measured by the substance of what we agree. And as others have said, starting with the Swiss Ambassador Didier Chambovey, the principal metric of that success will be whether there is a fisheries deal, one that leads to meaningful reductions in harmful subsidies.

The Chair, Ambassador Wills, set out the challenges and the way forward, and we agree with him. We need to move to a consolidated text by mid-March. Members need to examine their own long-held positions critically, exercise restraint, and rally around compromises instead of sticking to incompatible national positions. The dire conditions of many of the world's fish stocks dramatically highlights the need to deliver on this Sustainable Development Goal target. We stand ready in the UK, as do our ministers, to help the Chair and the Director-General get a deal across the line at Nur-Sultan.

More broadly, as upcoming COP26 hosts, we warmly welcome other discussions in this House aimed at facilitating green growth and a more sustainable global economy.

On agriculture, I wanted to thank Ambassador John Deep Ford for his detailed report. The United Kingdom is committed to a fair and market orientated agricultural trading system, and we look forward to working with Members to address the challenges that we face and progress negotiations. We know how important this issue is for so many Members of this House.

Regarding the second tranche of issues for MC12, the United Kingdom has long supported the Joint Initiatives. They represent perhaps the most significant reform to the WTO in recent years. If they succeed, these initiatives will advance digital trade and trade in services, open up new opportunities

for Micro, Small and Medium Size Enterprises, and facilitate global investment for development. But, in addition to that, they will strengthen the negotiating function of the WTO, upon which the health of the global trading system depends.

On wider WTO reform, the United Kingdom supports efforts to strengthen the rules on subsidies, we support efforts to improve compliance around transparency and notifications, and we do need to discuss questions around non-market policies and practices. The WTO cannot afford to ignore these issues.

Finally, allow me to turn to the dispute settlement system. We view a fully-functioning, compulsory, binding and impartial system, with two-tier review as crucial to ensure the rules that we have negotiated can be enforced. We are committed to finding solutions that all Members can support in order to reinstate a fully effective dispute settlement system.

By way of closing, let me just reiterate that the United Kingdom stands ready to help, in any way the Director-General would find useful, to achieve a meaningful outcome at Nur-Sultan that both reconfirms the WTO's central role, and opens up new opportunities and prosperity for our businesses and citizens.

43. Viet Nam (ASEAN)

Viet Nam delivers this statement on behalf of ASEAN.

ASEAN Member States reaffirm our full support for the open, non-discriminatory and rules-based Multilateral Trading System, embodied in the WTO, which must be maintained and strengthened. We view the two-tier Dispute Settlement System, with its fundamental principle of negative consensus as an indispensable pillar of the Multilateral Trading System. We call for continued engagement and consultations to find a solution for the Appellate Body impasse.

ASEAN is concerned with the further weakening of global trade in the first quarter of 2020 due to the aggregate impact of trade tensions in previous years and the COVID-19 outbreak in various regions that severely affect supply chains. In this context, it is of critical importance that the WTO membership cooperates to the maximum extent possible to maintain business predictability and confidence that can enhance trade growth for the benefit of all Members.

Considering the significance of an outcome in the multilateral negotiations for fisheries subsidies disciplines to the WTO as well as the achievement of Sustainable Development Goals, ASEAN fully supports the Fisheries Chair's call to redouble efforts towards the twelfth Ministerial Conference and to devote the necessary negotiation resources to this joint endeavour. In addition to the need to have a consolidated text, compromises and possible landing zones for critical negotiation issues must also be considered as soon as possible.

While discussions are on-going on WTO Reform, we note with appreciation that its deliberations have gone a long way and enriched Members' understanding of emerging issues and challenges that need to be addressed to ensure that the WTO remains relevant for all Members. ASEAN Member States have actively engaged and contributed to a number of these discussions. Members also need to demonstrate greater commitment in the implementation of WTO agreements and previous WTO ministerial decisions, especially those in favour of Least Developed Countries.

44. Viet Nam

Viet Nam would like to express gratitude to the Director-General and Chairs of Negotiating Bodies for the detailed and comprehensive reports. We would like to highlight that the economic situation of many Members including Viet Nam is becoming very difficult in recent months. Many industries have been severely affected including tourism, travel, hospitality and manufacturing. Hardship and uncertainty spill over due to economic and trade interdependence are not supportive factors for the WTO. Nurturing a friendly, cooperative environment through inclusive and impartial proposals, open and willing engagement are critically important to facilitate our work towards MC12 and beyond.

In the area of fisheries subsidies, Viet Nam welcomes the collective determination to accelerate the negotiation in response to the Chair's call. We support intensive dialogue and engagement. At the same time, we share the view that Members need to demonstrate flexibility and pragmatism so that

we can quickly and efficiently identify acceptable landing zones and have the corresponding legal text in all areas. We are committed to achieving meaningful outcomes and ready to work intensively and continuously towards an agreement by the Ministerial Conference.

On WTO Reform, while Viet Nam is open to new proposals and ready to engage, we would like to underscore the need to stocktake on ongoing discussions with necessary observatory assessment. We also welcome efforts of some proponents to dialogue and actually revise their proposal to take into account comments from concerned Members. We reiterate that reforms need to be comprehensive and consistent with the goal of preserving an inclusive, open and non-discriminatory rules-based multilateral trading system while making it more responsive to the changing landscape of world trade and business environment. We continue to encourage reform proponents to listen and adequately address concerns of Members.

45. Nepal

At the outset, my delegation would like to extend sincere thanks to the Director-General for his comprehensive briefing on the state of the play in trade negotiations. We would like to commend the Chairs of Negotiating Bodies for their updates.

We wish to align our statement with the statement delivered by Chad, the LDC Group Coordinator.

As a staunch supporter of fair, inclusive and rules-based multilateral trading system, Nepal underlines the necessity of timely WTO reforms for safeguarding multilateralism in the interest of all WTO Members.

In this regard, my delegation would like to highlight some specific seven issues to be addressed in the context of achieving concrete deliverables of the upcoming MC12:

- Nepal underscores the functioning of the dispute settlement mechanism to uphold the rules-based order. The vacancy of Appellate Body members affects the credibility in the works of the Organization. Nepal has, therefore, supported the joint initiative for launching its selection process; and we call for the immediate resolution of this issue.
- WTO reform is an important issue for all of us. We need to deliberate the reform agenda thoroughly. I would like to emphasize that substance of the reform should be comprehensive; able to address global challenges including increased inequality; properly incorporate emerging issues and opportunities of global trade; and support to weaker economies to integrate meaningfully into, and benefit from, the global trading system. The reform outcome should not be burdensome to LDCs and weaker economies rather facilitate their development process.
- Development dimension must remain our topmost negotiating agenda, as it is the key concern of all developing countries, particularly LDCs. A clear road map on mainstreaming development dimension in the multilateral trading system and S&DT is critical to achieve SDGs, especially for LDCs and weaker economies.
- Nepal puts strong emphasis on the implementation of Trade Facilitation Agreement, as it aims to reduce time and cost of cross-border trade. I am pleased to share that Nepal has recently notified the definitive date of Category B implementation of the agreement within a given timeline. However, implementing the Category C commitments pose severe difficulties for us; therefore, we encourage our development partners to provide enhanced and additional level of support to implement the TFA in a timely manner.
- In view of having possible impact on revenue posed by the moratorium of customs duty on electronic transmission, I would like to stress that a comprehensive study on the impact of such a moratorium should be undertaken before taking any decision on it.
- Various negotiations are gaining a momentum with a view to concluding them in the run up to the upcoming Ministerial Conference in Nur-Sultan. We expect that such negotiations would ensure just and equitable share of benefit to all members, particularly LDCs and within them the landlocked LDCs. International support measures for landlocked LDCs need

to be discussed, explored and incorporated while concluding the ongoing negotiation on fisheries subsidies.

- All LDCs-focused support measures including Aid for Trade and Enhanced Integrated Framework, DFQF, technological support and flexibilities in implementation, among others, are highly important not only to enable us to graduate from the LDC status but also to ensure their graduation more inclusive and sustainable in terms of meeting SDGs by 2030 and fulfilling their development agenda beyond 2030.

46. Solomon Islands (Pacific Group)

I make this statement on behalf of the Pacific Group and we align our views with the statements of the ACP and the LDC groups.

Firstly, the Pacific Group thanks the Director-General for his comprehensive report and also to the Chairs of the Negotiating Groups for their reports.

Turning to Fisheries Subsidies, the Pacific Group commends the Chair and the Facilitators in assisting members to advance the negotiations. With the Facilitator's text on Overcapacity and Overfishing, we now have texts on three disciplines. However, much work remains in the little time we have left before MC12 in June to agree on approaches and technical issues as well as the cross-cutting issues which have been less advanced.

For the Pacific Group the two sectors that form the backbone of our economies are tourism and fisheries. Tourism is a very fragile sector, highly susceptible to international economic and other shocks as well as climate change. With any global health threat like coronavirus, tourists do not come to our shores. Fisheries is therefore the only productive sector that many Islands depend on. In fact, fisheries since 2015 remains a priority of the Pacific Islands Forum Leaders and is also part of the Blue Pacific adopted by Leaders in 2017. The Pacific Group has therefore always underlined the vital importance of the fisheries sector to our economies - in providing food and livelihood security and economic opportunities. In fact, in 2016 tuna caught in the Pacific accounts for over 50% of global catch, and around 60% of that catch is from the waters of the Pacific Islands state. Stock assessments for the Pacific in 2018 indicated that all commercial tuna stocks are in good health. However, most of the Members of our group do not have the capacity to fish because we do not have fishing fleets.

Therefore, as small island states whose EEZs are much bigger than the size of our lands, the fisheries subsidies agreement should not repeat the distortions in the agriculture agreement and prevent small countries like us from exploiting our fisheries resources and diversifying our economies. In addition, Members like us that are managing their fisheries resources well, should not be made to pay for the bad behaviour of those that are running down stocks, with heavy subsidies. There has to be some proportionality, ensuring that the Agreement targets those that are causing over-fishing, that is, the large subsidizers and the large industrial fleets and that appropriate policy space must be given to developing Members, especially, small island states that have little to no capacity at present. This would be in line with fulfilling the two dimensions of the SDG 14.6 and MC11 mandates - namely, strong disciplines for harmful subsidies and appropriate and effective special and differential treatment for developing countries. This would also ensure that the SDG 14.6 also delivers on the SDG 14.7 which is to support the fisheries development in small island developing states and LDCs. Chair, the Pacific Group remains committed to working with Members to deliver a meaningful Agreement on fisheries subsidies at Nur-Sultan.

On Agriculture, the Group continues to support discussions on reduction of trade distorting domestic support and finding solutions to public stockholding and special safeguards mechanism.

On Development issues, the Pacific group urges Members for constructive discussions on the G90 proposals particularly those proposals that support economic diversification and industrialisation and the situation of LDCs.

Finally, in terms of process, our Group expresses concerns on the clashes in meetings this week between the Negotiating Group on Rules and the HODs and the GC. Small delegations like us do not have sufficient staff to cover parallel meetings and we hope that in future such clashes will be avoided.

47. Australia (Joint Statement Initiative on Electronic Commerce)

I will first provide a report on negotiations under the Joint Statement Initiative on Electronic Commerce on behalf of the co-convenors: Australia, Japan and Singapore.

I will start with a short summary of the informal meeting of Ministers on the Ecommerce JSI held in Davos on 24 January.

At this meeting, Ministers underscored the importance of this initiative both commercially and systemically for the WTO and affirmed their commitment to a high standard outcome, with the participation of as many WTO members as possible.

Ministers welcomed the good progress achieved over the first year of negotiations, including the range of proposals received, the diversity and growing number of participants, and the strong levels of engagement in negotiating rounds.

Ministers emphasized the need to keep working hard to ensure substantial progress by MC12 and agreed to develop a consolidated negotiating text by MC12 and a pathway for the future conclusion of the negotiations.

The Philippines also announced it would join the JSI, bringing the number of signatories to 83, representing over 90% of global trade.

Since our last report at the December HODS/TNC, we have held an organisational meeting, on 16 December, that set a work plan leading up to MC12.

We also convened a negotiating round from 11-14 February, which covered electronic transactions, non-discrimination and liability, consumer protection, transparency, domestic regulation, cooperation and telecommunications. These negotiations were structured around revised streamlined texts drawn from proposals made by Members, and made further progress on streamlining text.

Two more rounds are scheduled before MC12: 17-20 March and 28 April-1 May.

We look forward to a continuation of the constructive engagement and momentum demonstrated in February with the aim of developing a consolidated negotiating text by MC12.

The co-convenors continue to ensure this JSI is transparent and inclusive: meetings are open to all WTO Members; and all proposals and reports are available on the WTO's web portal.

48. Australia

As many delegations have noted today, we are three months from Nur-Sultan and are focusing intently on what we, collectively, can achieve at this important meeting. Australia is optimistic yet realistic. We recognize that we must focus our efforts on those areas where we have the best prospects of reaching convergence.

We consider a multilateral outcome on fisheries subsidies should be within our grasp. But we agree we will need to step up the pace of compromise if we are to achieve this. For Australia, we will carefully and constructively engage with the consolidated text, which we heard from the Chair today will be released mid-March, and to elevating discussions, possibly with senior officials in Geneva, if viewed appropriate. We believe it is possible to reach a meaningful outcome that accommodates the interests of all Members provided we are pragmatic, creative and willing to compromise.

On agriculture, Australia, together with Cairns Group Members has presented a new Framework for Negotiations on Domestic Support, which contains a set of fair and comprehensive principles that reflect current trade realities. We have been pleased with the positive initial reactions we have received to date and note that many of the issues and concerns raised by Members would be considered as part of future negotiations post-MC12. We should not miss the opportunity presented by MC12 to reset agriculture negotiations in the WTO.

We also consider agreement to extend the two moratoria a priority outcome from MC12. We look forward to engaging in structured discussions on the ecommerce moratorium, as envisaged by the December 2019 General Council decision to extend it to MC12.

Chair, Australia is an active participant in all the Joint Statement Initiatives and we consider this a promising area for meaningful outcomes in Nur-Sultan. We have a clear pathway for a concrete outcome on services Domestic Regulation by MC12 building upon the existing commitments in the GATS with 53 Members having submitted draft indicative schedules. We urge Members that have not yet joined to look closely at the commitments being made and consider the benefits that joining this initiative would bring to their service suppliers.

Australia welcomes the progress to date on e-commerce and considers that negotiations are well placed to deliver a consolidated text at MC12. We are also pleased that the JSI on investment facilitation is moving to negotiating mode and that the MSMEs Group is actively working on stabilising texts for MC12.

We look forward to contributing to outcomes on trade and women's economic empowerment and the trade and sustainable development agenda.

The value of the WTO lies not only in these concrete outcomes, important and welcome as they will be. The value of the WTO lies also in its function in maintaining the rules-based system and Members' adherence to those rules. Australia has long believed that it is not only others' adherence to those rules which benefits our economy, but our own adherence to those rules.

To maintain this role in the current challenging times, we are focused on the work of committees, transparency and the proper functioning of the dispute settlement system. We should not forget the very significant contribution the WTO's dispute settlement system has made to the multilateral trading rules to which we are all committed and benefit from. We must also be clear-eyed about what we need to improve - to ensure the health of the system and that it delivers the key objectives we collectively ascribe to it.

We also think it important Members continue to consider how we can most effectively incorporate special and differential treatment in current and future negotiations. Australia recognizes the value of S&DT in supporting developing countries' integration into the multilateral system, particularly LDCs, but we must also remember that S&DT should not be an end in itself, and should only be available to those Members who truly need it. We look forward to contributing further to this discussion.

49. Cambodia

Cambodia associates itself with the statement made by Chad on behalf of the LDC Group and by Viet Nam on behalf of ASEAN.

We express our appreciation to all Members for their active participation and their contribution in making progress in most of the negotiating areas. We commend the great efforts of Members to move forward the negotiations on fisheries subsidies and on agriculture – which are important priority areas for all of us. We also commend Members' tremendous commitment to find convergence on other areas such as e-commerce and WTO Reform.

As reiterated in the past through the LDC Group and our national statement, S&DT must form an integral part of our negotiations whether we are negotiating on existing provisions of the WTO Agreement or on current negotiating issues. We have had long discussions on S&DT and have been debating the matter for a very long time already. At this stage, in order to share a prosperous world to make trade work for all, S&DT should be granted to developing countries and shall be unconditionally granted to LDCs so as to provide us the opportunity and possibility to develop trade policies and fulfil the sustainable development goals based on our individual developmental needs.

We applaud the current negotiations as they are conducted in an open and transparent manner. We are however concerned on the LDC's capacity to participate in meetings particularly those that do not have enough resources to follow up on all the negotiating issues. We therefore encourage coordinators to keep the practice of reporting to the TNC and if possible send their report or relevant documents to Members in advance to allow them to prepare for succeeding discussions. We thank

Members for the inclusive interest and taking into account of the resource constraints faced by the LDCs.

Cambodia urges Members to fully implement previous WTO Ministerial Decisions especially on DFQF, Preferential Rules of Origin and Services Waiver. We also urge Members to avoid actions or usual political issues to impede the development of LDCs. We look forward to work closely with Members to discuss further on issues and overcome challenges in the search for meaningful outcomes at MC12.

50. Panama (Article XII)

At the onset, we would like to thank the Director-General and the Chairs of Negotiating Groups for their reports on the state of play of negotiations this morning.

As have said in the past our Group expects that current negotiations should result in levelling the imbalances that have accumulated in members Commitments as a result of Accessions to the WTO. We do not seek to backtrack on commitments we undertook on accession at the request of Members with much higher levels of entitlements and flexibilities. This means however, that in order to reach a level playing field, all those who currently have the highest levels of entitlements and flexibilities will have to make more significant adjustments.

Our group is supportive of a substantial reform in trade distorting domestic support and market access, where the evidence is clear Article XII Members went through a broader liberalization reducing subsidies, entitlements and tariff barriers. We expect the original Members would follow suit as we carry out our work under the built-in agenda.

We remind the Members that built-in agenda is not limited to Agriculture. While there has not been much activity in the NAMA we reiterate that wide gaps remain in the average bound tariff levels and coverage levels of the Article XII Members and the original Members. This is also evident in Services where Article XII Members have undertaken more commitments in every subsector in comparison to the original Members. We expect that Nur-Sultan and negotiations lead to closing these gaps.

We would also like to express our Group's continued support of the ongoing discussions on transparency, improving compliance and the quality of notifications that would allow us to depict the realistic state of play on negotiations.

Our Group stands ready to work with other Members towards achieving incremental, balanced and meaningful results for MC12.

51. Panama

Three months away from the Twelfth Ministerial Conference, my delegation calls on Members to show commitment, pragmatism and flexibility in the various negotiations that are taking place at the WTO if we wish MC12 to be successful with major outcomes achieved.

We wish to thank Ambassador Wills for his efforts to ensure that the negotiations on fisheries subsidies are concluded in time for MC12. Unless we Members drastically change our negotiating methods and show greater commitment to achieving an outcome, we will again fail to meet not only the deadline imposed by our Heads of State but also the second deadline set by ourselves after failing to meet the first one.

Delegations must move beyond outgrown extreme positions that do not have sufficient support, as well as proposals that show no adjustment, effort or commitment on the part of sponsors who seek to maintain the status quo. This applies in particular to proposals that do not come within the mandate and achieve nothing more than to create new disputes, in insurmountable cases, in negotiations where all details are complex.

In agriculture, Panama thanks Ambassador Ford for his report today and for circulating document JOB/AG/180. We support a comprehensive outcome in all pillars of agriculture that will result in levelling out the commitments between Members and reducing barriers to trade. We support Ambassador Ford's call to maintain consultations at ambassadorial level in order to move the negotiations forward and achieve a substantial outcome in Nur-Sultan.

With regard to services, we wish to remind Members that we are at the WTO, not the GATT. Multilateral outcomes in services are of the utmost importance for my country. We underline the need for a more active approach to the negotiations on access to services in order to ensure the balance of benefits and responsibilities resulting from the various negotiations. Panama supports and promotes the exploratory discussions on access for this purpose.

We are co-sponsoring proposals relating to the work programme and moratorium on electronic commerce and to cases of non-violation under the TRIPS Agreement. Panama considers that both moratoriums should be permanent and urges the launching of relevant discussions to enable our ministers to take decisions in this regard at MC12.

Panama congratulates the coordinator of the structured discussions on facilitation of investment for development for the work done to achieve a simplified text and a working method that will enable the next steps to be taken. We acknowledge the work done by the coordinator in the Working Group on MSMEs, where much is also being done to stabilize the proposals on the table and have possible deliverables at MC12. Panama reiterates its commitment to continue contributing actively and constructively to shape the future multilateral framework.

Lastly, we would like to reiterate our support for document WT/GC/W/777, with a view to improving and harmonising the functioning of the committees.

52. Chinese Taipei

We would first like to the Director-General and the Chairs of the Negotiating Groups for the reports and updates which are most informative and are now starting to shed some light on a possible profile for the future evolution of this organization.

After 25 years in its role of facilitating global trade through predictable rules, the WTO is now entering an era of maturity and transformation. We see an urgent need for WTO reform in the institutional or disciplinary aspects in order to cope with new commercial trading models and market conditions. Of course, we recognize that Members have different definitions and expectations. We would agree with the Director-General that we should make every effort to progress gradually with reform, instead of being too hasty. In fact, even at this early stage we can already see some improvement being made, which my delegation has also been involved in.

Undoubtedly, for the WTO to be fully operational, the strengthening of the monitoring and transparency of Members' trade policies is a top priority. We strongly urge Members to continue to comply with their notification obligations under the WTO agreements. The other pillar, the daily work of WTO bodies, is functioning more efficiently, but requires some procedural Guidelines for WTO Councils and Committees addressing trade concerns. My delegation calls on more Members to engage in the dialogue, and to work together to find feasible ways for all Members to implement the suggested rules.

As we count down the days towards the upcoming MC12, my delegation would like to echo the Director-General's words, and those of other Members, in calling for us to identify the doable subjects, and start to work on the possible outcome documents as early as possible.

For the agenda on the table, Members all agree fisheries subsidies is currently the only multilateral deliverable that the WTO can convey to the world to show its negotiating function can still work well. As we have limited time to reflect a wide range of approaches and options, we should prioritize our efforts, and the priority should be driven by our Mandate in IUU fishing, overcapacity and overfishing with appropriate and effective S&DT. In our view, we should immediately start to use the facilitator's consolidated text merging from the proposals aiming at prohibiting harmful subsidies.

On the other hand, my delegation joins with other groups of Members in working towards new rules on a range of issues through Joint Statement Initiatives (JSIs). While we are pleased to see the progress made so far, we should also remind ourselves that the possible outcome has to truly meet the high expectations of businesses.

On e-commerce, we are encouraged by the more active discussions through small group meetings, and the flexibilities shown by participants. We should spare no effort in working towards a

consolidated negotiating text by the MC12, while maintaining a high standard outcome. Similarly, we support reinvigorating the work under the e-commerce Work Programme, as well as an extension of the moratorium, so as to unleash the potential of e-commerce for all WTO Members.

On Services Domestic Regulation, it is good to see that 26 Members have submitted their indicative draft schedules, which is an impressive achievement. We look forward to more draft schedules being submitted by participants, and to a possible outcome, such as a reference paper at the MC12.

In addition, we also work with like-minded Members to enhance the synergy between trade and environment for sustainability goal.

On the setback being suffered in the area of dispute settlement, regarding possible reform of the Appellate Body itself, we still believe our first priority is to re-initiate the selection processes. We would urge more Members to engage in constructive dialogue with a view to finding innovative solutions to overcome the current impasse. Meanwhile, it is equally important for all Members to engage in the disputes in good faith, by using the bilateral non-appeal agreements or resorting to bilateral appeal-arbitration under DSU 25, to avoid appeals being void.

Only when Members take pragmatic steps and show flexibility in negotiations and dialogue, can we deliver meaningful results at the MC12. My delegation restates our commitment to work with the Director-General and all Members, to produce fruitful outcomes in the form of new agreements or frameworks in Nur-Sultan, and to show that the WTO is more important, and is needed more than ever before.

53. Burkina Faso (C-4)

I am making this statement on behalf of the group of Co-Sponsors of the Sectoral Initiative in Favour of Cotton (C-4), all African countries, and least-developed countries (LDCs) that are producers and/or exporters of cotton and cotton by-products.

The C-4 thanks the Director-General for his introductory remarks and the Chairs of the Negotiating Groups for their reports on the status of negotiations, including in relation to agriculture and cotton, and for the efforts made to reconcile Members' positions.

The C-4 Group endorses the declarations of the African Group, the LDC Group, the ACP Group and the G-33 Group.

The C-4 would like to reassure the Director-General and Members that it supports all constructive initiatives from WTO Members based on proposed texts, which are extremely welcome for facilitating useful interaction in order to achieve a significant outcome on cotton between now and the Twelfth Ministerial Conference (MC12).

The C-4 expresses its gratitude to all partners for their renewed commitment to continuing the negotiations on cotton and funding development projects in the cotton sector in developing countries and especially in LDCs.

The Group reiterates its commitment to continuing the work with all WTO Members in order to find concrete and measurable responses to the thorny question of domestic support for cotton.

This commitment of the C-4 is consistent with the position of all countries in favour of agricultural reforms enabling the distorting effects on the international cotton trade of unfair competition from domestic support to be eliminated.

Rectification of the dysfunctional aspects of all forms of domestic support for cotton is essential to enable LDCs that produce and export natural cotton fibre to take effective action against unauthorized migration, unemployment, loss of revenue and poverty.

This is why the C-4 will stay mobilized, committed and open in order to achieve the expected outcomes in negotiations based on a precise schedule.

After more than 17 years of difficult negotiations without satisfactory results, millions of small cotton producers in LDCs hope for the adoption of a ministerial decision on the pillar of domestic support for cotton between now and MC12.

This is very important for strengthening the credibility of a WTO that is capable of helping to find appropriate solutions to its Members' problems, especially those that account for less than 1% of the world market in goods and services.

The C-4 simply asks for strict observance of the WTO rules and a determined commitment from all Members to achieve development goals through an "ambitious, expeditious and specific" solution for the cotton dossier, which has been on the negotiating table since June 2003.

It is in the context of this approach that the C-4 submitted a comprehensive proposal in September 2019 for procedures that can serve as a basis for negotiating a consensual outcome for reducing the support that adversely affects the international cotton trade.

With regard to the cotton development component, namely actions and initiatives aimed at improving and reinforcing production and export capacities for cotton and cotton by-products, the C-4 urges its technical and financial partners to continue their cooperation to ensure that the goals sought in this sphere are achieved, especially to ensure the effective implementation of the Cotton Roadmap Project.

The C-4 requests that this statement and the statement made in the Committee on Agriculture in Special Session (CoA SS) on 24 February be taken into account in the report of the General Council of 3 and 4 March 2020.

54. St. Lucia (OECS)

My delegation takes the floor on behalf of the WTO Members of the Organization of Eastern Caribbean States (OECS). We thank the Director-General for his Report and for providing us with his own perspective on where things stand on a range of issues of common and systemic concern. Through the Director-General, we extend our appreciation to the Chairs of the various Negotiating Groups who have provided updates.

On the subject of Fisheries Subsidies, we acknowledge the commitment of Ambassador Wills and the respective Facilitators in enabling and overseeing purposeful engagement on this important and evidently complex negotiating file. In that context, we reaffirm our desire to constructively engage towards a balanced outcome in Nur-Sultan – that is, an outcome that secures global fish stocks by limiting the excesses of major subsidizers while providing sufficient policy space for countries like ours to sustainably grow our fisheries sector. That being said, we, as small States, must remind the membership that we primarily engage in small scale fishing within our territorial waters, and for this, and other innate capacity related reasons, our share in global marine capture remains negligible, if not minuscule. Therefore, it is only fair that any multilateral trade agreement that seeks to discipline the use of harmful fisheries subsidies must contain Special and Different Treatment provisions that take into account this reality. We simply cannot be treated the same as those responsible for large-scale resource-depleting fishing. In this context, we ask that the negotiations remain true to the mandate by holding accountable those Members that are truly responsible for the delicate condition of our global fisheries resources. Chair, we reiterate our commitment to negotiations based on the principles of fairness, inclusiveness and transparency.

Effective Special and Differential Treatment in the WTO rulebook remains a priority to the OECS. In this regard, we are deeply concerned over recent attempts to diminish the importance of Development enhancing provisions. One area of particular interest is the 'Work Programme on Small Economies', given that it was born out of our Ministers' recognition that our deliberations must take into account the specific circumstances that SVEs face in trying to fully integrate into world trade. We therefore urge that more meaningful attention be given to the link between natural disasters and trade. It is beyond question that the flexibilities embedded in the covered agreements are inadequate to support SVEs recover from severe and frequent natural disasters. We continue to applaud the Secretariat for its meaningful contributions on this most important theme.

Agriculture has always been an integral part of our economies and we continue to view it as a major policy tool for reducing rural poverty, achieving food security and improving the overall nutrition of

our citizenry. We take note of the efforts of Members in elucidating some of the complexities inherent in the discussions. We are also hearing a louder appeal for us all to work towards achieving a balanced, incremental and meaningful outcome at the next Ministerial. However, these will amount to nothing if we are not pragmatic, empathetic and sincere in our deliberations. The Members States of the OECS are simply looking for a package that recognizes and addresses the imbalances that inhibit us from better integrating into global agricultural trade. To this end, we desire an outcome that preserves our existing *de minimis* entitlements, attenuate preference erosion and effectively operationalizes existing special and differential treatment for SVEs.

Turning to the question of institutional reform, the OECS continues to express deep concern at the opaque nature of the discussion. How can we have confidence in the outcome if a group of mostly powerful countries continue to lead these discussions? How can progress be made when the countries that will be most affected by changes to the system have little, or no say? How can the outcomes of these ad hoc fragmented discussions allow small delegations to properly participate? Why have we moved away from the core principles of transparency, fairness and inclusivity in seeking to make the WTO more relevant to the challenges of tomorrow? While much has been said on Reform, allow me to remind the membership, that our strength is not in creating barriers to participation, but in harnessing the collective wisdom of each and every member of this house.

With respect to the Structured Discussions on Investment Facilitation for Development, two OECS Member States are now part of this Joint Statement Initiative (JSI) while the others continue to assess and monitor these negotiations closely. Regardless of the position of our Member States on the JSI, each recognizes the important role of investment, especially sustainable investment, in bringing about economic growth and development, creating quality jobs, enabling technology transfer and supporting capital accumulation. We take note of the desire of participants in the JSI to achieve a meaningful outcome at MC12, possibly in the form of a clean or final text. With 100 Members now on board, there is also a real chance that the process can shift to a plurilateral phase in the near future. We commend the Members for their work and remind them to always bear in mind that the goal of investment facilitation is not for the sole sake of investments, but for us as developing countries, it is also "for development" as the nomenclature of the Structured Discussions suggests.

On e-commerce, we are not yet part of the JSI discussions. However, we continue to assess and review the possible benefits and implications. We also note that there is an existing multilateral mandate through the Work Programme on e-commerce which we support. At the last General Council in December, we were pleased to join other Members in renewing the moratorium on customs duties on electronic transmissions until Ministers pronounce at the twelfth Ministerial Conference.

Allow to say that there is a need for us to inject more energy and redouble our efforts to progress the Work Programme and focus on issues of concern to developing Members. For us, a thriving digital economy necessitates certain infrastructural, legal and regulatory solutions and we ask Members to focus on how we can strengthen these areas, especially for developing Members, to allow them to benefit more fully from e-commerce and digital trade.

In closing, my delegation endorses those statements delivered by Barbados on behalf of the Caribbean Community (CARICOM) and the Jamaica on behalf of the ACP Group.

55. Ecuador

We echo what was said by Panama on behalf of Article XII Members.

Although there is very little time before MC12, we as Members can still pull our efforts, work intensively and achieve a substantive package that reflects the importance of the multilateral trading system particularly for developing countries, LDCs and SVEs. It is pivotal across all negotiating areas and disciplines to take into account the specific needs of each Member.

Ecuador sees trade as a tool for development and an opportunity to improve living standards where resources are scarce. As Members, we should help to solve problems proportionally taking into account our past contributions to the system and our respective levels of developments. Outcomes should balance commitments and benefits for all Members.

In agriculture, although there are still divergences, we still think it is still possible to achieve a package across a number of pillars. Concerning domestic support, we should take into account the level of distortion in line with the principle of proportionality. In market access, we should at least agree on tariffs and on other areas such as tariff peaks. Although other areas are not of priority for this Ministerial Conference, we think that they could be included in a potential package and that could lead to a balanced outcome.

Regarding fisheries subsidies negotiations, Ecuador feels it is necessary to define the documents that will form the basis for negotiations as quickly as possible. Disciplines should clearly include elements to protect artisanal fisheries as well as effective S&DT. Ecuador welcomes the progress made under the Joint Initiatives on investment facilitation and MSMEs and we will work on these so that we can reach Nur-Sultan with balanced solutions that reflect the needs of developing countries in both those areas.

Let us not forget that we have a pending obligation. Unfortunately, we have not managed to meet the deadline to ensure that the Appellate Body could continue working. However, we still face an obligation as a Membership to find a way out of this stalemate. Not having an Appellate Body is not an option in the long-term. The WTO's two-stage dispute settlement system is key to ensuring compliance with WTO rules and it is a fundamental part of the system that we are all Members of.

Nur-Sultan presents a unique opportunity for Members to show the importance that the WTO has in the world and we hope that we will take that opportunity.

56. Chile (Structured Discussions on Investment Facilitation for Development)

I am delivering this statement on behalf of Ambassador Eduardo Gálvez, former Coordinator of the Structured Discussions on Investment Facilitation for Development. As you all may be aware, Ambassador Gálvez finished his posting in Geneva last Friday and his successor, Mr. Mathias Francke, will be in Geneva next week and then permanently as of April.

In keeping with the open, transparent and inclusive nature of the Joint Initiative on Investment Facilitation for Development, I am pleased to update Members on the latest developments since the last report to the HODs in December.

Since that HODs meeting, the Structured Discussions on Investment Facilitation for Development held a successful 'stock-taking and next steps' meeting in December, at which participating Members took important decisions. First, they tasked the coordinator with the preparation of a Streamlined Text, taking as a basis the previous working document and reflecting the views and positions expressed by Members during the discussions in the second half of 2019. Second, the group decided to move into negotiating mode as of March this year. The Streamlined Text was circulated in January 2020, so as to give a 'warm-up' period to all delegations before engaging in substantive negotiations as of March.

The decision to move into negotiating mode was reaffirmed in an informal ministerial gathering convened by Chile on the occasion of the WEF Annual Meeting in Davos. Furthermore, a high-level session on "Easing Investment Worldwide" took place as part of the Davos Annual meeting, gathering ministers, CEOs and other stakeholders. At that meeting, business gave a strong endorsement to the initiative.

A schedule of meetings and a working methodology were adopted at our organizational meeting last week. Three substantive meetings are foreseen, in March, April and May, and an additional meeting to prepare for MC12 at the end of May. The negotiations will be based on the Streamlined Text and proposals submitted by Members. In that connection, we are pleased to announce that the European Union submitted a proposal last week, and we are expecting additional ones from other Members. The objective is to achieve a concrete outcome by MC12.

The initiative has gained increasing momentum over the last months. With the Philippines and Bahrain recently joining, the initiative has reached 100 participants. This increasing support serves as clear evidence of the importance that a majority of WTO Members attach to investment facilitation. We will redouble our outreach efforts in the run-up to Nur-Sultan, persuaded – as we are – of the clear link between trade and investment, and the substantive contribution that an

investment facilitation framework will make to the development of Members and to the modernization of the WTO framework.

In keeping with the open, inclusive and transparent nature of the initiative, which has been a core feature of this initiative, all Members are invited to participate.

The next meeting, which will mark the actual start of the substantive negotiations, will be held on 12 and 13 March.

57. Chile

This meeting is taking place at a time when the challenges faced by the WTO are piling up from different directions, especially because of the urgent need to produce concrete outcomes as deliverables at the Twelfth Ministerial Conference (MC12) in Nur-Sultan next June.

We have the uncomfortable feeling that there is some delay in our Organization's work and we now wish, before MC12, to convey a feeling of urgency with regard to significantly improving our capacity for understanding in order to facilitate the agreements needed by the WTO.

Chile will never lose its spirit of cooperation or give up on the search for consensus. We are friends of the system and of multilateralism, and we believe in the WTO as a key institution for rules based international trade.

We continue to be part of the processes that seek a permanent solution to the impasse affecting the Appellate Body's capacity to be fully operational. We believe in all the bodies of the dispute settlement system and we also think that modifications are necessary.

Regarding the specific topics on the trade agenda and referring to the agriculture negotiations, we wish to say that we remain committed to achieving an outcome on domestic support, based on the framework document presented by the Cairns Group, and also on the use of the criterion of proportionality in seeking ways to reduce trade distorting domestic support. In this area, we note with concern not only the lack of flexibility expressed by certain Members with regard to moving forward towards realistic agreements but also, frankly, the apparent lack of interest in achieving an outcome with a view to Nur-Sultan, which gives the impression that some feel comfortable with the current situation.

The above elements have signified a harmful entrenchment of positions, which, in our view, is causing serious immobility. Since the status quo appears not to entail costs for certain parties, we must be capable of finding the proper incentives to move forward together in these complex negotiations.

The lack of an outcome in agriculture for MC12 would no doubt deepen the crisis currently facing the WTO even further, and Chile therefore reiterates its commitment and willingness to achieve results in these negotiations.

With regard to the negotiations on fisheries subsidies, our country reiterates its commitment and its work to achieve an ambitious objective in line with the mandate of the Buenos Aires Ministerial Decision and target 14.6 of the Sustainable Development Goals. We would like to thank the Ambassador of Colombia and the facilitators for the commitment that they have shown to these negotiations and we reiterate our support for the work programme that has been presented. We are looking forward to the presentation of the consolidated negotiating text and the "landing zones" to be identified soon. We call for these documents to be made available as soon as possible and we hope that these will enable us to reach consensus in the various pillars of the negotiations.

Chile continues to be strongly committed to the initiatives based on joint declarations. On the way towards MC12, we call for the best efforts to be made to achieve a final outcome on domestic regulation in services and a concrete outcome on facilitation of investment for development and to show substantial progress on electronic commerce.

Moreover, we reiterate the significant value that we attach to the moratoriums in force regarding intellectual property and e commerce and we invite the whole Membership to work with the goal of renewing both moratoriums at MC12.

Lastly, allow me to pay tribute to the contribution made by Ambassador Eduardo Gálvez as coordinator of the structured dialogue on facilitation of investment for development. While Ambassador Gálvez was in office, Members' support increased to 100 signatories and tangible, concrete progress was achieved in a atmosphere conducive to consensus. We hope that this progress will continue in the near future and culminate in a substantive agreement on this important matter.

58. Paraguay

As a defender of the multilateral trading system, Paraguay wishes to emphasize its commitment to the work of the WTO. In this regard, we would like to underline the urgency that we feel as regards restoring credibility in the Organization.

WTO Reform

Paraguay considers that discussions should continue to be inclusive and transparent and respect the development component as a principle and as a fundamental right of Members. We should preserve special and differential treatment for those Members that really need it. In addition, discussions on improving transparency and notifications should cover all agreements equally and not treat Table DS:1 notification requirements under the Agreement on Agriculture any differently, this being a key notification for the elaboration of disciplines that reflect the current reality of the protection of agricultural products. Moreover, the discussion should be based on appropriate incentives, and also on effective mechanisms that enable Members to meet their outstanding obligations.

Appellate Body

we reiterate our deep concern regarding the current impasse. The dispute settlement system is a vital element for providing legal certainty and predictability to the multilateral trading system. The membership's priority should be to fill vacancies without further delay, and any solution should be negotiated and aim for the restoration of the dispute settlement system with its fundamental principles.

Agriculture Negotiations

We would like to thank the Chairman of the Committee on Agriculture in Special Session (CoA SS) for his efforts to seek progress in the current discussions. We continue to maintain that a package outcome is essential for balanced commitments and we will continue to work for the presentation of a framework document to guide discussions on market access. With regard to domestic support, we are convinced that the way ahead towards achievable and fair outcomes lies in making progress on the basis of the principle of proportionality with discussions that comprise all the elements of Article 6 of the Agreement on Agriculture. Mr Chairman, all Members of this Organization must recognize their share of responsibility for agricultural subsidies and contribute towards a solution for them; we are ready to do our part. We also think that any outcome regarding transparency would be a plus and in no way a prerequisite for achieving a substantive outcome or an outcome worthy of submission to ministerial authority.

We cannot fail to mention the importance to our country of the application of non-tariff barriers for agricultural products. The current limited market access for agricultural products is increasingly affected by non-tariff barriers that have a negative impact on our producers. We therefore fully support the initiative put forward by Brazil, Canada and the United States which we hope can be approved as a multilateral initiative at the forthcoming Ministerial Conference.

Fisheries Subsidies Negotiations

Paraguay encourages Members to renew their efforts to fulfil the ministerial mandate and conclude the negotiations, without prejudice to the rights conferred by international law on landlocked WTO Members.

Moratoria on Electronic Commerce and on TRIPS Non-Violation and Situation Complaints

We have always supported their extension and renewal, and also the continuity of informed technical discussions in the context of the 1998 Work Programme on Electronic Commerce. Let us intensify

the technical discussions in the coming months so that ministers have sufficient input to take an informed decision that takes account of the impact of the moratoriums on our economies.

Joint Initiatives

We are very enthusiastic about the WTO's potential for creating new disciplines that are transversally linked to trade facilitation. We therefore support the work of the initiatives on e-commerce, facilitation of investment for development, and MSMEs. We hope that the discussions will continue to be open and transparent as they have been so far, and we call on Members, especially LDCs and landlocked developing countries that are still not participating, to convey their concerns and interests so as to strengthen the inclusive aspect of these discussions.

My delegation is ready to contribute actively to the discussions to be held with a view to the forthcoming Ministerial Conference. We hope to work constructively with Members to achieve tangible outcomes and we encourage Members to be constructive with their contributions and distance themselves from extreme positions that do not enable progress in the discussions.
