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COVID-19 AND BEYOND: TRADE AND HEALTH

COMMUNICATION FROM AUSTRALIA; BRAZIL; BRUNEI DARUSSALAM; CANADA; CHILE; CHINA; THE EUROPEAN UNION; HONG KONG, CHINA; ICELAND; JAPAN; KAZAKHSTAN; KENYA; REPUBLIC OF KOREA; MEXICO; REPUBLIC OF MOLDOVA; MONTENEGRO; NEW ZEALAND; NORTH MACEDONIA; NORWAY; SINGAPORE; SWITZERLAND; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; THE UNITED KINGDOM; URUGUAY AND VANUATU

The following communication, dated 15 July 2021, is being circulated at the request of the delegations of Australia; Brazil; Brunei Darussalam; Canada; Chile; China; the European Union; Hong Kong, China; Iceland; Japan; Kazakhstan; Kenya; Republic of Korea; Mexico; Republic of Moldova; Montenegro; New Zealand; North Macedonia; Norway; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; the United Kingdom; Uruguay and Vanuatu.

The trade policy related actions set out in this declaration are designed to contribute to the WTO response to the current COVID-19 pandemic and to enhance resilience against future pandemics. These actions may be complemented by additional aspects of trade policy, including those related to intellectual property. This Declaration is a contribution to the multilateral process on the WTO response to the pandemic.

DRAFT GENERAL COUNCIL DECLARATION COVID-19 AND BEYOND: TRADE AND HEALTH

TRADE POLICY RESPONSE TO THE COVID-19 PANDEMIC AND TO ENHANCE RESILIENCE AGAINST FUTURE PANDEMICS

The General Council,

Recognizing that increased cooperation among WTO Members in international trade policy can contribute to a successful fight against COVID-19 and any future pandemic,

Recognizing that ensuring access to essential medical goods¹ during a pandemic requires resilient and robust supply chains that function in a stable and predictable trading environment,

¹ Members are free to decide what constitutes an essential medical good based on each Member's circumstances. It is understood, however, that such essential goods would include pharmaceutical products, medical devices as well as any other products required by the medical sector to fight the COVID-19 pandemic. The concept of essential medical goods, wherever it is referred to in this text individually, also includes COVID-19 vaccines, therapeutics and materials necessary for the production of COVID-19 vaccines and therapeutics. In particular, Members should take into consideration the indicative list of COVID-19 related goods, established by the WCO and WHO. See the 3rd edition of the list available at: http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/nomenclature/covid_19/hs-classification-reference_edition-

Recognizing that the equitable distribution of essential medical goods, including COVID-19 vaccines, therapeutics, diagnostics, and related vaccine materials, requires concerted efforts to increase manufacturing capacity and investment, including in countries which have limited resources and which are highly reliant on imports, as well as supplies at an affordable cost primarily through the Access to COVID-19 Tool (ACT)-Accelerator, including the COVAX Facility,

Recognizing that the challenges posed by the current pandemic offer an opportunity for Members to take stock of the lessons learnt and review the existing tools of the trade policy in an effort to enhance Members' resilience against any future health crisis of local, regional or global nature.

Declares that:

We, WTO Members, intend to take the following actions to respond to the current COVID-19 related challenges in international trade. These actions are intended to facilitate trade in essential medical goods in these critical times and enhance the capacity of the trading system to deal with a public health emergency. These proposed actions are not intended to be prescriptive and do not cover the whole universe of possible measures that could support trade in essential medical goods. Rather, they reflect emerging best practices and should provide sufficient flexibility to be adapted to each Member's differing circumstances. They could pave the way for new WTO commitments in the future.

1. EXPORT RESTRICTIONS

We will:

- review regularly and promptly eliminate unnecessary existing restrictions on exports of essential medical goods, including COVID-19 vaccines, therapeutics, diagnostics, and related vaccine materials, necessary to combat the COVID-19 pandemic; and
- exercise utmost restraint in the imposition of any new export restrictions, including export taxes, on such goods.

In doing so, we will:

- ensure that any export restrictions applied to combat the COVID-19 pandemic are implemented only when necessary to prevent or relieve critical shortages and as a last resort after consideration of other less-trade restrictive options;
- implement any such measures in a manner that limits market disruptions to the greatest extent possible, is targeted, transparent, proportionate and temporary, and consistent with WTO obligations;
- give particular consideration to the interest of the least developed and developing countries, many of which have scarce manufacturing capacities and are highly dependent on imports, and where possible, exempt them from the measures, in order to avoid a negative impact of such measures on their access to essential medical goods;
- exempt from export restrictions, shipments of essential medical goods, including COVID-19 vaccines, therapeutics, diagnostics, and related vaccine materials, that are provided for humanitarian purposes or in support of the work of the COVAX Facility; and,
- in the case of Members which are substantial producers of essential medical goods, including COVID-19 vaccines, therapeutics, diagnostics and related vaccine materials, recognize a particular responsibility for contributing to the objective of achieving equitable access to such goods, in particular for Members which are highly dependent on imports from those Members.

Any export restrictions including the applicable period of validity or review date, should be promptly notified to the WTO and published on a domestic website. The notification should include justification of the measures and an explanation of how the measure is consistent with the WTO agreements; why it was considered targeted and proportionate to the objective pursued.

The period of validity of such measures should be as limited as possible and ideally, it should not exceed 3 months, subject to a possible extension. In any event, the duration of export restrictions should not exceed the duration of the state of public health emergency of international concern.

Equally, if following the review referred to above, it is decided to continue to maintain export restrictions, upon request, justification for the continuation of the measures and an explanation as above will be provided.

The WTO Secretariat will immediately share all information on export restrictions provided via notifications or the WTO trade monitoring page with the World Health Organization or any other multilateral agency coordinating the international provision of essential medical goods. We reaffirm the value of the technical assistance provided by the WTO Secretariat, as appropriate, in the support of Members providing the relevant information or WTO notifications.

Members should be ready to enter into urgent consultations with any other affected Member which considers that the measures, whether in application or design, may seriously disrupt supply chains or discourage exports, and consequently affect that Member's access to essential medical goods, including COVID-19 vaccines, therapeutics, diagnostics and related vaccine materials. The purpose of the consultations would be to find a mutually satisfactory solution which would limit the adverse effect of the measures on the access to essential medical goods, including COVID-19 vaccines, therapeutics, diagnostics and related vaccine materials of that Member. The engagement in the consultations should take place irrespective of whether or not the measures have been notified to the WTO. The consultations would not prejudice the legal status or the nature of the measure itself, and will be confidential and without prejudice to the rights of any Member in any further proceedings.

The above actions would help ensure equitable distribution of scarce essential medical goods, including COVID-19 vaccines, therapeutics, diagnostics and related vaccine materials amongst WTO Members, in particular the most vulnerable ones.

2. CUSTOMS, SERVICES AND TECHNICAL REGULATIONS

We will:

- share experiences as regards the trade facilitating measures that have been put in place in response to the COVID-19 crisis with a view to establishing best practices in the context of a crisis. We will consider to what extent they can be made permanent. Such measures may include digital customs procedures, and services such as freight, logistics, distribution and transport, which have proven an effective tool in facilitating the frictionless movement of essential medical goods across borders;
- intensify efforts to accelerate the implementation of the Trade Facilitation Agreement provisions that support the timely and efficient release of goods, and if necessary, review technical assistance to that end so it could be provided in a more targeted and effective manner; and
- cooperate in the exchange and implementation of best practices in the area of standards and technical requirements and, through collaboration within relevant international organizations, work towards enhanced regulatory alignment with the aim of facilitating trade and reducing adaptation costs for manufacturers of essential medical goods.

To this end, we will fully engage in the work of the relevant WTO bodies, including the Trade Facilitation and Technical Barriers to Trade Committees as well as the Council for Trade in Goods and Council for Trade in Services.

3. TARIFFS

We will make best endeavours to temporarily remove or reduce tariffs on goods that are considered essential to fighting COVID-19 pandemic, as far as possible, taking into account each Member's circumstances. We may choose the method of implementation of such a temporary tariff removal or reduction, which could take the form of emergency duty relief programs. The indicative list of COVID-19 related goods, established by the World Customs Organization and World Health Organization² could be helpful in the determination of the product scope.

4. TRANSPARENCY AND REVIEW OF TRADE MEASURES

We will respond swiftly to requests for information on trade measures adopted during the present health crisis, including on measures undertaken to implement this initiative, from any other Members. Provision of such information, upon request and to the greatest extent possible, will also include measures which, whether in application or design, may lead to restricting exports.

We will engage fully with the trade monitoring exercises done on a regular or an *ad hoc* basis in the WTO, including the bi-annual Trade Monitoring Report, and pay particular attention to complying with all WTO notification requirements during the COVID-19 crisis. The monitoring and notification of measures should allow for a quick identification of disruptions in the supply chains and allow Members to enter into consultations with a view to avoiding such disruptions in the shortest possible timelines.

Within three months after the adoption of this Declaration, and quarterly thereafter until the end of the current public health emergency of international concern, the WTO Secretariat will prepare and distribute a summary report on the actions implemented by Members related to this initiative. We will provide any requested information or clarification to the WTO Secretariat for the purpose of the preparation of such a report.

5. CONTRIBUTIONS TO INTERNATIONAL EFFORTS TO EXPAND PRODUCTION OF ESSENTIAL MEDICAL GOODS AND ENHANCE RESILIENCE TO HEALTH CRISES

We will intensify our efforts and strengthen our collaboration with other international organizations and the private sector to support the innovation, production and distribution of essential medical goods, including COVID-19 vaccines, therapeutics, diagnostics and related vaccine materials across the globe, in particular in the least developed countries. We will also support efforts to step up transparency and monitoring of market conditions with a view to enhancing resilience and improving preparedness for a health crisis.

We strongly support the works of the COVAX Manufacturing Task Force that can help in gathering the necessary intelligence, foster partnerships between manufacturers and developers, and respond to trade issues.

We will make sure that any financial support dedicated to the expansion of existing production of vaccines, therapeutics or their components corresponds appropriately to the public health emergency and associated temporary acute shortages and is in line with WTO Agreement on Subsidies and Countervailing Measures.

We commend and further encourage the work of the WTO Secretariat to develop an extensive database of measures related to COVID-19 and analyse the causes and effects of the disruptions in the supply chains of essential goods, drawing on research of other international organizations.

We note significant data gaps with regard to the production, demand and supply of essential medical goods. We will therefore make every effort to review the way we collect and classify statistical information in our respective systems, in cooperation with the World Customs Organization and the World Health Organization.

We further request the WTO Secretariat, in cooperation with Members, to promptly prepare reports on imports and exports of essential medical goods and their trade balance, by Member. In order to facilitate this work, if the data is not available from official statistical sources, and upon request from

² See footnote 1.

the Secretariat, we will make every effort to provide the relevant data, to the extent possible and practicable, while respecting commercial confidentiality. Information including data from other sources compiled by the Secretariat should be verified by the Members concerned before publication³. The WCO/WHO list of COVID-19 related products could serve as a reference.

We appreciate the unprecedented efforts of the industry and international organizations to increase the global supply of essential medical goods. We encourage them to continue to work with the WTO and other organizations to improve transparency and monitoring of market conditions.

We call on the WTO to cooperate more closely with other international organizations to strengthen policy coherence in response to public health crises.

6. CONSIDERATION FOR THE 12TH WTO MINISTERIAL CONFERENCE AND NEXT STEPS

At the 12th Ministerial Conference, Members will consider a decision to establish a work programme on pandemic preparedness in relation to the health-related trade policy measures above. Without prejudice to the decision of Ministers, the work programme could include, for instance, a review of lessons learnt during the COVID-19 crisis, the preparation of guidelines or codes of best practices, or potentially lead to additional commitments that could help Members to enhance their preparedness and crisis resilience.

No later than six months after the adoption of this Declaration, the WTO General Council will take stock of the effectiveness of the above actions and consider options for moving forward.

³ If such verification is not possible for the Member concerned within a reasonable timeframe, the WTO Secretariat should specify in the report that such information has not been verified by that Member.