



Council for Trade in Goods

**MINUTES OF THE MEETING OF THE COUNCIL FOR TRADE IN GOODS
25 AND 26 NOVEMBER 2020**

CHAIRPERSON: HE MR MIKAEL ANZÉN (SWEDEN)

The meeting of the Council for Trade in Goods (CTG, or the Council) was convened by Airgram WTO/AIR/CTG/17; the proposed agenda for the meeting was circulated in document G/C/W/789. The present document contains the record of the Council's meeting held on 25-26 November 2020. The meeting was convened in virtual format and proceeded on the basis of the following agenda:

1 NOTIFICATION OF REGIONAL TRADE AGREEMENTS.....	4
2 ACCESSION OF THE REPUBLIC OF ARMENIA TO THE EURASIAN ECONOMIC UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 (G/L/1110/ADD.6)	4
3 ACCESSION OF THE KYRGYZ REPUBLIC TO THE EURASIAN ECONOMIC UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 (G/L/1137/ADD.5)	6
4 MARKET ACCESS ISSUES	7
5 COVID-19: MEASURES RELATED TO TRADE IN GOODS – REQUEST FROM CANADA; COLOMBIA; COSTA RICA; HONG KONG, CHINA; NEW ZEALAND; NORWAY; SINGAPORE; AND SWITZERLAND	7
6 PROPOSAL FOR AN AUTHORITATIVE INTERPRETATION OF THE ENABLING CLAUSE TO PROVIDE GREATER LEGAL CERTAINTY TO NON-RECIPROCAL PREFERENCES GRANTED BY DEVELOPING COUNTRY WTO MEMBERS TO LEAST DEVELOPED COUNTRIES – REQUEST FROM THE REPUBLIC OF KOREA (G/C/W/775)	14
7 MEASURES TO ALLOW GRADUATED LDCs, WITH GNP BELOW USD 1,000, BENEFITS PURSUANT TO ANNEX VII(B) OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES – REQUEST FROM CHAD ON BEHALF OF THE LDC GROUP (WT/GC/W/742–G/C/W/752)	16
8 ANGOLA – IMPORT RESTRICTING PRACTICES – REQUEST FROM THE RUSSIAN FEDERATION	18
9 AUSTRALIA – DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT – REQUEST FROM CHINA	19
10 CHINA – IMPLEMENTATION OF TRADE DISRUPTIVE AND RESTRICTIVE MEASURES – REQUEST FROM AUSTRALIA	20
11 CHINA – EXPORT CONTROL LAW – REQUEST FROM THE EUROPEAN UNION AND JAPAN	23
12 CHINA – MEASURES RESTRICTING THE IMPORT OF SCRAP MATERIALS – REQUEST FROM THE UNITED STATES	24
13 CHINA – CUSTOMS DUTIES ON CERTAIN INTEGRATED CIRCUITS – REQUEST FROM THE EUROPEAN UNION AND JAPAN	26
14 EGYPT – IMPORT RESTRICTIONS FOR SUGAR – REQUEST FROM THE EUROPEAN UNION	27

15 EGYPT – MANUFACTURER REGISTRATION SYSTEM – REQUEST FROM THE EUROPEAN UNION AND THE RUSSIAN FEDERATION	27
16 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM (THE EUROPEAN GREEN DEAL OF DECEMBER 2019) – REQUEST FROM ARMENIA, CHINA, KAZAKHSTAN, KYRGYZ REPUBLIC, AND THE RUSSIAN FEDERATION	29
17 EUROPEAN UNION – REGULATION (EU) 2017/2321 AND REGULATION (EU) 2018/825 – REQUEST FROM CHINA AND THE RUSSIAN FEDERATION	36
18 EUROPEAN UNION – IMPLEMENTATION OF NON-TARIFF BARRIERS ON AGRICULTURAL PRODUCTS – REQUEST FROM ARGENTINA, AUSTRALIA, BRAZIL, CANADA, COLOMBIA, COSTA RICA, ECUADOR, GUATEMALA, HONDURAS, NICARAGUA, PARAGUAY, THE UNITED STATES, AND URUGUAY (G/C/W/767/REV.1)	37
19 EUROPEAN UNION – REGULATION EC NO. 1272/2008 (CLP REGULATION) – REQUEST FROM THE RUSSIAN FEDERATION	46
20 ENLARGEMENT OF THE EUROPEAN UNION TO INCLUDE CROATIA: NEGOTIATIONS UNDER ARTICLE XXIV:6 OF THE GATT 1994 – REQUEST FROM THE RUSSIAN FEDERATION.....	47
21 EUROPEAN UNION – PROPOSED MODIFICATION OF TRQ COMMITMENTS: SYSTEMIC CONCERNS – REQUEST FROM AUSTRALIA, BRAZIL, CANADA, CHINA, NEW ZEALAND, THE RUSSIAN FEDERATION, THE UNITED STATES, AND URUGUAY	48
22 EUROPEAN UNION – DRAFT IMPLEMENTING REGULATIONS REGARDING PROTECTED DESIGNATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS, TRADITIONAL TERMS, LABELLING AND PRESENTATION OF CERTAIN WINE SECTOR PRODUCTS – REQUEST FROM THE UNITED STATES	52
23 EUROPEAN UNION – QUALITY SCHEMES FOR AGRICULTURAL PRODUCTS AND FOODSTUFFS – THE REGISTRATION OF CERTAIN TERMS OF CHEESE AS GEOGRAPHICAL INDICATIONS – REQUEST FROM THE UNITED STATES AND URUGUAY	53
24 EUROPEAN UNION – AMENDMENTS TO THE DIRECTIVE 2009/28/EC, RENEWABLE ENERGY DIRECTIVE – REQUEST FROM COLOMBIA	55
25 INDIA – RESTRICTIONS ON IMPORTS OF CERTAIN PULSES – REQUEST FROM AUSTRALIA, CANADA, THE EUROPEAN UNION, THE RUSSIAN FEDERATION, UKRAINE, AND THE UNITED STATES.....	56
26 INDONESIA – IMPORT AND EXPORT RESTRICTING POLICIES AND PRACTICES – REQUEST FROM THE EUROPEAN UNION, JAPAN, AND NEW ZEALAND	59
27 MEXICO – FRONT OF PACK NUTRITION LABELING (NOM-51) – REQUEST FROM THE UNITED STATES	61
28 MONGOLIA – MEASURES APPLIED WITH RESPECT TO CERTAIN AGRICULTURAL PRODUCTS – REQUEST FROM THE RUSSIAN FEDERATION	63
29 NIGERIA – FOREIGN EXCHANGE RESTRICTIONS AFFECTING DAIRY IMPORTS – REQUEST FROM THE EUROPEAN UNION	64
30 PANAMA – IMPORT RESTRICTING PRACTICES – REQUEST FROM COSTA RICA	66
31 RUSSIAN FEDERATION – TRADE RESTRICTING PRACTICES – REQUEST FROM THE EUROPEAN UNION	67
32 KINGDOM OF SAUDI ARABIA – TRADE RESTRICTIVE POLICIES AND PRACTICES CONCERNING TURKEY – REQUEST FROM TURKEY	70
33 KINGDOM OF SAUDI ARABIA, KINGDOM OF BAHRAIN, THE UNITED ARAB EMIRATES, OMAN, AND QATAR – SELECTIVE TAX ON CERTAIN IMPORTED PRODUCTS – REQUEST FROM THE EUROPEAN UNION, JAPAN, SWITZERLAND, AND THE UNITED STATES	71
34 SRI LANKA – IMPORT BAN ON VARIOUS PRODUCTS – REQUEST FROM THE EUROPEAN UNION	72

35 UNITED KINGDOM – DRAFT GOODS SCHEDULE AND PROPOSED UK TRQ COMMITMENTS: SYSTEMIC CONCERNS – REQUEST FROM AUSTRALIA, BRAZIL, CANADA, CHINA, NEW ZEALAND, THE RUSSIAN FEDERATION, THE UNITED STATES, AND URUGUAY	75
36 UNITED STATES - REVISED ORIGIN MARKING REQUIREMENT FOR GOODS PRODUCED IN HONG KONG – REQUEST FROM HONG KONG, CHINA	78
37 UNITED STATES – EXECUTIVE ORDER ON SECURING THE BULK-POWER SYSTEM – REQUEST FROM CHINA.....	80
38 UNITED STATES – IMPORT RESTRICTIONS ON APPLES AND PEARS – REQUEST FROM THE EUROPEAN UNION	80
39 UNITED STATES - MEASURES REGARDING MARKET ACCESS PROHIBITION FOR ICT PRODUCTS – REQUEST FROM CHINA	81
40 UNITED STATES – EXPORT CONTROL MEASURES FOR ICT PRODUCTS – REQUEST FROM CHINA	81
41 WORK PROGRAMME ON ELECTRONIC COMMERCE	82
42 CONSIDERATION OF ANNUAL REPORTS OF THE SUBSIDIARY BODIES OF THE COUNCIL FOR TRADE IN GOODS	83
43 ADOPTION OF THE ANNUAL REPORT OF THE COUNCIL FOR TRADE IN GOODS TO THE GENERAL COUNCIL (G/C/W/787)	84
44 OTHER BUSINESS.....	84
44.1 Procedures to Enhance Transparency and Strengthen Notification Requirements under WTO Agreements (JOB/GC/204/Rev.4 JOB/CTG/14/Rev.4)	84
44.2 Functioning of the CTG and its Subsidiary Bodies – Information from the Chair	85
44.3 Date of Next Meeting	88

The Chairperson, at the outset of the meeting, and given its virtual nature, recalled to Members that, as indicated in the organizational and technical note that he had distributed to all delegations before the meeting, the virtual format of the meeting required interventions to be time-limited; however, delegations were invited to send their full written statements to the Secretariat, either during the meeting itself or during the subsequent 10 working days, for their incorporation into the meeting's minutes. The Chairperson also invited Members raising specific trade concerns to share their full written statements with the Members concerned so as to allow them the fullest opportunity to respond to them. He also informed Members that before the meeting one delegation had made a special request to be allowed to deliver a statement in full, which he had accepted.

Before the Agenda had been adopted, the delegation of the United States indicated that, under Agenda Item "Other Business", it intended to make an announcement related to the notification proposal "Procedures to Enhance Transparency and Strengthen Notification Requirements under WTO Agreements".

The Chairperson informed delegations that, under the same agenda item, he would raise the matter of the date of the Council's next meeting.

The agenda was so agreed.

Before the Chairperson turned to the agenda items of the meeting, the United States, followed by Canada and the European Union, made some observations regarding the information posted on the WTO website, as follows:

The delegate of the United States indicated the following:

The United States would like to take a moment to note the precipitous increase in detailed information posted on the public WTO website. For some time, the US has noticed that the Secretariat is publishing advance information on WTO meetings and near-full Minutes of WTO meetings shortly after those

meetings conclude. In doing so, the Secretariat is sometimes cherry-picking issues and presentations, describing exchanges between Members out of context, and pre-judging meetings that are yet to occur. The Secretariat has also announced a meeting date before Members have agreed to it and has distributed inaccurate information to the public. The United States does not believe this is the role of the Secretariat. To be clear, the US fully supports transparency, but if there is a reason to have a Members' website, it is that there is some information there that, if shared, could actually inhibit the ability and willingness of Members to share information. Starting with today's meeting, the United States requests that the Secretariat scale back its press releases, and strictly avoid the problems that we continue to point out.

The delegate of Canada indicated the following:

The point that the US is raising around the detail in public releases from the Secretariat is an important one. Canada fully supports a high level of transparency in the work of the WTO and publicizing the good work under way in the various bodies of the WTO. In particular, the work of the Secretariat helps to spread the knowledge of the role of the Organization in supporting the multilateral trading system. However, picking up on what the US has just said, Canada would ask that the Secretariat exercise more caution on the level of detail it includes on the exchanges between Members during these Committee meetings. The specifics of the exchanges are best left to meeting minutes, and thereby avoiding any possibility of creating incorrect impressions.

The delegate of the European Union indicated the following:

The European Union has actually had the opportunity to convey its comments bilaterally to the Secretariat. The EU is, of course, a staunch supporter of transparency and trusts that the principles of confidentiality of the discussions within the meeting rooms, right after the meetings, and the principle of impartiality will be fully preserved.

The Chairperson proposed that the Council take note of the statements made and the Council so agreed.

1 NOTIFICATION OF REGIONAL TRADE AGREEMENTS

1.1. The Chairperson recalled that, under the working procedures agreed by the Committee on Regional Trade Agreements (CRTA) and following the adoption by the General Council of the Transparency Mechanism, the CTG was to be kept informed of Members' notifications of new regional trade agreements (RTAs).¹ He informed the CTG that four RTAs had been notified to the CRTA, as followed:

- (i) Free Trade Agreement between Peru and Australia, Goods (WT/REG404/N/1);
- (ii) Free Trade Agreement between the European Union and Viet Nam, Goods (WT/REG406/N/1);
- (iii) United States-Mexico-Canada Agreement (USMCA/CUSMA/T-MEC), Goods (WT/REG407/N/1);
- (iv) Accession of Samoa and Solomon Islands to the Interim Partnership Agreement between the European Union and the Pacific States, Goods (WT/REG408/N/1-WT/REG409/N/1).

1.2. The Chairperson proposed that the Council take note of the information provided.

1.3. The Council so agreed.

2 ACCESSION OF THE REPUBLIC OF ARMENIA TO THE EURASIAN ECONOMIC UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 (G/L/1110/ADD.6)

2.1. The Chairperson informed Members that, in a communication dated 12 October 2020, the delegation of Armenia had requested the Secretariat to circulate document G/L/1110/Add.6 relating

¹ Documents WT/REG/16, WT/L/671, and G/C/M/88.

to the extension of the time-period for the withdrawal of concessions, in connection with Armenia's accession to the Eurasian Economic Union (EAEU), until 2 January 2022. In that document, Armenia indicated that it would not assert that Members that had submitted a claim pursuant to Article XXIV:6 of GATT 1994 were precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994 because such withdrawal had occurred later than six months after Armenia's withdrawal of concessions, provided that the claiming WTO Member withdrew concessions no later than 84 months after Armenia's modification of concessions, or until 2 January 2022. The Council had extended the deadline on six occasions, namely at its meetings of 26 March and 10 November 2015, 17 November 2016, 10 November 2017, 12 November 2018, and 14 November 2019.

2.2. The delegate of Armenia indicated the following:

2.3. After the last extension, Armenia has continued consultations and communications with the interested delegations. However, for understandable reasons, with less intensity this year than was initially anticipated. Armenia prepared and submitted a compensation package on NAMA and agriculture, with a list of goods for which it is ready to consider the possibility of further liberalization, as well as TRQS for agriculture. Armenia has made positive developments and real progress on the NAMA package and is very close to the finalization of negotiations on NAMA substance. At the same time, Armenia has intensified its efforts and concentrated more resources to come up with the formulation of a mutually acceptable position for a compensation package on agriculture.

2.4. However, considering the number of interested Members that are involved in the process, as well as the scope of the technical work to be done, Armenia believes that additional time will be required to continue compensation negotiations. Therefore, with the purpose of properly organizing the process pursuant to document G/L/1110/Add.6, Armenia has indicated the following: "In connection with the Treaty of Accession of the Republic of Armenia to the Eurasian Economic Union (EAEU) ... ; and in view of ensuring that Members reserve their rights pending the communication to the WTO Secretariat of the agreements reached in the context of Article XXIV:6 (GATT), Armenia believes that it is desirable to provide for an extension of 12 months (that is, until 2 January 2022)."

2.5. In consequence, Armenia expresses its readiness to provide to Members an extension of an additional 12-month period, until 2 January 2022, for the withdrawal of substantially equivalent concessions under Article XXVIII:3 of the GATT 1994. Armenia asks the Council to agree to this proposed extension.

2.6. The delegate of the European Union indicated the following:

2.7. In April 2019, the EU welcomed the progress achieved in its negotiations on tariffs for non-agricultural products, where an agreement of principle had been reached. When it comes to agriculture, however, neither of the Members concerned has offered genuine compensation yet for the substantial reductions in market access that the EU has had to face.

2.8. Recent talks with Eurasian partners have shown that, despite the current pandemic, it is still possible to move forward in these negotiations, which remain important for the EU. The EU invites both countries to pursue these talks with a view to making substantial progress in them, and to concluding negotiations as soon as possible and within the time-frame provided by the period extension requested.

2.9. The delegate of Armenia indicated the following:

2.10. Armenia has taken note of the statement made by the representative of the EU and will relay it to Capital. Armenia is ready to continue communicating with interested WTO Members in a pragmatic and constructive way. In this regard, Armenia confirms its readiness to organize the next round of bilateral negotiations with a view to bringing them to their completion. Meanwhile, Armenia will, on a regular basis, continue to inform the Council, as well as interested Members, on the ongoing compensatory adjustment negotiations.

2.11. The Chairperson proposed that the Council take note of the statements made and of Armenia's communication, and that it agree to extend the deadline to withdraw substantially equivalent

concessions under GATT Article XXVIII for 12 months, until 2 January 2022, as set out in document G/L/1110/Add.6.

2.12. The Council so agreed.

3 ACCESSION OF THE KYRGYZ REPUBLIC TO THE EURASIAN ECONOMIC UNION: PROCEDURES UNDER ARTICLE XXVIII:3 OF GATT 1994 (G/L/1137/ADD.5)

3.1. The Chairperson informed Members that, in a communication dated 14 October 2020, the delegation of the Kyrgyz Republic had requested the Secretariat to circulate document G/L/1137/Add.5, relating to the extension of the time-period for the withdrawal of concessions, in connection with the Kyrgyz Republic's accession to the EAEU, until 12 February 2022. In this document, the Kyrgyz Republic indicated that it would not assert that Members that had submitted a claim pursuant to Article XXIV:6 of GATT 1994 were precluded from withdrawing substantially equivalent concessions under Article XXVIII:3 of GATT 1994 because such withdrawal had occurred later than six months after the Kyrgyz Republic's withdrawal of concessions, provided that the claiming WTO Member withdrew concessions no later than 78 months after the Kyrgyz Republic's modification of concessions, or until 12 February 2022. This Council had extended the deadline on five occasions, namely at its meetings of 10 November 2015, 14 July 2016, 10 November 2017, 12 November 2018, and 14 November 2019.

3.2. The delegate of the Kyrgyz Republic indicated the following:

3.3. The Kyrgyz Republic is still in the process of technical clarifications and other relevant data analysis based on Members' initial claims of interest. The Kyrgyz Republic has had informative technical exchanges with one of the interested Members and stands open for cooperation with others. The time-period for the withdrawal of substantially equivalent concessions expires on 12 February 2021. Considering that an additional time would be required in order to move these negotiations forward, and in view of ensuring that Members reserve their rights pending the communication to the WTO Secretariat of the agreement, the Kyrgyz Republic requests for a further extension of Members' rights to withdraw concessions pending the conclusion of Article XXVIII:3 negotiations after 12 months, until 12 February 2022, as reflected in document G/L/1137/Add.5. The Kyrgyz Republic will not assert that WTO Members that have submitted a claim pursuant to Article XXIV:6 of the GATT 1994 are precluded from withdrawing substantially equivalent concessions because this withdrawal occurs later than six months after the Kyrgyz Republic's withdrawal of concessions, provided that the claiming WTO Member withdraws concessions no later than 78 months after the Kyrgyz Republic's modification of concessions.

3.4. On the basis of the above-mentioned, the Kyrgyz Republic expresses its gratitude for the understanding of interested WTO Members, and for their support in demonstrating no objections in the issue of the extension of rights. The Kyrgyz Republic will continue communicating and exchanging information with the relevant partners to this process in due course.

3.5. The delegate of the European Union indicated the following:

3.6. Back in April 2019, the European Union welcomed the progress achieved in our negotiations on tariffs for non-agricultural products, where an agreement of principle has been reached. When it comes to agriculture, however, neither of the Members concerned has offered genuine compensation yet for the substantial reductions in market access which the EU had to face.

3.7. Recent talks with Eurasian partners have shown that, despite the current pandemic, it is still possible to move forward in these negotiations, which remain important for the European Union. The European Union invites both countries to pursue those talks with a view to making substantial progress and concluding negotiations as soon as possible within the time-frame provided by the period extension requested.

3.8. The delegate of the Kyrgyz Republic indicated the following:

3.9. The Kyrgyz Republic thanks the European Union for their comments, takes note of the intervention, and will address it through Capital in due course. The Kyrgyz Republic is ready to work and cooperate closely on this issue.

3.10. The Chairperson proposed that the Council take note of the statements made and of the Kyrgyz Republic's communication, and that it agree to extend the deadline to withdraw substantially equivalent concessions under GATT Article XXVIII for 12 months, until 12 February 2022, as set out in document G/L/1137/Add.5.

3.11. The Council so agreed.

4 MARKET ACCESS ISSUES

4.1. The Chairperson informed Members that, as indicated in the Agenda, the Committee on Market Access (CMA) had forwarded four collective requests for waiver extensions concerning the introduction of Harmonized System (HS) changes into WTO Schedules of Concessions for the consideration of this Council. These collective requests had been the subject of consultations in the CMA meeting that had taken place on 12 November 2020.

4.2. The Chairperson drew Members' attention to the collective draft waiver decisions circulated in documents G/C/W/782, G/C/W/783, G/C/W/784, and G/C/W/785, which concerned one-year extensions of draft collective waiver decisions to the HS for the years 2002, 2007, 2012, and 2017, respectively, that would all expire on 31 December 2020.

4.3. The Chairperson proposed that the Council agree to forward the draft waiver decisions contained in documents G/C/W/782, G/C/W/783, G/C/W/784, and G/C/W/785 to the General Council for adoption.

4.4. The Council so agreed.

5 COVID-19: MEASURES RELATED TO TRADE IN GOODS – REQUEST FROM CANADA; COLOMBIA; COSTA RICA; HONG KONG, CHINA; NEW ZEALAND; NORWAY; SINGAPORE; AND SWITZERLAND

5.1. The Chairperson informed Members that, in communications dated 12 November 2020, the delegations of Canada; Colombia; Costa Rica; Hong Kong, China; New Zealand; Norway; Singapore; and Switzerland, respectively, had requested the Secretariat to include this item on the agenda of this meeting. After the Airgram had been issued, the co-sponsors of this item requested the Secretariat to circulate document G/C/W/788 and Room Document RD/CTG/11. The Council had held a lengthy discussion on this topic at its last meeting. The co-sponsors of this agenda item had requested the Secretariat to make a short presentation on the collection of information with respect to COVID-19-related measures in the area of trade in goods.

5.2. Upon the request of the co-sponsors of this item, the WTO Secretariat (Committee on Market Access) made a short presentation on measures implemented by Members in response to the COVID-19 pandemic.

5.3. The delegate of Hong Kong, China indicated the following:

5.4. Hong Kong, China thanks the Secretariat for the excellent presentation, which provides a useful overall picture of the implementation of goods measures under the pandemic, and which is very relevant to the work of the CTG. Hong Kong, China and seven other Members (Canada, Colombia, Costa Rica, New Zealand, Norway, Singapore, and Switzerland) have circulated a communication for this item, document symbol G/C/W/788. They have also circulated a room document, document RD/CTG/11, about work in CTG subsidiary bodies relating to COVID-19.

5.5. As the pandemic and its impact on everyone and on the global economy continues to evolve, the proponents have suggested this agenda item for this meeting in order to review where we stand. Regarding COVID-19-related goods measures, there is abundant information available in the various websites and reports of the WTO and other international organizations. Hong Kong, China also takes note of the relevant efforts in the CTG's subsidiary bodies, as reflected in their annual reports. With this knowledge, it is time for the CTG to have a discussion, to monitor the functioning of the rules-based multilateral trading system in the context of the pandemic, and to encourage good practices in its subsidiary bodies. Hong Kong, China believes that collective and concerted efforts could achieve more.

5.6. To encourage discussion under this item, the proponents have suggested a few questions in their communication that Members could reflect upon. For example, if Members at this meeting recognize the usefulness of trade-facilitating measures under the pandemic, the CTG could call upon Members to consider whether trade-facilitating measures, although expired or introduced on a temporary basis, could continue as far as possible; similarly, whether an expiry date could possibly be set for trade-restrictive measures.

5.7. In short, the CTG has a significant role to play in making use of the information available on the trade in goods, and is in a unique position, without duplicating the efforts of other bodies, to enable a coherent and effective WTO contribution to global economic recovery.

5.8. The delegate of Colombia indicated the following:

5.9. Over the course of much of this year, WTO Members and the Organization itself have navigated unknown and quite turbulent waters. Institutions have had to adopt emergency measures and find creative solutions to multiple challenges in the areas of public health, movement of people, production and, of course, foreign trade. Given this situation, Colombia, together with seven other proponents, submitted the proposal that the Council should, within the scope of its powers, revise and analyse the measures adopted by Members. Without wanting to duplicate efforts or call into question the measures identified, Colombia considers the CTG to be the ideal forum in which to discuss and analyse the measures adopted by Members in order to gain a broad and general understanding of them.

5.10. Colombia thanks the Secretariat for systematizing and compiling all the information on the dedicated website, and for the presentation given today that includes new elements of analysis. As was set out in the communication circulated under this agenda item, there are several elements that may be analysed. For example, more than half of the 250 measures related to trade in goods compiled by the Secretariat have an end date. This suggests that Members have pursued temporary measures designed to tackle an emergency situation. Similarly, there are a series of trade facilitation measures that will have a positive impact in the long term. These initiatives could be implemented permanently to help entrepreneurs.

5.11. Meanwhile, several subsidiary bodies have addressed the measures adopted because of COVID-19, following their own rules and procedures, which we consider to be relevant and helpful. In document RD/CTG/11, the proponents have gathered together the work of the Committees, as outlined in each of their annual reports, in an effort to provide an overview of the discussions and in the interests of transparency. Based on the review of the activities carried out, the proponents found in some cases that good examples of synergy and collaborative work between the WTO Secretariat and other international organizations, such as the World Customs Organization (WCO) and the World Health Organization (WHO), have been identified. The proponents are of the view that this type of collaboration should be continued and strengthened.

5.12. As stated previously, this is an invitation to discuss and carry out a collective analysis of the measures adopted. Times of crisis provide a learning opportunity, and this is the ideal moment to find elements that will allow us to better prepare ourselves, as Members of this Organization, for potential new collective challenges in the future.

5.13. The delegate of New Zealand indicated the following:

5.14. New Zealand supports ongoing dialogue and discussions on COVID-19, given the significant impact the pandemic has had on global trade and supply chains. Many goods sub-committees are already monitoring COVID-19-related measures, along with the WTO Secretariat. In this regard, the CTG is well placed to use the information provided by the sub-committees (for example, through the annual reports) and the WTO Secretariat, to further understand, analyse, and identify trends regarding COVID-19-related measures and their broader impact on the trade in goods. This includes, for example, whether such measures are trade facilitating or restricting; if measures continue to be in force or have been lifted; and the degree of impact on specific industry sectors or product groups and supply chains. New Zealand welcomes a streamlined mechanism for tracking the nature of COVID-19-related measures for goods trade to maintain transparency, information-sharing, and an understanding of Members' respective trade policy responses.

5.15. The delegate of Singapore indicated the following:

5.16. Singapore believes that transparency is a key element in our joint efforts to mitigate the health and economic impact of the pandemic. Singapore has participated in a few of the discussions on Members' implementation of measures to combat the COVID-19 pandemic under the CTG's subsidiary bodies, and has found them to be very useful. The CTG is a logical platform for continuing Members' work on tracking and discussing trade-related measures that have been implemented during the crisis, and to gain an overview of such measures. The overview presented by the Secretariat today, for example, was very helpful. Discussions at the CTG and its subsidiary bodies could lead Members to reflect on which measures have helped and which measures have hindered their collective efforts to fight the pandemic. Therefore, Singapore supports further discussions on this issue at the CTG and its subsidiary bodies.

5.17. The delegate of Canada indicated the following:

5.18. As noted in document RD/CTG/11, several of the CTG's subsidiary bodies have held discussions on the COVID-related measures taken by Members in response to the pandemic. He himself had taken part in two of these exchanges and had found them of great benefit. In the Trade Facilitation Committee, several Members highlighted their actions taken to ensure that trade was as frictionless as possible. International organizations had also communicated the work that they had undertaken over the past months to support WTO Members' efforts. Similarly, the Market Access Committee had provided an opportunity for Members to explain not only the restrictions put in place, but also to put a focus on their actions taken to reduce costs for users of medical goods. Canada sees continuing opportunities to examine how the multilateral trading system can support collective efforts to address such a crisis.

5.19. Making the effort to share and discuss relevant information in the subsidiary bodies is an important part of that. A famous Canadian astronaut once said: "There is no problem so bad that you cannot make it worse". It is important that Members have space to reflect on the actions taken over the past year, to consider what has helped and what has hurt Members' collective efforts, and to see what can be done to promote the former and discourage the latter. Canada supports further committee work in this regard.

5.20. The delegate of Switzerland indicated the following:

5.21. Transparency is a key element in Members' joint efforts to mitigate the health and economic impact of the pandemic. It is a necessary ingredient to further develop coordinated and global responses here at the WTO in terms of trade policies. It is only natural that Members use a formal WTO body, namely the CTG, to inform Members about COVID-19-related trade policies and to share their views on the matter.

5.22. The delegate of Costa Rica indicated the following:

5.23. This is a specific discussion on a situation having a worldwide impact with far-reaching trade and socio-economic implications. With regard to this discussion, the WTO and this Council can support monitoring and strengthen transparency, which are fundamental principles for the functioning of this Organization. In order to avoid any repetition of the content of the written communication, and the excellent presentation made by Hong Kong, China and the other co-sponsors, Costa Rica will merely urge other Members to participate in this discussion.

5.24. The delegate of Australia indicated the following:

5.25. Australia welcomes the efforts of the past few months to enhance the transparency of trade-related measures taken in the context of COVID-19. Australia also supports efforts to utilize existing information and processes rather than duplicating or adding burdensome new obligations.

5.26. The delegate of Uruguay indicated the following:

5.27. Uruguay welcomes the inclusion of this item on following up on trade-related emergency measures taken in response to the COVID-19 pandemic. The COVID-19 pandemic has put the international community in an extremely complex and delicate situation. In this connection, Uruguay

shares the interest in following up on these measures through a general and more systematic analysis of the information available at the level of the WTO's primary body responsible for trade in goods, which would lead to a better understanding of the situation. Respecting the rights and obligations established in the Agreements, Uruguay understands that the intention is not to enter into new notification obligations or to duplicate work but, in line with the role of this Council, to contribute to the strengthening of the trading system and multilateral cooperation to combat the pandemic effectively.

5.28. The delegate of the European Union indicated the following:

5.29. The EU welcomes this initiative to foster our collective understanding of the various measures that Members have taken in the context of the COVID-19 pandemic. The presentation from the Secretariat was useful and informative. Members should be mindful of the useful work in the TPRB, which is well placed to centralize monitoring of COVID-19-related measures, also because the scope of these measures goes beyond the trade in goods. But the EU encourages complementary work in the CTG and its subsidiary bodies, based on specific expertise.

5.30. The EU agrees that the CTG can be a platform for building on the work undertaken in its subsidiary bodies, usefully summarized in the room document. The CTG should take stock of the discussions on COVID-19-related measures in its subsidiary bodies and could identify directions for further work. The EU would like to share a few reflections based on the questions set out in the communication circulated under that item. These reflections are preliminary because of the shortness of time, but the EU is ready to continue discussions, including in the subsidiary bodies.

5.31. First, the EU appreciates the efforts of the WTO Secretariat to monitor all COVID-19-related trade measures. Updates on the status of these measures, especially if they have been terminated as planned, would be appreciated; although we note that this also depends on input from Members. Second, on trade facilitating measures, the EU would be interested to discuss and consider potential best practices and whether some could be made permanent. This might help Members to prepare for any subsequent health emergency. Third, with regard to question (c), Members can also raise measures that have not been notified in the respective committees; in this regard, the work of the Secretariat is useful in increasing transparency about non-notified measures.

5.32. The EU is open-minded about further engagement with relevant international organizations as well as publishing more insights from the WTO's work on COVID-19-related trade measures, but more discussion would be required about the details. Finally, the EU would also like to inform the Council that a number of WTO Members, including the EU, have issued a communication calling on WTO Members to increase their cooperation and take action to strengthen the resilience of supply chains and contribute to an effective response to a public health emergency. The communication on a Trade and Health Initiative was circulated to the General Council yesterday.²

5.33. The delegate of the United States indicated the following:

5.34. The United States would like to make some brief initial remarks regarding the communication in document G/C/W/788 and the Secretariat's presentation. First, on procedure: in their communication, the co-sponsors expressed interest in having a conversation, but they did not put document G/C/W/788 on the meeting's agenda, and they shared it and their room document long after the agenda closed. The US is puzzled that several of the co-sponsors also co-sponsor the draft General Council Decision, "Procedural Guidelines for WTO Councils and Committees Addressing Trade Concerns". The US respectfully reminds these co-sponsors that their actions here are inconsistent with the first sentence of Paragraph 1 of the draft Decision. The US also questions having the Secretariat present to Members without a request from the Membership and without it even appearing on the meeting agenda.

5.35. Second, on substance: the US has initial concerns with the call to turn the CTG into the platform described in document G/C/W/788. Several elements would seem to duplicate, supplant, or otherwise undermine ongoing work. For example, if only 25% of 250 measures have been properly notified to a relevant WTO committee, Members should be using those committees to press for transparency and to counter-notify if necessary. In addition, the US questions the usefulness of

² Document WT/GC/223.

generalizing across disparate measures implemented for disparate reasons. Interested Members can and should focus on specific measures of concern in the relevant WTO bodies. Further, the US recalls that Members engage in committee work to monitor compliance with WTO rules, not with principles or goals expressed in other forums by a different membership. For example, Question (d) asks whether emergency trade measures to tackle COVID-19 are "transparent, targeted, temporary, and proportionate". Those principles, however sensible, are drawn from G20 statements. The US reference point is the WTO Agreement.

5.36. Closing with a few remarks about the Secretariat's presentation, fundamentally, the US does not believe it is the role of the Secretariat to judge whether trade measures are facilitative or restrictive. This is not a question of accuracy, but of who should make qualitative judgments about trade measures. In the US view, this is the role of Members. In making such judgments, in choosing to highlight specific policy objectives, and in identifying examples, the Secretariat is inherently participating in setting the agenda. Again, the US sees this as the role of Members, not the Secretariat.

5.37. The representative of the United Kingdom indicated the following:

5.38. The United Kingdom welcomes all discussions about how WTO Members can better understand and monitor COVID-19-related trade measures. The UK welcomes the focus that Members are placing on these measures in subsidiary committees and thinks that is an excellent route for scrutinizing such measures in detail. The UK thinks there may also be value in using the CTG to provide the "bigger picture" on goods-related measures, though to make this worthwhile Members need to be clear about how they would use such information effectively. For example, while it is interesting to know how many measures have expired but have not been removed, without getting into the detail of which Members or measures those apply to, it is harder to have an impact in terms of scrutiny. Perhaps such analysis at a CTG level would be most useful in helping Members know where to "target their efforts" in scrutinizing individual measures in subsidiary committees. The UK would welcome other Members' views on this.

5.39. The UK reiterates its support for the G20 principles: that any COVID-19-related measures are targeted, proportionate, transparent, and temporary. The UK strongly supports initiatives to improve transparency of COVID-19-related measures and will take this paper away to consider it further.

5.40. The delegate of Chile indicated the following:

5.41. There are some measures that are affecting trade as part of the pandemic but there are also measures that are creating trade, not just trade facilitation in the sense of WTO trade facilitation. When a country lowers its tariffs there is a facilitation measure and this in theory is in favour of trade because there are more actors with tariff incentives to promote exports. Furthermore, as the Secretariat has mentioned, with regard to the trade tension in the true sense, when exports are going up, they are promoting trade and when there are obstacles they are so serious that they can be an abuse of trade and therefore impact international trade. Therefore, Chile is also looking at the global trade alert of St Gallen, according to which, since the beginning of the pandemic, there have been some 760 interventions made in favour of trade and the others working against trade. And I would like to therefore thank the WTO once again for the path it has set out on, which is very meaningful.

5.42. Chile would also like to thank the co-sponsors of this agenda item because this is something that needs to be followed and there needs to be a more detailed study or analysis for Members. The trends are very clear with regard to the pandemic and the effect it is having on trade, whether it is trade liberalization or trade restriction, and indeed there are measures in both senses, particularly national, economic, and trade measures.

5.43. The delegate of Nigeria indicated the following:

5.44. Nigeria wishes to thank proponents of the paper titled "COVID-19: Measures Related to Trade in Goods" contained in document G/C/W/788, which Nigeria has forwarded to Capital for assessment. At the outset, Nigeria wishes to associate itself with the statement made by the African Group. Nigeria believes transparency is critical for the effective functioning of the multilateral trading system and this Council should continue to uphold this principle. However, since this issue was first

tabled in the Council in June, Members are still grappling with the scope, objective, and value added of the proposal.

5.45. The proponents in their paper noted the fact that much work has been done in the CTG subsidiary bodies and other WTO bodies to enhance the transparency of trade-related measures taken in the context of the COVID-19 crisis over the past several months, including with respect to trade in goods. Furthermore, the WTO has existing mechanisms for mapping and reporting trade measures, including COVID-19-related measures. There also exists a dedicated WTO web page for COVID-19-related measures and issues. In addition, the Secretariat issues an Annual Trade Report as well as reports on a respective Member's Trade Measures during its Trade Policy Review. The question, therefore, is what are the objectives and value added of this new proposal? Is it appropriate for this Council to dissipate energy and time reinventing the wheel whereas there is an array of other pressing issues requiring its attention?

5.46. In conclusion, it will be appreciated if the proponents could clarify the questions raised and shed more light on the issues raised by Nigeria and other Members on this proposal to enable us to gain greater insight into it. This will enhance constructive engagement on the proposal.

5.47. The delegate of Botswana, speaking on behalf of the African Group, indicated the following:

5.48. At the outset, the African Group would like to thank the proponents for their joint submission and their introductory statements. As indicated before, transparency remains a fundamental principle and enabler of the functioning of the global trading system, which the African Group holds in high regard, particularly in these turbulent times of the COVID-19 pandemic. While the African Group notes the clarifications by the proponents in an attempt to address the concerns previously reflected in the CTG's meeting in June, the African Group cannot help but notice that things are not any clearer now than they were before.

5.49. It remains unclear what the scope and intent of this initiative is, and the additional value it seeks to introduce; while the African Group appreciates that this initiative aims to foster Members' collective understanding of the various measures taken in the context of the COVID-19 pandemic, and per the email from the proponents that it would be a "one-off discussion"; what do Members anticipate will happen after this discussion? Relatedly, the COVID-19 pandemic continues to advance and is affecting all Members in what is now proving to be a second wave of the outbreak; with that said, and in recognition that we are not yet "out of the woods", do Members expect to have yet another discussion in future? Finally, before, there was a suggestion about the Secretariat preparing a factual report on COVID-19 measures, which has since fallen off, and which now begs the question of what Members will do with this information and discussions? Last but not least, the African Group hopes that more light can be shared on this initiative and its intention; this will help Members to better inform their engagement going forward.

5.50. The delegate of Indonesia indicated the following:

5.51. Indonesia would like to reiterate its views as expressed at the CTG's previous meeting. While Indonesia is aware that the proposal tries not to duplicate the work of other WTO bodies, Indonesia is of the view that Members at this point should focus their efforts on maximizing the existing work in monitoring COVID-19-trade-related measures through notification and the Trade Policy Review Mechanism.

5.52. The delegate of Paraguay indicated the following:

5.53. This is very useful, in Paraguay's view, particularly the idea of a document that centralizes all the different debates, such as the one proposed in the room document distributed along with the agenda for today's meeting. The questions raised by the proponents are very pertinent for starting this debate, which Paraguay hopes will continue, particularly taking into account how much work could be done with regard to measures that have expired as part of this monitoring. It is also important to improve the format, so as to make it more user-friendly for Members and therefore make the monitoring of these measures more effective, rather than just a compilation of the measures that exist.

5.54. The delegate of China indicated the following:

5.55. China thanks the Secretariat for its ongoing efforts to monitor trade-related measures implemented by Members in response to the COVID-19 pandemic and supports the continuing work to track and discuss these measures. China believes that transparency and global cooperation are important during such a global crisis. China calls on Members to avoid unnecessary trade restrictions and ensure the transparency of the measures related to the pandemic. Any measures must be targeted, proportionate, transparent, temporary, and consistent with WTO rules.

5.56. The delegate of Ecuador indicated the following:

5.57. Ecuador considers that, in the current context, information on measures related to trade in goods is extremely useful to Members, particularly developing and least developed Members. Members' discussions on and exchanges of information in this regard facilitate the analysis of such measures, new and old, which could affect any Member's imports or exports through excessive restrictions. Ecuador therefore notes with interest the questions raised in document G/C/W/788, especially regarding the duration of the measures adopted. In addition, Ecuador believes that it would be a good idea to consolidate the work and analysis conducted by other subsidiary bodies of this Council in order to have greater clarity on the current situation and gather information on best practices and lessons learned during this particularly challenging period for world trade.

5.58. The delegate of Hong Kong, China thanked Members for their views and clarified the following:

5.59. Members are not in need of a compilation of measures; Members already have much information. However, Members need a way to have a more effective monitoring. The TPRB is a platform to have an overview of this but Members need more discussion. The subsidiary bodies have technical discussions on the measures and look into the details, but Members need an overview and the CTG is a unique platform in this respect. Members may continue to discuss the questions raised or they can think of other more effective ways in which the CTG can monitor these measures, when they expire and are really terminated, and when they benefit trade and could be encouraged. A message could be sent from the CTG to Capitals that these measures are good to the global economy and we can encourage that. This is not just about taking a note of all Members' statements and forgetting about it. But if the CTG can send a message to Members clearly to encourage them, then there is value.

5.60. The delegate of Canada indicated the following:

5.61. Maybe if Canada could just add a couple of points. The first is in relation to the comment the United States made around the presentation by our colleague from the Market Access Division. Canada would just like to make it clear that this was a request from the co-sponsors. It was not a request or not an action by the Secretariat on its own. The co-sponsors requested this based on a presentation that had been made recently to another body, which co-sponsors thought would be useful to share. The comments so far hold that up to be true.

5.62. In terms of what to do with the discussions today, and how to build on them, the co-sponsors are trying to encourage a discussion within the CTG which should benefit all of us in terms of understanding what is going on and in terms of understanding what each of the committees are doing. Because an important aspect of the work of the CTG is to supervise the work of the subsidiary bodies and therefore having a space for discussions brings value to it, at least to the extent that Members want to provide contributions and to participate in and learn from that discussion. It also allows CTG Members and the CTG's Chairperson to speak to the chairs of the subsidiary bodies and to encourage them to continue to monitor and encourage Members to monitor the measures they have taken and to provide some transparency. Many Members stated that transparency is held in high regard and it is important that Members continue to make efforts to be transparent and provide information to the subsidiary body committees on measures that have been taken. As I said earlier in my intervention, this is in order to learn from what has happened, to learn from the effects of what Members have done in their jurisdictions, and to share that information, so that others can either benefit from the good things that have been done or not make the same mistakes. More than anything, that is the biggest element of the idea behind this discussion that co-sponsors had hoped to have or hope to continue having at least in the subsidiary bodies on this topic.

5.63. The delegate of Chile indicated the following:

5.64. Chile seeks clarity regarding the future of this agenda item. It seems to be based on goodwill and good intentions and there is a room document but for the next meeting, in terms of procedure, the question is whether Members are going to be continuing to discuss this issue, in order to get to the bottom of this debate, as is necessary and as is set out in the room document, and therefore whether Members will be discussing procedure or the issue at hand.

5.65. The Chairperson proposed that the Council take note of the statements made.

5.66. The Council so agreed.

6 PROPOSAL FOR AN AUTHORITATIVE INTERPRETATION OF THE ENABLING CLAUSE TO PROVIDE GREATER LEGAL CERTAINTY TO NON-RECIPROCAL PREFERENCES GRANTED BY DEVELOPING COUNTRY WTO MEMBERS TO LEAST DEVELOPED COUNTRIES – REQUEST FROM THE REPUBLIC OF KOREA (G/C/W/775)

6.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the Republic of Korea had requested the Secretariat to include this issue on the agenda.

6.2. The delegate of the Republic of Korea indicated the following:

6.3. In March 2020, Korea circulated its proposal (G/C/W/775) for the adoption of an authoritative interpretation of the Enabling Clause. Through the authoritative interpretation, Korea believes that developing countries should also be able to grant non-reciprocal preferential treatments to LDCs based on the Enabling Clause rather than relying on a separate, temporary waiver. As Korea's delegation has already introduced its proposal during the CTG's June 2020 meeting, Korea will not go over the specific details. However, Korea would like to take this opportunity to draw Members' attention to its proposal and request their firm support.

6.4. First, Korea believes that its proposal will provide an opportunity to accelerate LDCs' integration into the multilateral trading system, which will not only benefit all Members but also contribute to restoring trust in the system. The unprecedented health and economic challenges caused by the COVID-19 pandemic have further highlighted the economic vulnerability of LDCs. From this perspective, it is all the more important to take measures to guarantee LDCs' share in the global trading system. Second, Korea's proposal solely aims at clarifying the legal basis of non-reciprocal preferential treatments already given to LDCs. It does not aim to create or modify any right or obligation under the Enabling Clause. In this vein, Korea hopes that Members would focus on the proposal's purpose to grant non-reciprocal preferential treatments to LDCs with legal certainty. Third, since the last meeting, Korea has received feedback from numerous countries, and would like to thank Members for their constructive comments. Korea plans on reaching out to them and building on their comments to table its proposal at the General Council next year, or even at the Ministerial Conference if possible. Korea hopes to have further in-depth discussions with all interested parties in the months ahead and invites all Members to reach out with any enquiries or comments.

6.5. The delegate of Afghanistan, on behalf of the LDC Group, indicated the following:

6.6. Under this agenda item, the LDC Group would like to express its great interest in the submission which has been made by the Republic of Korea. Indeed, the fundamental objective of the LDC Group within the WTO is to achieve, through the work undertaken in the institution, an improvement and development of integration into world trade. As any regulatory initiative likely to facilitate and develop trade with the LDC Group's trading partners, which would have positive repercussions for employment and social progress in these countries, this initiative must be considered constructively. The LDC Group welcomes the analytical work carried out by the Republic of Korea. It is true that LDC countries are subject to specific constraints, of which WTO Members are aware. In that respect, ensuring a permanent waiver in favour of these countries regarding tariff preferences in a state of renewal process at key deadlines makes sense.

6.7. The LDC Group fully supports the Republic of Korea's proposal and is ready to discuss the details of the submission. Also, the LDC Group seizes the opportunity to renew its thanks to the developing-country delegations of China, India, Brazil, Chile, Thailand, and Turkey who joined the

LDC Group in July 2019 to allow a decision, taken by the General Council, extending for ten years the waiver on preferential tariff treatment for LDCs. The LDC Group concludes by expressing its thanks to all Members that attach importance to doing what is necessary at the WTO level to promote more authentic development for LDCs.

6.8. The delegate of Brazil indicated the following:

6.9. Brazil would like to reiterate its reservations expressed at the CTG's meeting in June. Brazil co-sponsored, on both occasions applicable, the proposed renovation of the waiver that, since 1999, has offered a legal basis for unilateral concessions from developing countries for least developed countries. Over the years, there seems to have been no evidence or manifestation indicating that the waiver provides insufficient legal certainty or discourages the implementation of these concessions. In this context, Brazil requests clarification on the motivation of the Korean proposal, in particular about the innovation that would represent the suggested term "authoritative interpretation", non-existent in Article IX:2 of the WTO Agreement. In preliminary analysis, it is not clear that there would be anything to gain from reversing the understanding, in force since 1979, that the Enabling Clause (L/4903) does not provide a basis for developing countries to grant unilateral concessions to LDCs, which is exactly what led to the 1999 Waiver Decision. Brazil would also like to add that the text of the Enabling Clause clearly recognizes that LDCs are part of the broader group of developing countries (L/4903, paragraph 2(d): "the least developed among the developing countries").

6.10. The delegate of Bangladesh indicated the following:

6.11. The delegation of Bangladesh thanks the Republic of Korea for its explanation of the proposal. Under this item, the Bangladesh delegation endorses the statement made by Afghanistan on behalf of the LDC Group. As stated during the CTG's meeting in June, on this issue, the Bangladesh delegation looks forward to constructively working with Members.

6.12. The delegate of China indicated the following:

6.13. China worked together with Brazil, Chile, India, Thailand, and Turkey last year and extended the waiver for developing Members to grant preferential tariff access schemes to LDCs by a further 10 years, starting from 1 July 2019 until 30 June 2029. China supports exploring a permanent arrangement for developing Members to grant preferential treatment to LDCs. However, China is of the view that Korea's reinterpretation of the Enabling Clause is different from Members' previous understanding. It may change the original intention and the nature of the Enabling Clause. China has raised its questions and concerns to the Korean delegation and looks forward to the responses and clarification from Korea on this proposal.

6.14. The delegate of Turkey indicated the following:

6.15. Regarding the proposal for an authoritative interpretation of the Enabling Clause, Turkey would like to thank the Republic of Korea for its initiative and continued bilateral engagement on the issue. As one of the developing countries that accords one of the most extensive preferential treatment schemes to the Least Developed Countries, Turkey believes that trade is among the most effective pathways for development of the LDCs. In this sense, Turkey highly values the waiver, which enables the continuation of non-reciprocal preferential treatment to LDCs by developing countries. That is why Turkey co-sponsored the recent extension of the waiver for another 10 years, in 2019. Against this background, Turkey is definitely supportive of the ultimate objective and rationale behind Korea's proposal. That said, as the waiver has so far been extended without controversy, and rather smoothly, Turkey is not certain in what ways the proposal could really work to spur greater use of the preferences. In addition, Turkey has certain questions regarding the legal underpinnings of this proposal, which were already communicated to Korea bilaterally.

6.16. The delegate of Botswana, on behalf of the African Group, indicated the following:

6.17. The African Group holds the view that the Enabling Clause is an important provision in the WTO in recognition of differences in levels of development among WTO Members. It allows contracting parties to accord differential and more favourable treatment to developing countries taking into account the development, financial and trade needs of developing countries and LDCs.

The waiver on Preferential Tariff Treatment for Least Developed Countries waives GATT Article I and provides a means for developing country Members to offer preferential tariff treatment to products of least developed countries. This is in keeping with the need for positive efforts to be designed to ensure that LDCs secure a share in the growth in international trade commensurate with the needs of their economic development as set out in the Marrakesh Agreement. The African Group welcomes the proposal by the Republic of Korea providing for an authoritative interpretation of the Enabling Clause, which in essence takes away the need to renew the waiver every 10 years; nevertheless, the African Group is still analysing the proposal and will revert with more concrete views on it.

6.18. The delegate of India indicated the following:

6.19. India has been one of the main proponents of an LDC waiver for preferential imports by developing countries providing such schemes. While India's legal experts are examining the proposed authoritative interpretation of the Enabling Clause, India looks forward to a bilateral meeting with its Korean colleagues to bring clarity on certain issues of legal interpretation in that regard. It will help the clear understanding of the basis of such an interpretation and facilitate further consideration.

6.20. The delegate of the Republic of Korea indicated the following:

6.21. I would like to extend my gratitude to all delegations which have shown interest in Korea's proposal. Regarding the concerns some Members have expressed, I will report them to Capital and reach out to those countries to further develop our proposal. Based on the opinions of WTO Members, Korea plans to circulate the Joint Proposal with a draft decision in the near future. Korea would like to request the wide interest and support of Members. Korea firmly believes that it is high time to establish, through its proposal, a stable and predictable legal basis on which developing WTO Members can continue implementing non-reciprocal preferential tariff schemes for LDCs.

6.22. The Chairperson proposed that the Council take note of the statements made.

6.23. The Council so agreed.

7 MEASURES TO ALLOW GRADUATED LDCS, WITH GNP BELOW USD 1,000, BENEFITS PURSUANT TO ANNEX VII(B) OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES – REQUEST FROM CHAD ON BEHALF OF THE LDC GROUP (WT/GC/W/742-G/C/W/752)

7.1. The Chairperson informed Members that, in communications dated 10 November 2020, the delegation of Bangladesh, on behalf of the LDC Group, had requested the Secretariat to include this issue on the agenda.

7.2. The delegate of Bangladesh, on behalf of the LDC Group, indicated the following:

7.3. The submission is self-explanatory and aims to correct a technical omission regarding the use of export subsidies under the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement). As Members will agree, export subsidy is a policy tool that can potentially help Members in transition. When the SCM Agreement was negotiated in the early 1990s, probably no one could visualize that, in future, the LDCs (that is, countries listed in Annex VII(a)), would be graduated from the LDC category and that some of them might still remain with their GNI per capita levels below USD 1,000. This gap is nothing but a technical omission, which can be corrected without adding any new flexibility in the original agreement. The delegation of Bangladesh reiterates that an omission cannot be interpreted as a deliberate intent by Members to prevent graduating LDCs from benefitting from Article 27.2(a) flexibilities.

7.4. This submission (WT/GC/W/742-G/C/W/752) has received wide support from a large number of Members, and the LDC Group is thankful for their support. However, some Members have asked questions and requested additional information. One delegation has expressed that "the specific need for this proposal remains unclear" and has also questioned the "need to change the rules". The LDC Group's response is clear: namely, that the specific aim of this proposal is to correct a technical omission in the SCM Agreement, and nothing else. And it has not proposed to change any rule, because the rule is already there in Article 27.2(a) of the SCM Agreement. Another delegation is of

the view that LDCs must first provide notifications on export subsidies. The same delegation further argues that, without assessing the actual use of export subsidies by LDCs, it would not be clear whether LDCs after graduation might need to continue using export subsidies. In this regard, the response of the LDC Group is the following: first, providing notification is not the eligibility criteria for inclusion into the Annex VII list and therefore this should not be made a pre-condition to the discussion that aims to correct a technical omission. Sincerely, the LDCs respect the notification obligation; however, many of them could not provide notifications due to capacity constraints and coordination challenges; and second, Article 27.2 clearly provides the basis of the eligibility criterion that GNI per capita below USD 1,000 is the only threshold and, except this, there are no other criteria for inclusion in the Annex VII list. Therefore, the concern over "actual use of export subsidies" is not the issue here.

7.5. During the CTG's meeting of June 2020, the Bangladesh delegation cited the historic example of Honduras, which inadvertently had not been included in the original list of 20 developing-country Members in the Annex VII(b) list in 1995, although the GNI per capita of Honduras had been below USD 1,000. To correct this omission, the General Council graciously allowed the inclusion of Honduras in the year 2000. This means that a technical correction is possible. Moreover, the Doha Ministerial Decision on Implementation-Related Issues and Concerns (WT/MIN/(01)/17), in paragraph 10.4, further confirms that, if a Member has been excluded from the Annex VII(b) list, it shall be re-included in it when its GNI per capita falls back below USD 1,000. Now, if a least-developed country after graduation still falls back below this threshold of USD 1,000 in constant 1990 US dollar terms, why should it not be considered eligible to use the flexibility? The LDC Group requests the CTG to accept the current submission. The delegation of Bangladesh, along with the LDC Group, stands ready to engage constructively with Members.

7.6. The delegate of Turkey indicated the following:

7.7. Turkey would like to share with the Council that its support for this proposal remains unchanged as stated in previous CTG meetings. As Members know very well, this policy flexibility was crafted for assisting the LDCs and developing countries through providing them with a carve-out under the SCM Agreement. Consistent with this understanding, this policy should follow an update to allow graduating LDCs to continue to be exempted from the disciplines under this Agreement. The Membership cannot deprive them of this toolbox while they are still facing trade and developmental challenges and restraints in composing their industrial policies. In this respect, Turkey reiterates that graduated LDCs with GNP below USD 1,000 should be given the same rights as the developing countries listed in Annex VII(b) of the SCM Agreement.

7.8. The delegate of the European Union indicated the following:

7.9. The EU's views expressed at the last meetings remain. The EU supports constructive initiatives to better integrate LDCs into the multilateral trading system and encourages discussing this proposal – as any Special and Differential Treatment (SDT) proposal – on the basis of analysis that shows where specific problems lie. The EU is mindful of the challenges that graduating LDCs face. However, the EU would still need to assess the actual use of export subsidies by LDCs in order to establish whether a transition period is needed which would allow graduated LDCs to continue using export subsidies. Unfortunately, the EU has little knowledge about whether, or to which extent, LDCs use export subsidies (or any other subsidies, for that matter) because LDCs hardly submit any notifications under Article 25 of the SCM Agreement.

7.10. The EU again encourages the LDC Group to work with the Secretariat to improve the situation of notifications. Possibilities of technical assistance via the WTO are available for support regarding notifications. The EU recalls its suggestion that the LDC Group make a presentation on how LDCs make use of export subsidies and how that helps their economic development. In addition, the EU suggests that the countries concerned also seek assistance for reshaping any export subsidies to make them WTO-compatible. The EU stands ready to engage in informal consultations with the LDC Group on this matter. The EU also notes the recent documents circulated to the General Council by the LDC Group, in particular the Communication on *smooth transition in favour of countries graduating from the LDC category* (WT/GC/W/807). The EU would welcome clarifications as to whether there is an interlink between this recent submission in the General Council and the LDC proposal that is currently being discussed.

7.11. The delegate of the United States indicated the following:

7.12. As the United States has noted each time this issue has been raised in the CTG, the specific need for this proposal remains unclear, as there do not seem to be export subsidy programmes in place for which an extension might be needed. As such, the US continues to question the need to change the rules in this area.

7.13. The delegate of Botswana, on behalf of the African Group, indicated the following:

7.14. The 2001 Doha Ministerial Decision on Implementation-Related Issues and Concerns provides for a modification of a consecutive three-year period where the USD GNP per capita requirement must be fulfilled accordingly: "Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches USD 1,000 in constant 1990 dollars for three consecutive years." As the LDC Group explained, this decision did not take account of graduated LDCs. This constitutes an oversight that needs to be corrected. The African Group, therefore, supports this proposal and encourages all Members to do so.

7.15. The delegate of India indicated the following:

7.16. India's delegation would also like to thank the delegation of Chad for the inclusion of this agenda item. India has already supported this proposal in earlier meetings of the CTG. India's stand on this issue remains the same.

7.17. The delegate of Bangladesh, on behalf of the LDC Group, indicated the following:

7.18. The LDC Group thanks all the delegates for their comments and would like to make two points. First, until this issue is resolved, the LDC Group would request to keep this item on the agenda of the next meetings of the Council. On the questions, particularly from the EU, the LDC Group would be delighted to discuss further with the delegations, although one document has been submitted to the General Council's meeting on LDC Graduation citing two specific resolutions to support graduating LDCs in their smooth transition. They are both linked, but the specific proposal for this item that we are discussing today is on the threshold of USD 1,000 in 1990 constant dollar terms, while the graduation issue concerns a general support measure for LDCs. The LDC Group would be happy to explain more to our colleagues from the EU. On the US question, the LDC Group tried to answer these questions at the previous meeting. The specific aim of this proposal is to correct a technical omission and nothing else. The subsidy programmes are not the issue here.

7.19. The Chairperson proposed that the Council take note of the statements made.

7.20. The Council so agreed.

8 ANGOLA – IMPORT RESTRICTING PRACTICES – REQUEST FROM THE RUSSIAN FEDERATION

8.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the Russian Federation had requested the Secretariat to include this issue on the agenda.

8.2. The delegate of the Russian Federation indicated the following:

8.3. According to Presidential Decree No. 23/19, Angola introduced import restrictions on certain agricultural and industrial products. Under Article 1 of the decree, this measure establishes priority for domestically manufactured products and promotes consumption of goods produced in Angola. According to this decree, locally produced goods shall be given priority over like products; only wholesalers and domestic producers are authorized to import; importers have to confirm the non-availability of locally produced products on the internal market that they intend to import; import authorization includes submission of contracts on the purchase of national products. In the view of the Russian Federation, the measure at issue cannot be justified under Articles XI and III of the GATT. Russia urges Angola to bring these measures into conformity with the WTO Agreement and to lift the import bans on agricultural products. As of today, Angola has failed to provide an

explanation as to how these measures are in consistency with WTO rules. The Russian Federation urges Angola to engage with it bilaterally.

8.4. The delegate of the European Union indicated the following:

8.5. The EU maintains its concern over Decree No. 23/19, which seems to protect domestic industries in a manner that is incompatible with WTO rules and that could be highly detrimental to foreign investments in Angola. The EU is supportive of Angola's intention to diversify its economy and to develop its domestic industry. Nonetheless, the EU urges Angola to review the relevant measures to ensure their compliance with WTO rules.

8.6. The delegate of the United States indicated the following:

8.7. As expressed in this Council and in the CMA, the United States remains concerned that this decree appears aimed at restricting Angola's imports. Since the implementation of the decree, the US heard reports of confusion over how the decree is being enforced and of delays facing goods at the border. The US agricultural exporters are particularly concerned over delays that perishable goods face amidst all this uncertainty. The US urges Angola to revise this decree and ensure that its measures with respect to imports are in compliance with WTO rules. The US also urges the Angolan government to continue its work with the US Embassy in Luanda in developing good regulatory practices and technical standards cooperation. Such work would help the Angolan government develop policies and regulations that consider stakeholder concerns and address strategic policy goals, while avoiding disruptive trade policies such as this decree.

8.8. The representative of Angola indicated the following:

8.9. The Angolan delegation has been taking note of the recurring statements made by the Russian Federation, the United States, Brazil, and the European Union, and other proponents that claim that there are practices of import restrictions in Angola. Angola reaffirms that the nature of the decree in question is not to exclude, and is being misinterpreted; in fact, Angola still has neither the capacity nor the conditions to develop without imports. Angola restates that its intention is simply: (i) to encourage traditional importers to explore and consult the domestic market before making their import decisions, without any obligation; and (ii) to promote the consumption of domestic goods of certain products for which it already has the installed capacity to meet the demand with comparable quality.

8.10. As Angola has been saying in its statements, bilateral dialogue is the best way to resolve any controversial issue, reinforced by the fact that Angola and the proposing countries have excellent diplomatic, economic, and commercial relations. On this basis, Angola is glad to inform Members that yesterday in Luanda, bilateral consultations were started with the Russian Federation, the United States, and Brazil, and will continue with other diplomatic representations, of which Angola has the information that these interactions were fruitful and is convinced that it is on the right path. The consultations will continue, and Angola asks the proponents to understand that they do not need to reopen the discussions in the various committees.

8.11. The delegate of Brazil indicated the following:

8.12. The Brazilian delegation recalls its intervention made at the last CTG meeting and supports maintaining of this item on the agenda.

8.13. The Chairperson proposed that the Council take note of the statements made.

8.14. The Council so agreed.

9 AUSTRALIA – DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT – REQUEST FROM CHINA

9.1. The Chairperson informed Members that, in communication dated 12 November 2020, the delegation of China had requested the Secretariat to include this issue on the agenda.

9.2. The delegate of China indicated the following:

9.3. China would like to continue raising its concern regarding Australia's prohibition on China's equipment suppliers from the Australian 5G rollout in a non-transparent and discriminative manner. China is deeply concerned that the scope of the measures has also been extended from the 5G to the 4G network. This issue has been on the agenda for over two years. China has engaged the Australian side under the WTO framework. China had provided three lists of written questions to the Australian side, in September 2018, in April 2019, and in June 2020. Australia did provide three responses to the Chinese side, including one that we received just this morning. Regrettably, the replies either did not substantively address most of China's questions, or they raised new questions requiring further explanation and clarification from Australia. In the meantime, over the two years, Australia's 5G "ban" on certain Chinese vendors has been extended to cover also 4G.

9.4. Two years have passed, yet China's simple questions remain unanswered and its concerns remain unaddressed. China believes that the Australian measure violates GATT Article 10 "Publication and Administration of Trade Regulations". China is also concerned that the Australian measures are inconsistent with the MFN principle established under the GATT and the TBT Agreement. China could go on with its list of questions. But in the interests of time, it will stop here. Two years may not be long enough for breaking the record for the longest outstanding issue on the agenda of the CTG, but for the high-tech industry, two years have resulted in devastating business consequences for both Chinese and Australian businesses. China would like to reiterate that excluding China's equipment suppliers from Australian 5G rollout and extending the relevant measures to the 4G network would not be helpful for the cybersecurity of Australia, nor for Australia's economic interests. China has been pragmatic in growing its business relations with all partners, including Australia, within the framework of the rules-based multilateral trading system. China will wait patiently for the Australian side to respond to its questions and concerns in action.

9.5. The delegate of Australia indicated the following:

9.6. Australia notes China's latest statement in relation to Australia's 5G security guidance. Since China first raised this issue, in late 2018, Australia has engaged constructively and in good faith with China to explain in detail the rationale for its position on 5G networks, including in relation to the protection of Australia's national security. Prior to this meeting, Australia again provided China with a substantive response to another detailed set of written questions seeking further explanation and clarification of Australia's position on 5G networks. As has now been clearly underscored on multiple occasions, Australia's position on 5G networks is country-agnostic, transparent, risk-based, non-discriminatory, and fully WTO-consistent. Finally, Australia notes the keen interest from many other WTO Members on the issue of 5G security as evinced by the participation of over 120 states at the recently held 2nd Prague 5G Security Conference.

9.7. The Chairperson proposed that the Council take note of the statements made.

9.8. The Council so agreed.

10 CHINA – IMPLEMENTATION OF TRADE DISRUPTIVE AND RESTRICTIVE MEASURES – REQUEST FROM AUSTRALIA

10.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of Australia had requested the Secretariat to include this issue on the agenda.

10.2. The delegate of Australia indicated the following:

10.3. Australia and China have enjoyed a strong bilateral partnership and trading relationship, built over many decades, that has delivered benefits to both sides. Australia is concerned by a series of trade disruptive and restrictive measures implemented by China on a range of Australian goods that appear inconsistent with its WTO obligations and undermine the trade between our two countries. Australia has raised some of these issues in the relevant WTO committees, but the range of measures and impacted commodities has significantly increased in recent months.

10.4. Australia is a major exporter of barley and wine, neither of which have previously been the subject of anti-dumping or countervailing duty action by other WTO Members. China initiated

anti-dumping and countervailing duty investigations on imports of barley from Australia in late 2018 resulting in the imposition of anti-dumping and countervailing duties of 73.6% and 6.9%, respectively, in May 2020. Following the imposition of duties on barley, China initiated anti-dumping and countervailing duty investigations on imports of wine from Australia in August 2020.

10.5. Australia has always appreciated and welcomed the close relationship it has with China in the trade remedy space as evidenced by the early establishment of a High-Level Dialogue on Trade Remedies. Australia hopes to continue this amicable and open dialogue. In addition to bilateral discussions on barley, Australia raised concerns at the recent WTO Subsidies and Anti-Dumping Committees. At those meetings, Australia identified key concerns with the procedures, analysis, and findings of these investigations into Australian barley, including significant procedural and due process deficiencies that impeded Australian exporters' ability to defend their interests as provided for under WTO rules.

10.6. Australia has had longstanding concerns with the unreasonable delays in obtaining Chinese government approval for export establishments for Australian agricultural commodities (meat, dairy, and seafood) and new approvals of Australian seafood species. Over the course of 2020, Australia's concerns have been amplified with five Australian meat establishments covering a significant share of Australian meat exports to China having been suspended from exporting to China. The Australian Government provided detailed critical investigation report findings within the required time-frames. However there has been a lack of timeliness and transparency by China with the General Administration of Customs of the People's Republic of China (GACC) not providing a clear process for lifting the suspensions.

10.7. In addition, Australia remains concerned about the lack of reinstatement of three Australian establishments who voluntarily suspended exports to China in July and September due to the detection of SARS-CoV-2 in onsite workers. These establishments acted in good faith and pursuant to the GACC's commitment to trading partners that such establishments would have a clear and expedited pathway to lifting the suspension and reinstating trade following the resolution of COVID-19-related incidents. For other trading partners, Australia is aware that suspensions have been lifted for a number of establishments.

10.8. Australia received notifications in early November that GACC had detected non-compliant consignments of live rock lobster, which resulted in significantly higher inspection and testing rates. The time required to complete the testing has made the trade in these time-sensitive products non-viable and substantial products perished. As they were implemented without warning, exporters were unable to prepare shipments in case of delayed clearance. Similarly, in late October, GACC suspended all imports of timber logs from the state of Queensland, and subsequently the state of Victoria in early November, following notification of non-compliant consignments of Australian logs.

10.9. In addition to the imposition of AD and CVD duties on Australian barley and the launch of investigations into Australian wine imports, GACC has recently suspended some Australian barley exporters due to non-compliant consignments and Australian industry is reporting increased inspection and laboratory testing of imports of Australian wine, with industry reporting 100% of consignments being subjected to inspection and testing by GACC. This is resulting in significant delays and additional costs, due to the wine being detained until the test results are released after up to 15 working days. While Australia recognizes the right of any country to inspect and test imported products to ensure their safety, we strongly advocate for any such requirements to be notified in advance, especially where it relates to highly perishable goods and the local port does not have a facility to store products while awaiting test results.

10.10. Australia has treated these issues on their technical merits and has sought to address them bilaterally with relevant Chinese officials. Australia takes detections of non-compliant consignments seriously and initiates investigations into the cause of the non-compliance. However, to progress and resolve these issues there needs to be a willingness by both sides to engage in a timely and responsive manner. It is worth noting that a number of these suspensions have been the result of non-compliant consignments that were detected in some cases months before the GACC notice, without any prior notice or warning. Australia seeks assurances from China that it will implement changes to inspection and testing requirements; respond to the submission of non-compliance investigation reports; and action requests for new listings and reinstatement of establishments in a timely, transparent, non-discriminatory, and predictable manner.

10.11. On coal, since early October 2020, there were reports from industry about disruptions to imports of Australian coal as a result of a Chinese government instruction to Chinese importers to stop purchases of Australian coal. This is in addition to reports of delays in the issuance of import licences, informal import quotas, and significant customs clearance delays reportedly due to congestion at Chinese ports. The number of vessels transporting Australian coal waiting for customs clearance at Chinese ports increased in October. According to industry analysts, at the beginning of November there were 75 vessels carrying around 8.7 million tonnes of Australian coal waiting for clearance at China's northern ports, up from 56 vessels a month earlier. The clearance delays have resulted in welfare issues for crew aboard these vessels and significant costs to exporters and shipping lines.

10.12. On cotton, there have been recent widespread and consistent reports, including a statement from the Australian cotton industry, that on 16 October the Chinese National Development and Reform Commission (NDRC) told Chinese millers to stop or limit purchases and imports of Australian cotton. It is claimed that Chinese businesses that do not stop purchases and imports from Australia risk losing access to imports of cotton under existing or future cotton tariff-rate quotas (TRQs). This includes China's WTO cotton TRQ of 894,000 tonnes with an in-quota rate of 1%.

10.13. International trade relies on certainty and predictability, as delivered through the WTO rules-based trading system. Recent developments have created uncertainty and increased risk for Australian exporters, and their Chinese customers. China has consistently stated it is committed to open trade and the multilateral trading system. Australia expects all WTO Members to conduct their trading relationship with Australia in a manner consistent with their WTO obligations, and the market-oriented policies that underpin WTO membership. Allowing enterprises to make their own purchasing decisions is an important policy that should be observed by all WTO Members.

10.14. Accordingly, Australia seeks assurances from China that Australian exports are not subject now and will not be subject in the future to official instructions to stop or limit purchases and imports of Australian goods. Similarly, Australia would like China to provide reassurance that relevant import licences will be issued, including under existing and future TRQs, and consignments will be cleared by relevant Chinese customs officials in a timely, transparent, non-discriminatory and predictable manner consistent with China's WTO obligations.

10.15. Australia has actively sought meetings to discuss these issues and we remain open and willing to progress constructively any technical issues in our trade with China bilaterally, at all levels, in Geneva, in Beijing, and in Canberra, at the earliest opportunity.

10.16. The delegate of China indicated the following:

10.17. China would like to thank Australia for raising this issue and it could be useful if the Australian delegation could send the statement in writing. China always honours its commitments and actively fulfils its obligations under the WTO and the China-Australia Free Trade Agreement. From 2015 to 2020, China has, for six consecutive years, lowered the import tariffs of the Australian products in line with the China-Australia Free Trade Agreement. At present, about 95% of imported goods from Australia enjoy zero tariff treatment. China and Australia's bilateral economic and trade relationship was indeed amicable and mutually beneficial, as pointed out by the Australian delegate just now.

10.18. Recently, some Australian products exported to China were found with problems in the process of inspection and quarantine, and a few measures have been taken by China with a view to protecting the life and health of the Chinese people, which are consistent with Chinese laws, regulations and international practices, as well as the WTO Agreements and the provisions of the China-Australia Free Trade Agreement. China has been very transparent on these measures. They have been published on the relevant Chinese government websites. China also notified Australia about the relevant measures without delay. China also has clear provisions regarding epidemic prevention and control at ports and quarantine requirements for sailors and provided clear instructions and convenience for the sailors involved while complying with these provisions. There are no oral instructions from government officials to limit the purchase of some Australian products.

10.19. With regard to some of the specific measures that Australia has mentioned, for example anti-dumping measures. First, anti-dumping measures are legitimate WTO tools for trade defence purposes. Second, China has been very restrained in using anti-dumping measures. As the record

shows, Australia has initiated 106 anti-dumping and countervailing investigations against China, more than 26 times the number of investigations initiated by China against Australia. Some of the measures have employed the problematic methodology of "particular market situation". As for other measures, China's relevant government agencies, including the Customs, have responded to the Australian side.

10.20. The Australian delegate mentioned the market-oriented policies and allowing enterprises to make their own decisions. China has always pursued market-oriented policies. And market-oriented policies and allowing enterprises to make their own decisions should apply to all areas of our bilateral economic and trade relations, including 5G equipment. However certain Australian measures have just violated market principles, disrupted the sound momentum of pragmatic cooperation between the two sides, harmed the interests of the two peoples, and also damaged Australia's own image and credibility in the WTO. China hopes that Australia will do more to enhance the mutual trust and cooperation between China and Australia, support the companies from both sides to restore confidence, and promote the sound development of China-Australia economic and trade relations.

10.21. The Chairperson proposed that the Council take note of the statements made.

10.22. The Council so agreed.

11 CHINA – EXPORT CONTROL LAW – REQUEST FROM THE EUROPEAN UNION AND JAPAN

11.1. The Chairperson informed Members that, in communications dated 12 November 2020, the European Union and Japan had requested the Secretariat to include this issue on the agenda.

11.2. The delegate of the European Union indicated the following:

11.3. The EU closely follows the developments on China's new Export Control Law, which passed the Standing Committee of China's National People's Congress on 17 October 2020 and would take effect on 1 December 2020. The EU asks for China's indications about the scope and purpose of the new export control law. In particular, the EU has three major concerns.

11.4. First, extraterritorial application: The law contains a new provision with extraterritorial application determining consequences to foreign individuals and organizations outside of China violating the law and endangering the national security and interests of China (Article 44). Such provision is not in line with internationally agreed export controls. Second, rules on deemed exports and re-exports: The law stipulates that controls also apply to transactions within China (that is, deemed exports, Article 2). In this regard, the EU places great importance on the non-discriminatory treatment of EU companies in China (for example, of their Chinese subsidiaries). The EU is concerned that the concept of deemed exports, which goes beyond the internationally agreed controls, might lead to an unequal treatment and have adverse effects on the activities of EU companies in China (for example, research and development activities). Furthermore, the law foresees controls on re-exports. It is unclear whether the obligation not to re-export items without the prior consent of the Chinese authorities also applies to foreign products that contain controlled items obtained from China as components. Third, objectives and scope of controls: The law names "national security and interests" as a prime objective, next to "non-proliferation and other international obligations". Even though the law does not reference "development interests", "industrial competence" or "technological development" anymore as control principles, the EU is concerned that Article 1 "national security and interests", as well as Article 3, "national security and development" contain vague language still reflecting objectives other than the international security obligations and commitments.

11.5. The EU recalls that export controls should be exercised on the basis of specific control objectives in line with international commitments only. The EU would therefore welcome a clarification in this regard as well as on the intended application and specification of other related provisions that could lead to legal uncertainty for economic operators, for example, on: application of control parameters ("national security", Articles 1, 3, 13; "terrorist purposes", Article 12); scope of controls ("temporary controls", Article 9); understanding of exporters' obligations in these regards ("is or should be aware", Article 12); scope of investigations by the authorities (in case of "suspected violations", Article 28), and information restrictions (prohibited for reasons of national security,

Article 32). The EU places great importance on any secondary legislation and would welcome clarifications and specifications on the application of such provisions.

11.6. The delegate of Japan indicated the following:

11.7. Japan certainly refers to its previous statements and continues to have concerns over China's Export Control Law enacted this October. Japan believes that this law may constitute an overly stringent export regulation that goes beyond the scope of the international export control regime. Especially, Japan would like to mention that it is also concerned that the provisions on countermeasures for discriminatory export regulations by other countries are maintained in the law and considers that they should be removed. Japan remains concerned regarding the "Unreliable Entities List" and what also concerns it is the catalogue of technologies subject to export bans and restrictions based on Foreign Trade Law. The relationship of the list and catalogue is unclear to us.

11.8. Japan requests China to ensure transparency and predictability by promptly publishing the detailed regulations that will be drafted before the Export Control Law comes into force in December. Japan will continue to monitor further developments, especially the detailed regulations that will be put in place and their actual implementation. In this connection, Japan would like to request China to provide information on detailed regulations and their timeline with a sufficient grace period and full transparency.

11.9. The delegate of China indicated the following:

11.10. For this issue, China has provided specific explanations in the previous meetings and today shares some updated information. China's "Export Control Law" has been passed by the National People's Congress Standing Committee and would go into effect on 1 December 2020. The law on export control is based on Chinese previous enforcement experience of six separate export control regulations established since the 1990s, and relevant international practices, including mirroring the relevant laws of other WTO Members, especially developed Members. At present, China is speeding up the formulation of supporting regulations and control lists of the "Export Control Law" to ensure that the "Export Control Law" will be well implemented. China's "Export Control Law" is carefully drafted in order to implement necessary trade management on limited, sensitive, and specific items, rather than to cause any restrictions on trade in normal goods. It will also help China to better fulfil its international obligations and conform to the interests of all parties. China will continue to learn from the experience and practices of WTO Members in export control, strengthening international cooperation and exchanges, and jointly fulfilling international obligations such as non-proliferation.

11.11. The Chairperson proposed that the Council take note of the statements made.

11.12. The Council so agreed.

12 CHINA – MEASURES RESTRICTING THE IMPORT OF SCRAP MATERIALS – REQUEST FROM THE UNITED STATES

12.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the United States had requested the Secretariat to include this issue on the agenda.

12.2. The delegate of the United States indicated the following:

12.3. The United States again reiterates its concerns, as expressed previously in this Council and in many other WTO bodies, regarding the negative trade and environmental impacts resulting from China's import ban, and accompanying measures, on certain recovered materials. In April 2020, China approved a revised Law on Prevention and Control of Environmental Pollution by Solid Wastes. The United States is very concerned with the overly broad scope of "solid waste", as it appears in the revised Law, which effectively results in an import ban on certain plastic and paper scrap, which are recyclable materials. Recyclable materials are saleable commodities, not trash, and should not be subject to a framework designed for waste. The law allows for the import of "recycled raw materials" such as copper, aluminium, and brass as long as those materials meet strict purity standards. The United States would like China to explain the scientific bases that it has used to determine which categories of scrap materials it will allow to be imported.

12.4. The United States is also concerned with what appear to be different requirements for foreign and domestic commodities. These abrupt restrictions and bans have left recyclers without viable alternative processing capacity and the global shortfall in processing capacity has also caused the decline, and in some cases, collapse, in prices for some recyclable materials. Additionally, these policy measures seem to be contrary to China's own pro-circular economy narrative that it is promoting in the WTO as well as internationally. As the world's largest processor of scrap materials, these measures hinder China's aspirations to transition to a more resource efficient, global, circular economy by directly impacting global recycling networks.

12.5. Further, the United States is concerned that these policies are a detriment to its shared environment and may result in an increased volume of scrap materials going into landfills or other less desirable waste channels and becoming marine litter. The United States reiterates its request that China immediately halt implementation of its ban and revise the relevant measures in a manner consistent with existing international standards for trade in scrap materials, which provide a global framework for transparent and environmentally sound trade in recycled commodities.

12.6. The delegate of Canada indicated the following:

12.7. Canada continues to share the concerns of the United States and would like to reiterate its comments on China's restrictions with respect to solid waste from past CTG meetings. Canada does not wish to dispute China's goal of limiting harmful environmental impacts resulting from contaminated waste material. However, Canada notes that high quality scrap products are a valuable raw material for Chinese customers involved in various manufacturing sectors and a key component of a strong circular economy which ultimately helps to reduce waste.

12.8. The delegate of New Zealand indicated the following:

12.9. New Zealand acknowledges and supports the right of all WTO Members to regulate to achieve legitimate domestic health and environmental objectives. New Zealand applauds China's stated proactive policy objectives in relation to sustainable development and encourages valid actions to limit harmful environmental impacts from contaminated waste inside its borders. New Zealand in no way seeks to question China's right to regulate to protect its environment. However, New Zealand remains concerned that vanadium slag is included in China's catalogue of banned imports under this measure. New Zealand reiterates its view that vanadium slag is a purposefully produced co-product with a specific end-use in production of specific forms of steel. It is not a waste product, and so should not fall under measures for solid waste. New Zealand recalls that China itself is the largest global producer of vanadium slag, with approximately 500,000 tonnes in annual production generated as a co-product from steel mills.

12.10. New Zealand would appreciate clarification on how China has ensured that the rules that apply to foreign products are no less favourable than those accorded to domestic products. New Zealand would be interested also to hear a further explanation from China on how it has ensured that the import ban on vanadium slag is not more trade restrictive than necessary to achieve China's environmental and health protection objectives. New Zealand thanks China for the recent discussion on this issue and looks forward to further constructive engagement on this topic to better understand China's approach to distinguishing between waste and non-waste materials.

12.11. The delegate of China indicated the following:

12.12. China reiterates that the solid waste is different from other normal goods. The solid waste itself and the process of the solid waste could cause environmental pollution and be harmful to humans, animals and plants. China, as a developing country, has suffered from the pollution of solid wastes imported from other countries for decades. It is imperative for China to implement measures to limit the negative effect from importing and processing solid waste. From the worldwide perspective, the danger of solid waste has been realized and acknowledged by almost all countries. According to the Basel Convention and internationally accepted principles, every country has the obligation to properly handle and dispose of its domestically produced solid wastes.

12.13. It is not the import restrictions that are detrimental to the environment, but the solid waste itself. The exporting countries should actively shoulder their international responsibilities to handle and dispose of their own solid waste, rather than deriving benefit at the cost of other countries'

environment and human health. Regarding transparency, China has taken full consideration of all factors, including its obligations under the WTO, during the adjustment process of relevant policies and has notified the relevant measures to the WTO.

12.14. The Chairperson proposed that the Council take note of the statements made.

12.15. The Council so agreed.

13 CHINA – CUSTOMS DUTIES ON CERTAIN INTEGRATED CIRCUITS – REQUEST FROM THE EUROPEAN UNION AND JAPAN

13.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the European Union had requested the Secretariat to include this issue on the agenda.

13.2. The delegate of Japan indicated the following:

13.3. Japan simply registers its continued concerns and will closely monitor future developments.

13.4. The delegate of the European Union indicated the following:

13.5. The European Union continues to have concerns about Chinese duties on multi-component semiconductors (MCOs) raised on numerous occasions in the past, including at the last Information Technology Agreement (ITA) Committee on 30 October 2020. The European Union welcomes the positive step taken by China to adequately classify certain products (Intelligent Power Module) in their schedule, free of duty. However, the European Union still expects China to step up the implementation of its commitments and urges China to reconsider the classification on other MCO products where duties should not apply, even if such duties are being gradually lowered as the implementation of the staged cuts progresses.

13.6. The delegate of the United States indicated the following:

13.7. The United States supports the statements raised by the European Union, Japan, and Chinese Taipei and reiterates its concern with regard to a change in China's applied duty rates for certain semiconductor products. This is an issue that the United States has previously raised in the CTG as well as the CMA and the ITA. These semiconductor products have been duty-free for over a decade yet are being charged import duties at the border. The United States continues to assert, in line with the General Council Decision on HS transpositions, that the scope of China's concessions have changed substantially, and the value of the concession has been impaired.

13.8. The delegate of Chinese Taipei indicated the following:

13.9. Chinese Taipei fully supports the statements made by the European Union and Japan and shares the concerns that they raise. Chinese Taipei has expressed its views on this agenda item on numerous occasions already, most recently at the CMA. Just to reiterate, Chinese Taipei strongly holds the view that the scope of Members' tariff concessions under the WTO commitments should not be altered during their tariff transpositions. It is regrettable that many tariff lines under the HS heading 8542, which were previously bound as duty-free, have been made subject to duty rates in China's HS2017 schedule. It should not be possible for a purely technical process of tariff transposition to result in undermining the level of concessions that Members have committed to previously. Chinese Taipei strongly urges China to reconsider its approach and eliminate the duty on those products at issue without further delay.

13.10. The delegate of China indicated the following:

13.11. China has responded on many occasions and reiterates that it used the methodology consistent with WTO rules. China also clarified relevant technical questions, including the reclassification both bilaterally and in the meetings. China has always seriously undertaken its tariff reduction commitments. All the duties on MCO products will be eliminated by next July as scheduled.

13.12. The Chairperson proposed that the Council take note of the statements made.

13.13. The Council so agreed.

14 EGYPT – IMPORT RESTRICTIONS FOR SUGAR – REQUEST FROM THE EUROPEAN UNION

14.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the European Union had requested the Secretariat to include this issue on the agenda.

14.2. The delegate of the European Union indicated the following:

14.3. On 4 June 2020, Egypt implemented a three-month prohibition on the import of sugar. In September, however, this import prohibition was extended for a further three months. In the Committee on Agriculture on 28 July 2020, the EU asked Egypt to explain how it sees this measure respecting the requirements of GATT Article XI:2(c). To date, Egypt has not provided a reply.

14.4. Moreover, in the WTO Committee on Import Licensing on 9 October 2020, the EU asked Egypt to submit all the relevant information which could justify the import prohibitions applied to raw and white sugar. Again, to date, no information has been received. The EU would insist on receiving replies from Egypt regarding its questions about these restrictions on the imports of raw and white sugar. The EU considers that these import restrictions are not in line with Egypt's WTO obligations and urges Egypt to rapidly eliminate these trade-distorting measures.

14.5. The delegate of Brazil indicated the following:

14.6. The Egyptian government's decision to impose restrictions on sugar imports are of concern to Brazil from an economic and commercial point of view, given the importance of sugar exports in the export basket of Brazil, as well as from a systemic point of view, given the prohibition under Article 4 of the Agreement on Agriculture (AoA) to impose quantitative restrictions on imports of agricultural products. It is of utmost importance, as a way of guaranteeing the stability of the agricultural trading system and to strengthen its resilience and robustness, that Members of the WTO, as established in the above-mentioned article of the AoA, limit themselves to applying tariffs to trade in food and agricultural products. In this context, Brazil requests Egypt to eliminate its current import ban on sugar.

14.7. The delegate of Egypt indicated the following:

14.8. Egypt thanks the EU and Brazil for raising this issue and would like to clarify the following. Due to the sharp decline in sugar prices by almost 30% since the beginning of the year 2020, the Egyptian inventory of sugar increased creating a temporary surplus. Hence, it was necessary to impose this import restriction to address this problem of the temporary surplus in accordance with GATT Article XI:2(c)(ii). Egypt would like to confirm that this import restriction measure is temporary in nature and is regularly reviewed.

14.9. The Chairperson proposed that the Council take note of the statements made.

14.10. The Council so agreed.

15 EGYPT – MANUFACTURER REGISTRATION SYSTEM – REQUEST FROM THE EUROPEAN UNION AND THE RUSSIAN FEDERATION

15.1. The Chairperson informed Members that, in communications dated 12 November 2020, the delegations of the European Union and the Russian Federation, respectively, had requested the Secretariat to include this issue on the agenda.

15.2. The delegate of the Russian Federation indicated the following:

15.3. Russia remains concerned with the Egyptian registration procedures under Decree No. 43/2016 and reiterates the statements made during the previous meetings of the TBT Committee and the CTG. Russian exporters of steel reinforcement bars have been subject to the registration process since 2016. The damage to the Russian steel industry has been estimated at USD 100 million per year. On different occasions, Egyptian officials have informed our delegation that Russian steel exporters would soon be registered to access the Egyptian market.

15.4. In addition, Russia has other companies that cannot pass this registration, in particular those involved in manufacturing and export of confectionary and cosmetics. The scope of products subject to this measure expands. Russia requests the delegation of Egypt to provide the Russian companies with market access, taking into account the interests of local importers and consumers as well as the relevant rules of the WTO, and urges Egypt to bring its measures into conformity with WTO rules.

15.5. The delegate of the European Union indicated the following:

15.6. The EU would like to reiterate its concerns with regard to the registration of companies exporting to Egypt under Decrees No. 991/2015, No. 43/2016, and No. 44/2019, as a number of registrations are still pending, creating unnecessary burden and administrative costs. Some of the pending registration cases known to the EU have still not been processed due to expired quality certificates. Such certificates have a validity of one year, which means that they expired due to the failure of the relevant authorities implementing Decree No. 43/2016 to register the companies within reasonable time-limits. Could Egypt confirm that companies, which will submit updated quality control system certificates and complete in this way their application documents, will be registered without any further delay and without the needing to restart the entire application process?

15.7. Also, the EU finds it very worrisome that some sectors (like ceramic tiles) have been disproportionately affected by the discretionary application of Decree No. 43/2016, with practically no registrations taking place since the introduction of the decree in 2016. Structural problems related to Decree No. 43/2016, like the lack of transparency of the registration process, the lack of clear deadlines for processing requests, and the lack of a clear appeal procedure, still persist. The EU therefore again urges Egypt to suspend or further substantially improve the registration process with the objective of removing unnecessary obstacles to trade. The EU is ready to work with the relevant Committee to finalize the registrations of pending applications and to work on solutions which would prevent delays of future registrations.

15.8. The delegate of Turkey indicated the following:

15.9. Turkey joins the European Union and the Russian Federation in emphasizing its ongoing concerns regarding Egypt's Decree on its Manufacturer Registration System. For a long time, Members, including Turkey, have been voicing their concerns about this decree and its implementation not only in previous meetings of this Council but also at the meetings of the TBT Committee. Despite of all the concerns and questions from the membership in all these meetings, Egypt still maintains the system, and has even increased its coverage, provides little information, and avoids answering essential questions. Even after four years, it is still unclear how the applications are evaluated and whether the completion of the process is subject to any time-limits. Apparently, there are no clear deadlines for processing the requests. In addition, no notification is made to companies on the status of their application, and whether or not it is approved. Unsurprisingly, companies face long delays and bear additional costs in the registration process. As a result, more than a hundred Turkish firms, and maybe thousands globally, are still awaiting approval.

15.10. Recently, at the TBT meeting last month, Egypt emphasized that the purpose of the registration system was solely to enhance market surveillance and prevent deceptive practices, and in this spirit the decree had not made the registration time-bound. Instead, Egypt indicated that registration remained valid as long as the documents presented by companies were valid. However, Turkey would like to remind Egypt that some of those companies had been waiting for approval since the introduction of the decree in 2016. Although the list of these companies has been submitted to the Egyptian side on various occasions, Turkey has not received any feedback. As such, some of these companies are now unfairly expected to reapply, starting from the very first step in the registration process. In sum, structural problems related to Decree No. 43/2016 continue. In the context of such a picture, Turkey would like to indicate that this system needs wholesale amelioration.

15.11. In conclusion, Turkey would kindly ask Egypt to review its measures considering its obligations under the WTO Agreements and ensure their implementation in full transparency. Turkey believes that this hindrance will be overcome given the continued dialogue among our countries. And Turkey stands ready to engage with Egypt on all trade-related measures.

15.12. The delegate of the Republic of Korea indicated the following:

15.13. Korea appreciates the Russian Federation for bringing forward this agenda item, regarding which Korea reiterates its previous position. The measures taken by Egypt constitute a non-tariff barrier and undermine the free trade system. In particular, the registration procedures stipulated under Decree No. 43/2016, which require the issuance of certificates of conformity, certifications of inspection, and so on, are resulting in serious delays for foreign manufacturers of specific products. Korea urges Egypt to take appropriate measures in line with the WTO rules by improving its trade-restrictive policies and practices.

15.14. The delegate of Egypt indicated the following:

15.15. Egypt thanks the EU and the Russian Federation for their continued interest in this issue; it also thanks the delegations of Turkey and the Republic of Korea for their interventions. Egypt takes note of all the concerns raised by its trading partners and will convey them to Capital for consideration.

15.16. Egypt would like to refer to its statements at previous CTG and TBT meetings and reiterates that the Egyptian competent authorities have taken steps to facilitate the registration process and to improve its transparency, for example, and in response to the comments made by our trading partners at the most recent TBT meetings, the Egyptian General Organization for Export and Import Control has begun to make the names of the companies having problems with their registration status available on the organization's website, in English.

15.17. Egypt understands the concerns raised by some of its trading partners regarding the delay in the process of registration, especially that the COVID-19 pandemic-related measures are still affecting negatively the pace of work and the coordination between different governmental entities involved in the process. Egypt will continue to take steps to improve the registration process and to work closely with its trading partners to resolve the issue of pending registration requests.

15.18. The Chairperson proposed that the Council take note of the statements made.

15.19. The Council so agreed.

16 EUROPEAN UNION – CARBON BORDER ADJUSTMENT MECHANISM (THE EUROPEAN GREEN DEAL OF DECEMBER 2019) – REQUEST FROM ARMENIA, CHINA, KAZAKHSTAN, KYRGYZ REPUBLIC, AND THE RUSSIAN FEDERATION

16.1. The Chairperson informed Members that, in communications dated 12 November 2020, the delegations of Armenia, China, Kazakhstan, Kyrgyz Republic, and the Russian Federation, respectively, had requested the Secretariat to include this issue on the agenda.

16.2. The delegate of the Russian Federation indicated the following:

16.3. The Russian Federation reiterates the statements made during previous meetings of the CMA and the CTG on the plans of the European Union to introduce the Carbon Border Adjustment Mechanism (CBAM) in accordance with the European Green Deal strategy published in December 2019. Russia appreciates the intentions of the European Union to protect the environment and to reach economic neutrality; however, Russia is convinced that the climate agenda should not be used as a pretext for introducing new trade restrictions and protectionist measures in a trade-restrictive and discriminative manner. These requirements are set both in Article XX of the GATT 1994 and part 5 of Article 1 of the United Nations Framework Convention on Climate Change.

16.4. Russia highlights that, in accordance with paragraph 2 of Article 2 of the Paris Agreement, the parties to the agreement should act in a manner that reflects "equity and principle of common but differentiated responsibility and respective capabilities, in light of different national circumstances". Hence, the parties must take into account the efforts of other parties to mitigate the consequences of climate change, but not to impose their terms, technology purchases, and principles of regulation. In Russia's view, the proposed mechanism also has the potential to cause a negative impact on global trade and to distort global value chains. In particular, the current proposals of the potential CBAM raise concerns regarding their consistency with Article II of the GATT as they

entail an additional duty to be paid on importation of the products to the EU in excess of those set out in the EU's Schedule of concessions. Alternatively, the additional duty to be paid would constitute an internal tax applied to the imported products in excess of those applied to domestic products. The relevant requirements and regulations would also afford protection to domestic products. Thus, the CBAM would constitute a measure inconsistent with Article III of the GATT. In any case, the CBAM seems to be inconsistent with Article I of the GATT as it entails application of differential duty/tax on the like products originating from different WTO Members.

16.5. Finally, Russia highlights that the European Union has stated on different occasions that the draft measure is being developed by July 2021. The EU conducted an initial impact assessment and public consultations; however, these procedures did not provide even the preliminary form of the proposed CBAM. Russia believes that climate measures should strike the right balance between the declared objectives to protect the environment and the EU's commitments under the WTO Agreement when developing the CBAM. Russia reiterates its request to the European Union to provide information on the measure and its consistency with WTO law and looks forward to further consultations with the European Union.

16.6. The delegate of Kazakhstan indicated the following:

16.7. The Republic of Kazakhstan urges the EU to fully consider the compatibility of its CBAM with WTO rules and regulations so that any such measure does not create obstacles to trade. The Republic of Kazakhstan also encourages the EU to act transparently and notify the WTO in advance of the draft measure to allow a reasonable time-period for WTO Members to comment on the draft.

16.8. The delegate of the Kyrgyz Republic indicated the following:

16.9. The issue of the CBAM of the European Union was raised more than once in different WTO bodies. A number of Members expressed their views and positions during the latest meeting of the CMA, on 12 November. The Kyrgyz Republic commends the efforts of WTO Members in establishing and achieving the aim of a sustainable ecological environment. The issues related to ecology and the environment are important for all Members of the WTO. At the same time, the Kyrgyz Republic believes that all actions and measures taken to achieve the above-mentioned mission should not affect the interests of other Members and should be implemented and maintained in full compliance with WTO rules and norms.

16.10. The delegate of China indicated the following:

16.11. China would like to register its concern regarding the EU's plan to propose a CBAM. The policy options indicated in this mechanism, such as import carbon tax or additional import duties, risk to be inconsistent with WTO rules, to create additional trade obstacles, and to disrupt international trade flows. China encourages the EU to ensure transparency by providing timely progress updates of the relevant legislation, the design of the measures under this mechanism, and the sectors and products covered by this mechanism. China shares the climate ambition of the EU and other WTO Members. However, all actions achieving that ambition should be in conformity with WTO rules and should not create unnecessary barriers to trade. China encourages the EU to fully consider the compatibility of the mechanism with its WTO commitments.

16.12. The delegate of Indonesia indicated the following:

16.13. Indonesia would like to thank proponents for maintaining this agenda item at this CTG meeting and register its interest. While Indonesia is studying the EU's CBAM as part of the European Union's green policies, Indonesia kindly requests the EU to engage with all Members in a transparent manner to provide more detailed information on the issue in order for Members to have a better understanding of it. For the time being, Indonesia will closely monitor the development of the issue and looks forward to having that discussion with the EU.

16.14. The delegate of Armenia indicated the following:

16.15. Armenia would also like to share the concerns already expressed by its colleagues from the delegation of the Russian Federation regarding the EU CBAM initiative. This is an important and

sensitive issue for a number of Members and Armenia will be carefully monitoring further developments in this respect.

16.16. The delegate of Nigeria indicated the following:

16.17. Nigeria wishes to thank the Russian Federation and other Members for placing this issue on the agenda. As with some Members, Nigeria has been following the issue of the proposed EU CBAM under the European Green Deal with keen interest given its likely implications for the competitiveness of our exports in the EU market. Nigeria believes the negative effects of climate change are unambiguous. Nigeria is committed to fulfilling its obligations under the Paris Agreement on Climate Change ratified in March 2017. Consequently, Nigeria is of the view that the EU goal of achieving climate neutrality by 2050 is commendable. However, it is of critical importance that policies and regulations that will underpin the attainment of climate neutrality by the EU do not constitute disguised restrictions to trade or are designed to undermine the competitiveness of foreign products. The delegation of the Russian Federation has raised some pertinent questions and Nigeria calls on the EU to respond as well as shed light on this issue to enable Members to gain greater insight into the proposed EU CBAM.

16.18. The delegate of the Kingdom of Bahrain indicated the following:

16.19. Bahrain would like to recall its statement made at the previous CMA and echo similar concerns to those raised by other Members. Bahrain thanks the EU for information provided at the previous CMA and looks forward to a more detailed clarification on the application and consistency of the CBAM.

16.20. The delegate of Qatar indicated the following:

16.21. Qatar would like to thank Armenia, China, Kazakhstan, Kyrgyz Republic, and the Russian Federation, for bringing this issue to the CTG. This issue was also raised during the Market Access Committee and Qatar would like to mention some of the points that it made there. At the outset, Qatar has taken note of the European Union's Green Deal and its ambition to become the first climate-neutral continent by 2050. Qatar compliments the EU for its political courage in setting these objectives. Similar to the EU, Qatar has also signed and ratified the Paris Agreement and is equally ambitious in its climate change objectives. However, Qatar feels obliged to express some trade-related concerns regarding the introduction of a CBAM to address so-called carbon leakage. Qatar would like to seek clarification from the EU on how the CBAM would be able to be applied compatibly with fundamental principles, including the most-favoured-nation treatment principle, and the principle of national treatment. Qatar is aware of the view that treating like products differently based on the carbon content of the production process would seem to go against decades of well-considered jurisprudence. Qatar takes this opportunity to thank the EU and looks forward to having a closer and fruitful discussion on this matter.

16.22. The delegate of the Republic of Korea indicated the following:

16.23. Korea shares the concerns over this issue as expressed by the previous speakers. Korea understands the purpose of this new mechanism for climate change. However, the CBAM should be designed in a fair manner, focused on achieving environmental outcomes. In particular, the mechanism should respect the basic WTO principles such as National Treatment and MFN or present clear reasons to justify its exceptional nature. For instance, the cost imposed on exporting companies or importers should not exceed that of companies in the EU. If the mechanism goes beyond the basic WTO rules, it should prove that it meets the requirements stipulated in GATT Article XX. Korea is closely monitoring the development of the mechanism and looks forward to engaging with the EU as it develops this proposal.

16.24. The delegate of Turkey indicated the following:

16.25. As the EU explained in previous meetings, the European Green Deal includes the goal of enshrining the long-term objective of climate neutrality and increasing the EU's climate ambition to reduce greenhouse gas emissions. Turkey believes that all members of the international community should, in fact, play their part to combat climate change taking into account the historical responsibilities for greenhouse gases. Turkey also underlines that this must be in accordance with

the common but differentiated responsibilities, as indicated in the scope of the United Nations Framework Convention on Climate Change (UNFCCC). In this respect, Turkey would like the EU to take into account this principle in their preparation of the CBAM along with the fact that not all members of the international community can have the same level of ambition because of their different capabilities and levels of industrialization.

16.26. On the other hand, the international climate change regime acknowledges that mitigation measures can affect the social and economic development of countries. The UNFCCC affirms that responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding the adverse impact of response measures. Turkey's detailed comments have already been conveyed to the EU within the framework of the inception impact assessment and Turkey hopes that they will be duly taken into account in the ensuing process. Turkey also believes that the EU Commission should give all interested parties sufficient time to make necessary adjustments once it declares details of its methodology, on how the carbon content of imported goods will be measured, calculated, and verified by the EU. All countries will need time and detailed information in order to analyze and adjust to the EU's proposal. Last but not least, the EU's future border carbon adjustment has to be fully aligned with GATT rules and principles, and not applied in an arbitrary manner or a manner that constitutes unjustifiable discrimination or a disguised restriction on international trade.

16.27. The delegate of Brazil indicated the following:

16.28. Brazil is carefully monitoring the proposal for the establishment of a CBAM. The proposal mentions some possible alternatives for its implementation, such as: a fee charged on products imported; an Emission Trading System (ETS) extension for imports, purchase requirement of emission allowances by foreign producers or importers; an obligation purchase of emission allowances, for imports, outside ETS, subject to the same prices as ETS; or a consumption tax, which would also be levied on European products. The CBAM's proposal also mentions that the calculation of the carbon content could be based on different methods, which include benchmarks by product with free allocation in the ETS; global or specific benchmarks by country, with an estimate for direct emissions, indirect or both; estimation of emissions over the production chain in different countries; or use of the European "Product Environment Footprint" method, possibly adapted. It also mentions the possibility that CBAM will provide a "rebate" for European exporters. There are currently several methodologies to quantify the so-called carbon footprint of products. There is thus a high degree of heterogeneity between these regulations, as well as a high degree of uncertainty. Hence the exact contours of the CBAM are still unclear, and Brazil expects that once specific elements of the CBAM have been defined, opportunity for more direct dialogue between the competent authorities will be granted.

16.29. It should be remembered that, since 2013, the European Commission has been introducing specific regulations to deal with the risks of carbon leakage under its emissions trading scheme (EU-ETS). Industrial facilities considered by the bloc as threatened with the transfer of operations to other countries ("leakage") receive privileged treatment to maintain their competitiveness, production, and jobs in Europe. In May 2019, the Commission published a new list for ETS, effective until 2030, which includes, among other sectors, mining, paper and cellulose production, sugar production, textile and leather manufactures, among others (Decision No. 2019/708 of 15 February 2019, which supplements the Directive No. 2003/87/EC). As there is, so far, no sign of how this policy would be affected by 2030, with the introduction of the CBAM, attention should be paid to possible violations of current rules. In the absence of clarity about the methodology to be used, there are glimpses of risks related to the establishment of carbon quantification standards based on industry performance benchmarks from the EU, which may constitute undue privileges, disregarding the reality of production in other countries.

16.30. Finally, it will be essential for the CBAM to be fully compatible with the rules of the WTO, including the principle of most favoured nation and national treatment and other relevant aspects, in order to avoid any protectionist bias or the adoption of discriminatory measures.

16.31. The delegate of Chinese Taipei indicated the following:

16.32. Chinese Taipei would like to thank the proponents for placing this item on the agenda and wishes to register its interest in this subject. Chinese Taipei sees the EU's Green Deal programme

with its aim to become the world's first climate-neutral continent as a leadership landmark in the international fight against climate change and commends the EU on its efforts in pursuit of this ambitious goal. Having said this, Chinese Taipei has the following comments and requests. First, the proposed CBAM is designed to tackle the risk of carbon leakage from imported goods with higher carbon content. It plans to impose an additional border tax on selected carbon-intensive products. Chinese Taipei is keen to understand exactly how and when the mechanism will be carried out. Second, while the proposed measure seems to preserve the competitiveness of the EU's own domestic industry, how will the EU ensure that the mechanism is fair and transparent, that it will not be in breach of relevant WTO rules, including the non-discrimination requirement under the GATT, and that it will not constitute a barrier to the trade of other Members? Third, according to Chinese Taipei's understanding, the EU is currently undertaking an impact assessment as well as a study of the legal feasibility of the mechanism in light of WTO rules. Chinese Taipei will be interested to have an update from the EU in due course.

16.33. The delegate of Paraguay indicated the following:

16.34. Paraguay would like to thank the delegations of Armenia, China, Kazakhstan, Kyrgyz Republic, and the Russian Federation for including these items on today's agenda and express its interest in the subject. As Paraguay also raised this item in the recent Market Access Committee meeting, and in the interests of time, Paraguay will limit itself to thanking the European Union for the responses received bilaterally to some of its queries and hopes the EU can provide specific details and greater clarity as soon as possible, including the possibility for partners to use the carbon credit facility. Paraguay will closely follow the development of this policy and awaits the final confirmation of how to use this approach with agriculture once the impact assessments have been completed.

16.35. Th delegate of Egypt indicated the following:

16.36. Egypt thanks the sponsors of this agenda item, and the EU for the information provided in other WTO bodies in recent meetings. Egypt shares the concerns raised today by many Members regarding the EU proposed CBAM. Egypt understands that the EU stated in different WTO bodies that the proposed mechanism will be consistent with its international commitments, including WTO rules, and is looking forward to learning more of the details in this regard in the near future. Egypt would also like to ensure that such measures would not have a negative impact on international trade, and especially on the market access opportunities for developing countries and LDCs to the EU market. Egypt fully understands the need to adopt policies which contribute positively to environmental sustainability, but it is important as well to take into consideration the needs of developing countries and LDCs for transfer of technologies, capacity building, investments, and reasonable transitional periods in order to enable them to deal with the challenges of adjusting their production activities in the medium and long term.

16.37. The delegate of Japan indicated the following:

16.38. Japan also pays close attention to environmental measures, including measures for climate change taken by other Members, especially in relation to their impact on trade and on the rights and obligations of WTO Members. Japan would like to request that the EU continue to update it on future developments concerning the CBAM in a transparent manner.

16.39. The delegate of Pakistan indicated the following:

16.40. Pakistan thanks Russia and other Members for their statements on this issue and has taken note of all the statements made. Pakistan is also concerned about these developments and remains keenly interested in this issue. Pakistan will continue to follow further developments under this agenda item.

16.41. The delegate of India indicated the following:

16.42. India would also like to thank the delegations of Armenia, China, Kazakhstan, Kyrgyz Republic, and the Russian Federation for raising this important issue. In this context, India will request the delegation of European Union to share the specific details of the CBAM, as envisaged in the EU Green Deal. India believes that a thorough legal analysis will be required to examine whether the CBAM is in conformity with the relevant WTO rules. India would also like to state that any such

deal must take into consideration the principle of common but differentiated responsibilities and respective capabilities of different countries, in light of different national circumstances. India believes that there may be possible WTO non-compliance issues relating to this Mechanism that will require further deliberation.

16.43. The delegate of Canada indicated the following:

16.44. Canada and the European Union have a long-standing history of fruitful cooperation on the environment and climate change. Like the EU, Canada is committed to ambitious action and global leadership on climate change. Canada is watching recent developments, such as the EU's work on a new Carbon Border Adjustment Measure, with great interest and intends to be active participants in international discussions on these issues. In this context, Canada would encourage the EU to develop its CBAM as transparently as possible and use appropriate WTO committee meetings as opportunities to keep the broader WTO Membership apprised of developments. Canada anticipates that the design of a CBAM will account for the carbon pricing policies and climate measures of partner countries. Canada also anticipates that the EU will ensure that any mechanism it puts in place will respect trade obligations. Canada understands that the public consultations on the CBAM proposal closed on 28 October 2020. Canada would also welcome opportunities for meaningful engagement with EU officials throughout the CBAM development process.

16.45. The delegate of Argentina indicated the following:

16.46. Argentina wishes to thank the proponents for including this item, which is a cause for growing concern among Members. Serious doubts have been raised regarding whether a mechanism of this nature is consistent with WTO rules and, in particular, with the provisions of GATT 1994. All Members have a duty to combat climate change. The actions that they undertake, and the instruments that they use, must be in compliance with international commitments. They must neither be more trade restrictive than necessary to fulfil legitimate goals, nor constitute a disguised restriction on international trade.

16.47. Against this backdrop, Argentina notes with concern the EU's intention to impose the same level of ambition globally, without taking into consideration the principle of common but differentiated responsibilities. Argentina wishes to stress to the EU the importance of avoiding unilateral actions that lack any proper legal basis. Argentina will be following the development of this initiative and hope to receive detailed information on the model to be adopted, the carbon calculation system and the scope of the mechanism, and hopes that this information will be provided in good time, in order to allow for productive exchanges. As requested during the meeting of the CMA, Argentina reiterates that, should this project go ahead, it is important that it be duly notified to the WTO.

16.48. The delegate of the Kingdom of Saudi Arabia indicated the following:

16.49. From Saudi Arabia's perspective, while the EU stated that the proposed mechanism will be in conformity with WTO rules and other international obligations, the EU is yet to provide explanations on how the EU aims to do so. While the EU is intending to address the risk of investment leakage from the EU to other countries, in fact the main objective is to maintain the competitiveness of EU industries. Saudi Arabia's very preliminary review indicates that the proposed mechanism raises very serious concerns due to its potential long-term negative implications on global trade that will distort the full value chain of trade, including goods, services, and jobs. Saudi Arabia urges the EU to further engage in consultations with Members, in order to ensure the full compliance of the CBAM with WTO rules and Agreements and to ensure that the proposed mechanism would not create unnecessary barriers to trade, or be applied in a manner that constitutes protection to EU domestic industries. Finally, Saudi Arabia looks forward to further details and reflections from the EU on this proposed mechanism and the Kingdom is ready to be engaged with the EU and interested Members.

16.50. The delegate of the United States indicated the following:

16.51. The United States continues to closely monitor the proposed EU CBAM as it is being developed, particularly given the US-EU bilateral trading relationship. The US encourages the EU to share details on the proposed mechanism as it is developed, and further encourages the EU to fully

consider the compatibility of any such measure it develops with applicable WTO rules, to ensure there is an open system of trade and that any such measure will not constitute a barrier to trade.

16.52. The delegate of Uruguay indicated the following:

16.53. Uruguay would like to thank Members who proposed including this item on the agenda and reiterates its statements in this Council and in the CMA. The announcement of the future adoption of a CBAM, within the so-called "European Green Deal", continues to generate interest among a number of WTO Members, including our country. Uruguay thanks the European Union for its comments in the last meetings of this Council and the CMA and notes the policy objectives identified, while reaffirming Uruguay's strong commitment to climate matters. Uruguay also notes the information provided on the next steps planned; conducting impact studies prior to the adoption of the measure, including the legal viability of the measure in light of the WTO rules; and the Commission's intention to present a CBAM proposal for selected sectors by mid-2021. In this regard, Uruguay appreciates the willingness expressed by the European Union to continue exchanges with Members on the options under consideration, including in a conference scheduled for February or March 2021, while reiterating its interest in continuing to receive updated and detailed information on the initiative, including its current state of development and the expected time-frame for the measure's adoption, how the measure will be designed, and its coverage at the sector and product level. Finally, Uruguay wishes to once again highlight the importance of ensuring the measure's compatibility with the commitments made by the European Union in the WTO.

16.54. The delegate of Colombia indicated the following:

16.55. Colombia would like to say that this issue has an accumulative effect on other measures that impact agricultural trade.

16.56. The delegate of the Philippines indicated the following:

16.57. The Philippines thanks the five proponents who requested this agenda item and the numerous Members that have spoken on this matter. The Philippines' comment will be concise, and this is simply to call on the EU to observe transparency, respect due process, conduct a careful assessment of the global impact of the proposed measures, and act consistently with the EU's commitments in the WTO. The Philippines will be closely monitoring developments in this matter.

16.58. The delegate of the European Union indicated the following:

16.59. The EU appreciates the interest of partners on this important issue. The CBAM is one of the many measures which the Commission will table in order to reach its goal of climate neutrality by mid-century. Specifically, in the European Green Deal Communication of December 2019, the European Commission announced that should differences in levels of ambition worldwide persist as the EU increases its climate ambition, the Commission will propose by mid-2021 a CBAM, for selected sectors, to reduce the risk of carbon leakage. There would be a risk of carbon leakage, either because production is transferred from the EU to other countries with lower ambition for emission reduction, or because EU products are replaced by more carbon-intensive imports. If this risk materializes, there will be no reduction in global emissions, and this will frustrate the efforts of the EU and its industries to meet the global climate objectives of the Paris Agreement.

16.60. The EU wants to stress that the Commission has noted that this measure will be designed to comply with WTO rules and other international obligations of the EU. The European Union's member States have also endorsed the objective of achieving climate neutrality by 2050 and that this should include "developing effective measures to tackle carbon leakage in a WTO-compatible way". In the European Green Deal, the Commission announced that it would make a proposal for a CBAM for selected sectors in 2021. In terms of what sectors will be covered, the Commission's March roadmap noted that the measure applies where the risk of carbon leakage is the highest. The Commission is carrying out a detailed impact assessment to support the preparation of this initiative and to inform the Commission's proposal. The assessment will notably look at various impacts of the CBAM, including environmental, social and financial impacts, economic efficiency and complementarity with the EU-ETS.

16.61. As part of the impact assessment, the Commission has actively consulted citizens as well as domestic and international stakeholders, and encouraged them to give their views on the best option to enforce ambitious policies against climate change in an open economy while addressing the risk of carbon leakage. The EU is committed to transparency and the inputs for the consultation have been published on the European Commission's central consultation page. Looking forward, the EU will engage – in multilateral and bilateral forums – with other trading partners to explain the envisaged mechanism. In addition, a conference on CBAM is planned for April.

16.62. The Chairperson proposed that the Council take note of the statements made.

16.63. The Council so agreed.

17 EUROPEAN UNION – REGULATION (EU) 2017/2321 AND REGULATION (EU) 2018/825 – REQUEST FROM CHINA AND THE RUSSIAN FEDERATION

17.1. The Chairperson informed Members that, in communications dated 12 November 2020, the delegations of China and the Russian Federation, respectively, had requested the Secretariat to include this issue on the agenda.

17.2. The delegate of the Russian Federation indicated the following:

17.3. At numerous previous CTG meetings the Russian Federation raised the issue of amendments to the EU basic regulation on protection against dumped imports introduced by Regulation (EU) 2017/2321 and Regulation (EU) 2018/825. At the Council's previous meeting, the EU delegate reiterated its position that the new methodology of dumping calculation is "country-neutral". However, Russia has not heard from the EU how exactly it is going to ensure its declared "country neutrality". What Russia has seen so far indicates quite the opposite. The EU has ultimately published the report on so-called "significant distortions" in Russia. Thus, there are two "country reports" published now – on Russia and China. However, these are not the only WTO Members whose products are subject to anti-dumping measures of the EU. Following Russia and China, an equal number of measures are applied in respect of products from India and the Republic of Korea. So far, the EU has not indicated any plans to prepare "country reports" on these, or any other countries, and does not seem to have such plans.

17.4. Russia has heard from the EU at the previous CTG meeting, and within the Committee on Anti-Dumping Practices, that the country reports are supposed to be the source of "*prima facie* evidence" of so-called "distortions". Having read the report on Russia carefully, Russia fails to see how the European Commission can find reliable data in it. The report includes lots of self-contradictions, misquotes, references to information from unreliable resources, references to documents, including legal acts, that never existed, situations that never happened, multiple translation errors that affect dramatically the substance of what has been translated, and basic factual errors. The quality of this document makes a horrible impression. The Russian Federation reiterates its position that the new calculation methodology introduced in Regulation (EU) 2017/2321 cannot comply with WTO rules. Russia will not repeat the details today. However, the sufferings of Russian exporters from the WTO-incompatible methodologies will be exaggerated by the use of flawed information, which the EU calls "*prima facie* evidence". This is a deeply disappointing development.

17.5. It should be noted that the report on Russia has not spared Russia's second concern, namely the probable combination of punishments. It appears that the EU intends to adjust the exporters' costs due to "significant distortions", and not to apply the "lesser duty rule" due to so-called "raw material distortions" pursuant to Regulation (EU) 2018/825. Although the EU gives the so-called "distortions" different names, it appears just to be trying to build higher barriers for imports. However, such attempts cannot be in line with the letter and spirit of the WTO Agreements. At the CTG's previous meeting, the EU stated that the country reports "do not pass judgement on the economies in question". However, that is what the EU is actually doing – trying to label certain WTO Members to whom it does not wish to give fair and non-discriminatory access to its market. Russia urges the EU to reconsider this approach and to respect WTO rules.

17.6. The delegate of China indicated the following:

17.7. China would like to reiterate its position regarding this issue. China is of the view that Article 2.6(a) of the EU's Anti-Dumping Regulation violates Article 2.2 and 2.2.1.2 of the WTO Anti-Dumping Agreement and is inconsistent with the relevant panel and Appellate Body (AB) reports. The content of the European Commission's staff working document on significant distortions in the economy of China for the purpose of trade defence investigations is one-sided, and seriously deviates from the objective facts. The investigations conducted on this basis shall be invalid from the beginning. The European Commission currently only issues the documents for a very small number of countries, which have raised concerns on whether it is consistent with the principles of MFN treatment and national treatment. The investigation practice conducted by the European Commission in accordance with Article 2.6(a) of the EU's anti-dumping regulation is "double standards", as in the 26 original and review cases against Chinese products, the EU has neither examined whether there are market distortions in the EU's industries and upstream industries so far, nor does it analyse whether the third-party data it uses is market-distorted. Therefore, the basic logic of the entire investigation system cannot be self-consistent.

17.8. The delegate of the European Union indicated the following:

17.9. The legislative changes introduced in 2017 fully respect WTO rules and ensure that the EU's trade defence system can adequately address dumping from countries whose economies have significant distortions due to state interference. The EU will therefore continue applying the 2017/2321 amendment, whenever legally warranted. The anti-dumping calculation rules foreseen under the 2017/2321 amendment are country-neutral and apply potentially to all WTO countries where domestic prices and costs are significantly distorted owing to state interference. The reports on significant distortions are technical, purely descriptive, and fact based. They draw on many sources, in particular the official public records of the countries concerned. They are therefore objective and impartial. In any event, in every investigation where the use of the reports is considered, the EU explicitly invites the government of the respective countries to comment on the relevant report and to complement or rebut its content.

17.10. China and Russia were selected for the first two reports purely in view of their relative importance in the EU's trade defence activity. The reports therefore do not target these two or any other Member. The legislative changes introduced in 2018 are distinct from those under amendment 2017/2321 and concern different aspects of trade defence investigations. This applies also to the definition of significant distortions under amendment 2017/2321, as opposed to distortions on raw materials under amendment 2018/825. The rules determining the modulation of the lesser duty rule under amendment 2018/825 are in any event unambiguous and based on a set of objective material criteria. The EU recalls in this connection that there is no specific guidance by WTO rules on the lesser duty rule.

17.11. The Chairperson proposed that the Council take note of the statements made.

17.12. The Council so agreed.

18 EUROPEAN UNION – IMPLEMENTATION OF NON-TARIFF BARRIERS ON AGRICULTURAL PRODUCTS – REQUEST FROM ARGENTINA, AUSTRALIA, BRAZIL, CANADA, COLOMBIA, COSTA RICA, ECUADOR, GUATEMALA, HONDURAS, NICARAGUA, PARAGUAY, THE UNITED STATES, AND URUGUAY (G/C/W/767/REV.1)

18.1. The Chairperson informed Members that, in communications dated 30 September, 6 November, and 12 November 2020, the delegations of Argentina, Australia, Brazil, Canada, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Nicaragua, Paraguay, the United States, and Uruguay, respectively, had requested the Secretariat to include this issue on the agenda.

18.2. The delegate of Colombia indicated the following:

18.3. Colombia, like other Members, has been raising this trade concern in multiple committees and forums of the WTO for more than three years. Colombia also raised it bilaterally. Yet, despite this, so far it has not been possible to engage in serious and fruitful dialogue. On the contrary, measures that are affecting global agricultural trade are still being applied and implemented and have even

increased, in some instances even more quickly during the pandemic, despite the fact that many delegations have requested that these measures be suspended while they try to tackle the consequences of COVID-19.

18.4. Colombia shares the environmental goals of the European Union. However, there are many drawbacks to the EU's policies and practices, which make it increasingly difficult for agricultural products to enter the common market. Colombia will very briefly set out five points here and counter the arguments raised, in order to move forward and give an idea of the extent of our concerns. There were several more points, but time constraints meant Colombia had to choose. First, Colombia is concerned about the sanitary measures that are not based on a "risk assessment" that takes into account both the harm caused by and exposure to the active substance. It has sometimes been said that establishing a limit involves a risk analysis. This does not seem to be the case, but the main problem is not necessarily setting a limit, rather it arises much earlier, at the beginning of the process. When the renewal of the marketing authorization for a substance is requested, the EU does not seem to carry out a risk assessment of the substance. As a result, the other steps are simply obvious consequences of the initial decision. The long institutional process that culminates with the adoption of these measures is closed to the countries concerned and is not very transparent. The measures arrive at the WTO fully defined after a process with very little public consultation, without having undertaken an impact study and without it being clear if the least disruptive alternative for trade has been chosen.

18.5. Second, the SPS Agreement also requires contracting parties to base their specific maximum residue levels (MRLs) on those of the Codex, and to carry out individual risk assessments only exceptionally. The EU has argued that its MRLs are 70% aligned with the Codex standards. This argument is far from satisfactory. The remaining 30% is a cause for concern, as it includes many of the plant protection products that are now the only alternatives that are safe and multilaterally approved in line with international standards. Just because 70% are apparently aligned, it does not mean that this 30% do not have to be.

18.6. Third, these issues are compounded by subsidies. The EU has a Just Transition Mechanism (JTM) to offset the costs of a transition, such as the one suggested by the EU. According to EU figures, the JTM will provide specific support in the amount of at least 100 billion euros to mitigate the socio-economic impact of the transition. Moreover, the EU has calculated how much the required transformation would cost each farmer, per hectare, which forms the basis for the calculation of the necessary subsidies. Countries such as Colombia do not have the financial space to provide this type of assistance. The EU's enormous capacity to subsidize its producers, coupled with the non-tariff provisions discussed, skews the playing field to the direct detriment of Colombia's farmers' long-term opportunities.

18.7. Fourth, the social effects of this policy on the EU's trading partners are worrying and often unexpected. For example, the EU has argued that there is no detrimental impact on trade because our countries' exports to the common market are increasing. But this is not grounds for a measure, since there should not be any detrimental effects. Particularly when it is clear that these prospective measures are now beginning to affect our exports and will have an ever-greater impact on access to the European market. On the contrary, Members should be more concerned about the current good level of trade, not relaxed. Furthermore, these aggregate figures do not speak to which specific products and which specific producers are bearing the brunt of the effects. In reality, these measures disproportionately affect small producers in rural areas, who are unlikely to have the resources to adapt to new requirements. This situation affects the concentration of production and could potentially exacerbate social inequality in developing countries.

18.8. Lastly, on top of this difficult situation, there is an apparent lack of fair competition in the European market, caused by large-scale buyers with a presence throughout Europe. In the absence of conditions of competition for wholesale purchases, these buyers have the power to decide to unilaterally reduce the purchase price per kilogram, affecting the price across the entire European market. This weak competition can be seen, for example, in the case of Aldi, which purchases bananas from all countries in the region.

18.9. In conclusion, all of the above, coupled with potentially discriminatory practices and their potentially negative impact on the size of harvests around the world, Colombia believes that the EU's set of policies and practices carries the risk of nullifying and undermining the legitimate rights of WTO Members that have signed the AoA and the SPS Agreement. For these reasons, Colombia

will continue to call for a dialogue that allows it to raise concerns candidly and constructively. Colombia firmly believes that a structured, serious and ongoing dialogue, in conjunction with mutually agreed technical assistance, will allow mutually beneficial solutions to be reached, within the general spirit of partnership that characterizes Colombia's relationship with the EU.

18.10. The delegate of Costa Rica indicated the following:

18.11. Costa Rica is a co-sponsor of this agenda item and of joint communication G/C/W/767 and the revision thereof previously submitted in this Council. This item has the highest number of co-sponsors of all the items on this Council's agenda. It also brings together the largest number of concerns raised in the TBT and SPS Committees. It is a concern that has been supported by some 90 Members, of which the vast majority are developing and least developed countries. This is a matter that affects production systems and food security worldwide and therefore, in Costa Rica's view, is of the utmost importance. Costa Rica's technical concerns are well known, having been put forward on several occasions as part of a large number of concerns raised in the SPS Committee, the TBT Committee and, since June last year, in this Council. Costa Rica continues to have multiple concerns regarding the scientific soundness of the EU's MRL assessments and what, in its view, is a hazard-based approach, rather than one based on risk. The reduction of MRLs without sufficient scientific evidence restricts access to critical substances for agricultural production, particularly in countries with a tropical climate, such as Costa Rica. Moreover, it generates additional costs and increases the risk of pests emerging and having an impact on production and export capacity.

18.12. While Costa Rica agrees with the EU's goal of supporting the global transition to more sustainable world agri-food systems, it is of the view that the fulfilment of this goal must be based on building solutions designed and implemented through dialogue mechanisms and multilateral cooperation frameworks. Costa Rica is concerned that forcing change, even through well-intentioned initiatives, further aggravates the problems that Costa Rica is already facing and repeatedly discussing in this Council. Costa Rica is also concerned that the costs of the adjustment being proposed will fall on the producers, exporters, and most vulnerable population groups of developing countries and that there will be severe consequences for global food security. The co-sponsors' countries were already facing an intensification of the effects of climate change, on top of which there is now the pandemic and its socio-economic consequences. Agricultural producers, especially the smallest ones, and MSMEs would be greatly affected by new measures and more restrictive requirements for exports at a time when all efforts are being directed towards health-related containment measures and economic recovery. In awareness of this crucial historical moment, Costa Rica has presented, together with 38 other Members, a communication to the EU (document G/SPS/GEN/1778/Rev.3) requesting it, in consideration of the present exceptional circumstances, to interrupt its regulatory process and suspend the implementation of the reduction of MRLs for critical substances for agricultural production.

18.13. Costa Rica is disappointed that the EU communicated in the SPS Committee that it would proceed with its processes for reducing MRLs, despite the potential impact that this would have on the production systems of its most vulnerable trading partners. Costa Rica urges the EU once again to listen to the legitimate concerns of dozens of WTO Members and establish a mechanism for dialogue and evaluation of its policies on MRLs that takes into consideration and effectively addresses our systemic and trade-related concerns. Costa Rica is sure that, through increased and better-quality multilateral dialogue, Members can find solutions together, which will enable them to progress towards mutually beneficial trade.

18.14. The representative of Ecuador indicated the following:

18.15. Ecuador continues to endorse this statement, chiefly due to the increasingly restrictive ban on the use of plant protection tools that are key to pest eradication, which affects food quality. Ecuador insists that such measures can seriously hamper many products' entry into the market of one of its main trading partners. This is compounded by challenges and difficulties in overcoming the effects of the COVID-19 pandemic throughout the Ecuadorian productive sector, faced by agricultural producers and exporters in particular. According to estimates from the IMF, World Bank and the United Nations Economic Commission for Latin America and the Caribbean (CEPAL), Ecuador's Gross Domestic Product for 2020 will decrease by roughly 6%. As Ecuador has said at the WTO on countless occasions, world trade is key to Members' sustainable economic recovery. Maintaining trade restrictions, such as those of the EU, in the midst of the pandemic could potentially

heighten the economic impact on a sector relied on by hundreds of thousands of low-income rural families.

18.16. Ecuador would like to refer to its previous statements on the matter³ and, once again, urges the EU: (i) not to adopt excessively restrictive measures without conclusive scientific evidence, without an actual increase in the level of health protection and without taking into account the economic and social impact on its trading partners in the short, mid and long term; (ii) to observe the globally recognized international standards on human, plant and animal health protection; (iii) to comply with the requirements established in the WTO SPS Agreement to take a risk assessment approach to any measure, minimize the adverse effects of its trade-related measures and prevent them from becoming unjustified barriers to trade; and finally (iv) to consider suspending the ongoing implementation of measures to reduce MRLs and maintain the levels recommended by the Codex, and to grant the necessary adjustment period – of at least 36 months – in cases where the reduction of MRLs is shown to be essential.

18.17. The delegate of Uruguay indicated the following:

18.18. Uruguay wishes to reiterate its trade and systemic concern regarding the use of a hazard-based approach by the European Union in its regulatory determinations relating to SPS matters, which has led to a number of specific trade concerns in the SPS and TBT Committees in recent years. Uruguay wishes to make it clear that any determination in this area, particularly when it departs from internationally accepted standards and the harmonization efforts made in multilateral areas, such as the Codex, must be based on a full scientific risk assessment and underpinned by validated methodologies, in line with the provisions of the relevant Agreements, and by conclusive scientific evidence. This is essential to maintaining the right balance between the right of Members to pursue their legitimate objectives and the need to avoid creating unnecessary barriers to trade in the process.

18.19. It is the special responsibility of the largest importers of agricultural products to consider the impact that their regulatory approaches and determinations might have on developing and least developed countries, whose economies are largely based on the production and trade in agricultural and agro-industrial products, and through which they make an invaluable contribution to global food security, particularly when such approaches lack sufficient scientific justification. In light of the above, Uruguay once again urges the European Union to reconsider its regulatory approach in order to avoid the unjustified proliferation of barriers to international trade in agricultural products and the serious social and economic consequences of such an approach on other Members, especially developing and least developed countries, for which the European Union market is of key importance.

18.20. The delegate of Paraguay indicated the following:

18.21. Paraguay's delegation would like to reiterate its concern over the lack of progress and dialogue on these topics. Paraguay shares the European Union's objectives but differs on how to achieve them. Throughout the year, Paraguay has expressed its concrete concerns to the European Union at different forums within this Organization. Paraguay has also asked specific questions in these committees, which are routinely met with replies that are sketchy or evasive. Paraguay has not received replies to the last set of questions submitted in the SPS Committee, and that was over a month ago; nor has it received the single complete list of evaluated substances and those that will be evaluated since February. A response has also not been received to Paraguay's consultation, originally presented in March, which contains three questions in the Committee on Agriculture, on whether the European Union intends to introduce new subsidies for its producers, in other member States, as it did with Luxembourg for no longer using glyphosate.

18.22. The majority of these non-tariff barriers are based on environmental concerns, as indicated in the replies to the questions submitted by Colombia in the most recent Committee on Agriculture and the SPS Committee. However, these measures have no scientific basis. That is why there is a concern about using environmental considerations as an excuse for establishing trade barriers and obstacles, which moreover serve to protect the competitiveness of a highly subsidized agricultural sector that is otherwise unsustainable. In document G/SPS/GEN/1868 distributed yesterday, the European Union stated that "Food security and food safety are cornerstones of the EU food system and will never be compromised". However, the European Union regularly compromises its own

³ Document G/C/M/137, paragraphs 17.14-17.18.

standards by using and allowing emergency measures for plant protection products that are prohibited in the European Union. Paraguay notes with concern the high number of emergency measures allowed by the European Union for the benefit of its producers to allow them to continue to use prohibited substances, a flexibility from which its trading partners' producers cannot benefit and who have little certainty as to the tolerance procedures for imports and what is referred to as "other legitimate factors" in the process, despite having requested a definition of these factors on several occasions.

18.23. Similarly, Paraguay has observed a certain reticence by the European Union to acknowledge the existence of other production methods that depend on geographical and climatic conditions, as well as various best agricultural practices used based on the production models of each Member of this Organization that may be as or more effective than those encouraged by the European Union to achieve their sustainability objectives. The European Union's insistence on using a single method or way, decided unilaterally, as being the most appropriate, which its trading partners must adopt if they want to continue exporting to the European Union, is very worrying indeed.

18.24. As recently as last week, at the meeting of the Committee on Trade and Environment, the European Union indicated that Paraguay's producers would benefit from better prices if they adapted to the European Union's production methods, but if the producers benefit from better prices, why are additional subsidies needed for producers to adapt, as proposed in the Just Transition Fund under the Farm to Fork and Biodiversity Strategies? Also worrying is the use of environmental concerns to justify new subsidy programmes that do not have a net positive effect on the environment and furthermore can potentially increase the carbon footprint, water use and food waste.

18.25. Paraguay would like to state that although it shares the concern for sustainability, the concept of sustainability in agricultural production, as defined by the FAO, also includes economic, social and environmental aspects and that some Members prefer to only focus on one aspect, in order to avoid addressing the environmental issues caused by subsidies under such a cross-cutting concept. The OECD FAO Agricultural Outlook 2020-2029 recommends that governments should roll back market distorting agriculture subsidies as these tend to be the most environmentally harmful. Paraguay wishes to point out that the European Union grants high levels of trade-distorting subsidies to sustain and support a sector that represents less than 2% of its GDP and that is a source of employment for less than 2% of its population. That is why Paraguay believes that the European Union could consider doing away with or significantly reducing the billions of euros it provides through these subsidies rather than increasing them as a first step in transitioning to a green economy.

18.26. On several occasions, including by note dated 28 August, Paraguay requested that the European Union initiate a broad dialogue. Regrettably, the European Union has responded to these requests for dialogue, intended for the EU to hear, listen and respond to Paraguay's concerns, with promises of information sessions, including one planned for early 2021, which is not at all what Paraguay requested: a two-way conversation among equals. Paraguay appeals once again to the European Union to set up a broad and open dialogue mechanism to identify solutions to these concerns that are affecting their trading partners and which, according to a recent study published by the US Department for Agriculture (USDA), can in addition significantly increase the price of food globally and exacerbate food insecurity across the world.

18.27. The delegate of Australia indicated the following:

18.28. Australia, as a co-sponsor of this paper, again highlights its ongoing concerns in relation to the European Union's agricultural chemical regulations and policy and the potential negative effect on farmers and trade. Australia has previously raised its concerns about the EU's risk assessment and import tolerance setting policies in this Committee, as well as the TBT and SPS Committees. While Australia recognizes the right of WTO Members to regulate agricultural and other chemicals in a manner that protects animal, plant and human health and the environment, Members are also bound by WTO obligations particularly in relation to undertaking science-based risk assessments and ensuring that measures are not more trade-restrictive than necessary.

18.29. Australia questions the EU's approach to the approval and renewal of plant protection product authorizations and import tolerance limits that relies primarily on hazard-based assessment. In doing so, it is unclear how the EU hazard-based assessment is consistent with internationally

agreed risk assessment standards for import tolerances. Australia seeks clarification on how the EU determines hazards to consumers of treated produce and would welcome discussion on the risk assessments that underpin EU decisions on import tolerances. Australia also seeks greater clarity from the EU on how hazards of a substance are differentiated in terms of the substance use in a production system compared with presence in consumed produce.

18.30. The delegate of Brazil indicated the following:

18.31. Brazil's co-sponsorship of this agenda item stems from the understanding that the EU's position in regarding the definition of maximum residue limits jeopardizes the balance established in the SPS Agreement between protecting human, animal or plant life or health and ensuring that multilaterally negotiated market access conditions are not undermined by unjustified non-tariff measures. This balance rests on the importance of scientific justification, enshrined in the SPS Agreement and materialized through risk analysis, which should guide the adoption of sanitary or phytosanitary measures. When prohibitions based on the hazard approach and/or recourse to Article 5.7 of the SPS Agreement become the rule, despite technical advice from renowned institutions such as the European Food Safety Authority (EFSA), or standard-setting bodies (SSB) recognized by the SPS Agreement, the balance tilts towards protectionism. This condition of imbalance cannot last.

18.32. The document that Brazil co-sponsors shows that this issue is not merely technical or legal. This European policy brings concrete risks to the maintenance of safe and efficient production systems in various regions of the globe, as has been also argued by other delegations. It prevents access to instruments for reducing pests that threaten the viability of food production and discourages scientific research, which would enable access to new chemical technologies and to fight these pests. Currently, it is fashionable to draw attention to the risk that climate change leads to the introduction of new pests, especially in temperate agriculture areas. Without underestimating this risk, it is imperative to remember that tropical countries, such as Brazil and other co-sponsors, face these SPS risks continuously, and the success or failure of agricultural activity depends on access to these technologies. In the Brazilian case, sustainability is at risk in different cultures, such as soy, citrus, coffee, wheat, bananas and papayas, which are a source of income and nutrients for a very important portion of the Brazilian and world population.

18.33. The introduction of these technologies has also led to a more sustainable agricultural production because it enabled the use of new practices, such as a no-tillage system in several countries. Brazil can affirm that production has become more sustainable, as no-tillage prevents erosion and reduces water loss through evaporation, increases the level of organic matter in the soil, reduces the use of fossil fuels with machinery and equipment and provides better microbiological balance in soils. This is an essential mechanism for increasing production through increased productivity, not from expansion of the planted area. It is worrying that the interpretation given to the SPS Agreement after 25 years of its adoption strays from the purposes that guided the negotiations during the Uruguay Round. It is also worrying that Brazil has to bring debates of this nature to the CTG in a context in which a growing number of discriminatory initiatives create new non-tariff barriers under the guise of environmental protection.

18.34. The delegate of Argentina indicated the following:

18.35. Argentina wishes to reiterate its concern regarding the proliferation of non-tariff barriers to trade in agricultural products in the EU and insist on Members' obligation to base their measures on a full scientific risk assessment, in accordance with the WTO Agreements. In particular, Argentina is referring to the implementation by the EU of measures that effectively prohibit the use of a number of substances required for safe and sustainable agricultural production, which have been assessed and authorized for use by many WTO Members. This grievance has been raised on a number of occasions in the SPS and TBT Committees, emphasizing the disproportionate impact that such measures have on trade in agricultural products. As stated in document G/C/W/767/Rev.1, Argentina urges the EU to provide additional information on the process and timelines for setting import tolerances for active substances that have not been re-authorized by the EU, as well as applicable transition periods for MRLs. Furthermore, Argentina asks the EU to establish a transparent, predictable and commercially viable import tolerance process that includes a risk assessment based on techniques developed by the relevant international organizations.

18.36. The delegate of Canada indicated the following:

18.37. As noted in previous interventions on this subject in the CTG over that past three meetings, Canada emphasizes the need for transparency and predictability in international trade. Agricultural sustainability, that is where agricultural production meets current demand without compromising the ability for future generations to meet their needs, is a key policy objective for the Government of Canada and one that has environmental, economic, and social dimensions. Canada shares the EU's ambitions related to health, safety and the environment. Agricultural innovation, including precision agriculture, integrated pest management and products of biotechnology, contribute to the objectives of both Canada and the EU to make the agriculture sector more sustainable and adaptable.

18.38. In order to work in practice, frameworks must be predictable and based on thorough scientific analysis and risk assessments that reflect specific realities at the national and regional levels. Canada continues to recognize a Member's right to adopt measures to achieve legitimate objectives and to apply the food safety measures deemed necessary to protect human health, in accordance with WTO agreements. However, such measures must be implemented in a transparent way that does not unjustifiably restrict international trade. The Communication highlights Members' shared need for greater transparency and predictability around the EU's approach to approving and renewing plant protection product authorizations, as well as Members' shared concerns about the impacts this approach is having on trade in food.

18.39. The lack of clarity on how and when import tolerances will be set for an active substance falling under the cut-off criteria authorization is causing a high degree of uncertainty and risk for exporters wishing to maintain access to the EU. It is important for the EU to provide its trading partners with confirmation that import tolerances for plant protection products that fall under the hazard-based cut-off criteria will be established on the basis of an assessment of risks conducted in accordance with relevant international guidelines. It is also important that detailed information be provided to clarify the process the EU will follow. Canada urges the EU to take into account the timelines necessary for practical decision-making by farmers and producers, as well as the time required to get products to market, particularly in the global trade context. Canada hopes that reiterating the concerns contained in this Communication to the CTG serves as a clear indication of the importance many WTO Members, including Canada, attribute to seeking enhanced transparency and predictability for trade.

18.40. The delegate of the United States indicated the following:

18.41. The United States is disappointed that it again has to raise concerns about the EU's implementation of non-tariff barriers on agricultural products. The EU's codification and subsequent implementation of a hazard-based approach to pesticide regulation is profoundly and adversely impacting global agricultural production and trade, particularly in developing countries. At the last SPS Committee meeting, the United States highlighted concerns with the EU's Farm to Fork Strategy, Biodiversity Strategy for 2030, and regulatory fitness and performance program REFIT for pesticides. In these documents, the EU details its plans to use all of its "diplomacy, trade policy, and development support instruments" to promote adoption of its hazard-based approach to pesticides in third countries and that it will no longer conduct "full risk assessments" for substances meeting hazard cut-off criteria.

18.42. Previous responses from the EU have failed to clarify how such policies will be implemented in a manner consistent with the obligations of the SPS Agreement. Recent actions taken by the EU underscore the adverse impact of such policies, as alternative substances in a number of categories continue to be limited, offering few options for controlling certain pests. For example, in July, the EU lowered to the limit of detection the MRL for pymetrozine, an insecticidal active ingredient registered globally that is one of only two active ingredients within its class registered for use in controlling leaf hoppers, aphids, and whiteflies. The EU did so without finalizing a risk assessment and without its Standing Committee on Plants, Animals, Food, and Feed delivering an opinion on the active substance prior to non-renewal. As another example, at the 23 October meeting of the Standing Committee on Plants, Animals, Food, and Feed, experts from the EU member States supported the Commission's proposal not to renew the authorization of mancozeb, another globally registered active ingredient. The EU had already determined it would not renew its authorization for chlorothalonil, which acts similarly to mancozeb on certain diseases, and lowered its MRL to the limit of detection.

18.43. Taken together, these actions severely limit access to important, necessary tools by banana, cranberry, and other producers and will likely have negative effects on small-scale producers in vulnerable populations, including increasing population migration. The international community should be working together to support science-based measures that promote a safe and sustainable food supply. The US calls on the EU to join with its trading partners in identifying such mutually beneficial solutions.

18.44. The delegate of Indonesia indicated the following:

18.45. Indonesia would like to thank the proponents for bringing up this agenda item again and would like to be included as co-sponsor in the communication. Furthermore, Indonesia would like to underscore the increase on the application of non-tariff barriers in agricultural products, especially for those of lack of scientific evidence and not in line with international standards and agreements that may undermine our collective efforts to have more trade through the reduction of tariffs. Indonesia will continue to monitor the development of these issues, including technical issues such as MRLs, farm to fork strategy, and hazard-based approach to pesticide regulations in the relevant committee.

18.46. The delegate of Guatemala indicated the following:

18.47. As a co-sponsor, Guatemala would simply like to align itself with what was said by those Members that spoke before. Guatemala is concerned by the NTBs imposed by the EU when these are not based on risk and on scientific evidence. The European Union is applying measures in practice such as the reduction by substances by MRLs which affect areas beyond the European Union with the change of certain substances for certain foods, and differentiation with certain substances per product. It is important to highlight the procedures for clearances of the imports and the fact that these should be based on transparency, should be predictable, and should be risk-based as according to the competent international organizations. Real conditions for producers should be taken into account. At the global level, the EU is concerned about rural development in developing countries; however, it is applying measures that run counter to these actions because these NTBs have an adverse impact on rural agricultural producers in developing countries.

18.48. The delegate of the Philippines indicated the following:

18.49. The Philippines would like to thank the co-sponsors which have jointly raised in the CTG the issue of evolving MRLs established by the EU in Regulation No. 396/2005. The Philippines can see the impact of the uncertainty introduced by EU practice, and the potentially restrictive effects such a measure can force upon trade in agricultural products. It is indeed helpful to view this issue here in the CTG rather than attempt to pin down matters separately in other bodies, namely the TBT and the SPS Committees. The Philippines' interest in this issue should be obvious considering that it is not an insignificant exporter of certain agricultural products to the EU. The Philippines will continue to evaluate the growing tendency of the regulation to unilaterally lower MRLs for an expanding list of pesticides on the basis of hazard-based assessments and not on scientific risk assessments that account for factors such as exposure and potency. International standards already exist in the Codex Alimentarius and these would allow a science-based approach to risk assessment. But these seem to be ignored. The Philippines would also wish to request the EU to provide greater transparency on the substances whose approval may soon not be renewed, and whose MRLs may likely be adjusted downwards. The stakes can be high. Predictability will be key.

18.50. The delegate of El Salvador indicated the following:

18.51. The impact the pandemic has had on El Salvador is obliging it to focus on health efforts and economic recovery. El Salvador knows that it is not the only Member going through this very difficult situation. That is why El Salvador asks the European Union to base its regulatory measures on scientific evaluations, especially for MRLs, for the use of substances, because El Salvador shares the concerns expressed by other delegations regarding the impact that this measure would have on Salvadoran exports, and likewise for many other developing countries exporting into the European Union.

18.52. The delegate of India indicated the following:

18.53. India joins other Members on the concerns raised by them relating to implementation of Non-Tariff Barriers on Agricultural Products by the European Union that effectively prohibit the use of a number of substances that are required for safe and sustainable agricultural production, and have been assessed and authorized for use by many WTO Members. In this context, India would like to reiterate its trade, as well as systemic concerns. This hazard-based measure by the EU is significantly impacting the trade from developing countries, including India. It also lacks transparency, hindering predictability for exporters. India would urge the EU to avoid such unnecessary barriers to trade, and to find out a mutually acceptable solution to this issue through dialogue with Members, as early as possible.

18.54. The delegate of the European Union indicated the following:

18.55. The EU takes note of the concerns expressed by WTO Members. The EU has been highly transparent about its policy objectives and the EU regulations on plant protection products and pesticide residues have been discussed with WTO Members on numerous occasions. The EU informs trading partners about the possible restrictions and non-approvals of active substances via WTO-TBT notifications, and about the proposed lowering of the MRLs for such substances via the WTO-SPS notification system. Responding to specific requests from Members, the EU has recently started to notify non-approval measures under both Agreements. The EU has regularly provided detailed explanations in the SPS and TBT Committees and ultimately also in this setting about the rationale and necessity of its SPS and TBT measures. Multiple seminars, workshops, information sessions and bilateral meetings on risk assessment, authorization procedures and on specific substances have been organized in the past and are planned in the future.

18.56. The EU is also the only Codex member openly raising reservations and communicating to Codex when not in a position to adopt a new Codex MRL, providing scientific reasons for the reservations and consequent non-alignment. To increase transparency and predictability in international trade, the EU encourages other Members to do likewise. The EU has the duty to ensure a high level of human health protection for its citizens. In doing so, the EU always ensures that it respects its international commitments and that its legislation is in line with the WTO SPS Agreement. The EU's approach to regulate active substances is based on the most up-to-date scientific advice provided by the EFSA, as well as existing international standards as stipulated by its own legislation. The EU has developed a highly trusted, transparent and predictable system based on the high level of consumer health protection, to which some other countries defer in the absence of their national MRLs.

18.57. Delegates seem to object to measures taken to protect consumers' health. These measures apply to substances that have been found to be mutagenic, carcinogenic, reproductive toxicants and endocrine disruptors. Consumers should not be deliberately exposed to these substances and the risk of human exposure to their residues should be minimized. The EU is an open market and its high level of protection has never been an impediment to the import of agricultural commodities. The high and increasing volume of imports into the EU of fruit and vegetables, which in 2018 amounted to 16.8 billion euros, comes as an irrefutable evidence of our open and transparent policies. As a recent FAO case study on MRLs in rice shows, stricter MRLs do not necessarily impede imports.

18.58. The EU provides technical assistance to developing countries and LDCs, directly or through other international organizations, such as the FAO, to support a smooth transition towards new products or production systems. The EU also provides sufficient transition periods to allow operators to adapt to the new measures, unless these substances are genotoxic and carcinogenic or their presence on the market poses otherwise an unacceptable risk to consumers' health. The EU measures do not discriminate against WTO Members: the same health and safety requirements for food and feed apply equally to EU member States and third countries alike, irrespective of the origin of the product. Equally, the EU ensures that its import requirements for agri-food products are not more trade-restrictive than required to achieve the level of sanitary or phytosanitary protection the EU considers appropriate for its consumers.

18.59. The EU Regulation on MRLs does not impose a zero tolerance, as some other trading partners do (for example, the US), but gives clear orientation to operators about what they must achieve. In

addition, the EU allows trading partners to request the establishment of import tolerances for all active substances. Such import tolerance requests will systematically undergo a product specific risk assessment and will be considered on a case-by-case basis, as set out by the EU legislation on MRLs, and in line with WTO requirements. Between 2012 and 2019, a total of 2567 CXLs (Codex MRLs) for food commodities were adopted by Codex Alimentarius. In that period, the EU has taken on board 1833 MRLs out of these 2567 CXLs. Taking into account EU-MRLs that are set at the same or higher level than the CXLs for the same food products, the EU is aligned with more than 70% of the CXLs established in this period. This level is comparable with the level of alignment of other major economies. The EU has one of the highest levels of uptake of Codex MRLs among major economies. The EU systematically aligns its MRLs to new Codex MRLs on an annual basis, without requiring applications or any other action from interested parties. Unlike some other major economies (for example, the US or Canada), the EU has routine procedures in place to review its MRLs at the time Codex adopts new MRLs.

18.60. In conclusion, while ensuring a high level of health protection, the EU remains one of the largest fruit and vegetables importers, to the benefit of farming communities in exporting countries – including those partners that believe they must express concerns about the EU trade policy. Against this background, the EU would like to emphasize its commitment to continue an open dialogue on its SPS policies and measures. The EU is ready to further engage and explain its policies to its trading partners. The EU believes that it has a shared interest in tackling the issue of toxic active substances and protecting its citizens' health with appropriate measures. The EU remains an open market and is committed to implement SPS measures in the least trade-restrictive manner. However, the health issue at stake is of the utmost concern and should be properly addressed not only by the EU, but also by the entire WTO Membership. The protection of public health must be a priority for all Members' deeply interconnected societies and the COVID-19 pandemic has only confirmed it.

18.61. The Chairperson proposed that the Council take note of the statements made.

18.62. The Council so agreed.

19 EUROPEAN UNION – REGULATION EC NO. 1272/2008 (CLP REGULATION) – REQUEST FROM THE RUSSIAN FEDERATION

19.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the Russian Federation had requested the Secretariat to include this issue on the agenda.

19.2. The delegate of the Russian Federation indicated the following:

19.3. The Russian Federation is very concerned with the cobalt classification as a carcinogen 1b for all routes of exposure under the 14th Adaptation to Technical Progress to the CLP regulation. Russia thanks the EU for the progress in application of gastric bioelution when classifying alloys and ensuring the opportunity of self-classification. However, the measure was adopted without any scientific justification for cobalt carcinogenicity for other routes of exposure rather than inhalation. It is clear that the EU will go further and develop both industrial and product specific regulation on the basis of this classification decision, which will set unjustified restrictions. As for the direct consequences of this measure, the CLP Regulation sets labelling and packaging requirements prohibition for the use of cobalt. Moreover, even without further restrictions, cobalt and cobalt-containing products consumption will unduly suffer due to their deselection as a result of stigmatization when manufacturing the final products, such as electric vehicle batteries, energy storage units, and similar equipment critical to mitigate climate change and achieve green sustainability.

19.4. The Russian Federation draws attention to the fact that interested Members of the WTO repeatedly informed the EU that the global cobalt industry had launched the relevant scientific study on cobalt carcinogenicity for oral routes of exposure; however, this information was not taken into account. Russia is addressing the following questions to the European Union: (i) could the EU inform Members about the epidemiological data confirming the increasing number of cancer cases due to exposure to cobalt for oral or dermal routes that explain the urgency of cobalt classification in accordance with the 14th Adaptation to Technical and Scientific Progress (ATP); (ii) could the EU

explain why the gastric bioelution was not applied in the case of cobalt classification while it was used when lead and copper were classified; and (iii) could the EU confirm that when new scientific evidence of cobalt carcinogenicity for oral routes is available, the relevant amendments to the Globally Harmonized System (GHS) in respect of cobalt will be made?

19.5. The delegate of the European Union indicated the following:

19.6. As explained at the last meeting, titanium dioxide and cobalt were included in the 14th ATP amending the CLP Regulation. Several discussions on the classification of cobalt and TiO₂ and the classification of mixtures containing TiO₂ took place in the expert group for REACH and CLP (CARACAL) and in the regulatory committee (the REACH Committee). After its adoption by the Commission on 4 October 2019, the Commission Delegated Regulation was sent to the Council and the European Parliament for the two months objection period. As no objection was raised, the Commission Delegated Regulation (EU) 2020/217 was published in the Official Journal of the EU on 18 February 2020 and the classification of cobalt as carcinogen will become applicable as of 1 October 2021. The classification of cobalt as carcinogen for all routes of exposure is based on the scientific opinion of the Risk Assessment Committee (RAC) of the European Chemicals Agency (ECHA) as well as on the comments received and concerns expressed by the member States and stakeholders. This opinion is in line with the CLP Regulation as well as the UN Globally Harmonized System of Classification and Labelling of Chemicals (UN GHS). The opinion and the background document containing all the relevant scientific information on which the opinion is based are available to all WTO Members and stakeholders at the ECHA website (<https://echa.europa.eu/registry-of-clh-intentions-until-outcome/-/dislist/details/0b0236e1806bd156>)

19.7. In its scientific assessment, ECHA's RAC Committee took all available data into account, including the information submitted during the public consultation period. Review of an RAC opinion is only possible if new and relevant scientific information becomes available. All comments which WTO Members sent in the context of the EU notification in accordance with the TBT Agreement were duly taken into account by the Commission and member States in the decision-making process. The Commission has also sent written replies to the comments from WTO Members on the TBT notification of the measure. The EU also proposed to harmonize at OECD level the method on bioelution. This method could be useful to ensure that if a metal contained in an alloy is not bioavailable (that is, it remains in the matrix), then the alloys (for example, stainless steel) do not need to be classified. An agreement at the OECD has been reached in May 2020 to develop and validate this method. The EU would welcome any support for third countries to actively participate in the development of the OECD test method on bioelution. A special expert sub-group has also been recently established by the Commission, in order to provide advice and exchange views on technical, legal and policy issues related to the use of the relative in-vitro bio-accessibility of a hazardous metal in metal compounds or alloys, for the refinement of their classification under CLP. The discussions are expected to focus on the applicability of the data generated with a validated test method.

19.8. The Chairperson proposed that the Council take note of the statements made.

19.9. The Council so agreed.

20 ENLARGEMENT OF THE EUROPEAN UNION TO INCLUDE CROATIA: NEGOTIATIONS UNDER ARTICLE XXIV:6 OF THE GATT 1994 – REQUEST FROM THE RUSSIAN FEDERATION

20.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the Russian Federation had requested the Secretariat to include this issue on the agenda.

20.2. The delegate of the Russian Federation indicated the following:

20.3. The Russian Federation would like to reiterate its deep concerns regarding the European Union's negotiations under Article XXIV:6 of the GATT within the framework of its enlargement to include Croatia. Russia has repeatedly raised this issue bilaterally, as well as at the CMA and during the meetings of the Council. Russia's concerns have been transmitted to the European Union in writing, as well as circulated among the WTO Members. To date, the EU has failed to enter into a constructive discussion with Russia on this issue. Russia once again calls upon the EU to engage into compensatory adjustment negotiations with Russia.

20.4. The delegate of the European Union indicated the following:

20.5. The EU would like to recall the explanations provided at previous meetings. The EU informed WTO Members about the conclusion and outcome of the negotiations following Croatia's accession to the EU on 26 July 2018 (in document G/SECRET/35/Add.2), pursuant to paragraph 5 of the Guidelines on Procedures for Negotiations under Article XXVIII. The outcome of the Article XXIV:6 process will be faithfully reflected in the EU-28 Schedule CLXXV, which is currently undergoing the process of certification. As of today, the EU is pleased to note that it has been able to clarify and accommodate the comments and questions of all Members; except one. The EU has extensively and repeatedly explained, orally and in writing, the reasons for not having accepted the compensation claims of the Russian Federation in the context of the EU's last enlargement. For the record, the EU would like to point out that the indication of a WTO Member as principal supplier in a GATT Article XXIV:6/XXVIII notification does not constitute an automatic recognition of a right for that WTO Member to obtain compensation. Some principal suppliers make a claim, others do not. The notifying Member then enters into negotiations/consultations with those Members who have submitted a claim in conformity with the procedures and within the deadlines applicable under WTO rules, with a view to identifying if there is an entitlement for compensation.

20.6. The Chairperson proposed that the Council take note of the statements made.

20.7. The Council so agreed.

21 EUROPEAN UNION – PROPOSED MODIFICATION OF TRQ COMMITMENTS: SYSTEMIC CONCERNS – REQUEST FROM AUSTRALIA, BRAZIL, CANADA, CHINA, NEW ZEALAND, THE RUSSIAN FEDERATION, THE UNITED STATES, AND URUGUAY

21.1. The Chairperson informed Members that, in communications dated 12 November 2020, the delegations of Australia, Brazil, Canada, China, New Zealand, the Russian Federation, the United States, and Uruguay, respectively, had requested the Secretariat to include this issue on the agenda.

21.2. The delegate of Uruguay indicated the following:

21.3. Uruguay reiterates its position and concerns already raised in this forum and in others, including in document RD/CTG/5, and emphasizes the importance for the multilateral trading system that this matter be resolved through substantive bilateral negotiations between the parties concerned, in accordance with WTO rules. Five weeks from the expiry date of the transition period established in the "Withdrawal Agreement", the negotiations between the European Union and the United Kingdom continue, and therefore there is a high level of uncertainty about: (i) the future trade relations between the two parties taking place after 1 January 2021; and (ii) the implications this process will have for interested third parties, including in terms of the use of the *erga omnes* tariff rate quotas.

21.4. As negotiation processes under Article XXVIII are taking place in parallel with the bilateral negotiations between the European Union and the United Kingdom, Uruguay again draws attention to the need to take due account of these concerns in the WTO open processes. Uruguay will continue to work constructively with the European Union with a view to finding adequate solutions in the processes under way.

21.5. The delegate of the Russian Federation indicated the following:

21.6. The Russian Federation would like to reiterate its concern in respect of the EU's approach to the TRQ's negotiations in the context of Brexit. The approach of the EU to the apportionment of TRQs cannot be considered as WTO-consistent, neither can it provide the EU with the possibility to maintain a general level of reciprocal and mutually advantageous concessions. The Russian Federation is of the opinion that these negotiations cannot be concluded without a respective agreement on compensation with principal suppliers of the products concerned. The Russian Federation is ready to continue to engage with the EU in constructive negotiations.

21.7. The delegate of New Zealand indicated the following:

21.8. This intervention relates to Agenda Items 21 and 35. Members of the CTG will have become very used to seeing these items on the agenda over recent years. But this should not be misconstrued to be a routine matter. Far from it, as New Zealand has pointed out previously, the nature and scale of the changes to existing bound commitments that have been proposed by the EU and the UK – which would affect 196 individual concessions (affecting more than 365 tariff lines) and have enormous potential to impact global trade in these products given the EU's role as the world's largest agricultural importer and exporter – are unprecedented in the life of the WTO. Moreover, some four and a half years since the Brexit process began, New Zealand still has not seen the EU and UK come forward with meaningful solutions to address the concerns a large number of WTO Members have raised – yet the end of the transition period will be upon us in less than 40 days.

21.9. Given this, the time is now for the EU and UK to demonstrate that they are taking these concerns seriously and for them to provide substantive responses on: first of all, how, in their own schedules, the EU and UK are going to deliver outcomes that leave other WTO Members "no worse off" in terms of their market access, as required under Article XXVIII; and second, how they are going to provide clear assurance, in their own schedules, that other WTO Members will not be "crowded out" of access to their markets under their MFN quotas. New Zealand is ready to work assiduously with the UK, the EU and other interested WTO Members to find practical solutions to address these concerns. This will, however, take serious engagement and commitment on all sides, including: an open attitude towards the full range of possible ways to address these concerns in a commercially meaningful way, and a willingness to work intensively over the remaining period ahead to secure outcomes that preserve the full value of the existing commitments the UK and the EU owe to other WTO Members.

21.10. The delegate of Canada indicated the following:

21.11. This intervention relates to Agenda Items 21 and 35. Canada continues to have concerns regarding the UK and the EU's approach to apportioning the EU-28's TRQs and has made these concerns clear to the UK and the EU through multilateral and bilateral discussions. While these concerns remain, Canada notes the EU and the UK's willingness to discuss these issues. Canada looks forward to continuing these discussions with the UK and the EU during bilateral negotiations under Article XXVIII.

21.12. The delegate of Australia indicated the following:

21.13. Australia has consistently raised concerns with the EU and UK's approach to splitting the EU's existing TRQs as a result of Brexit since it was first proposed in 2017. It is clear the proposed modifications to TRQs will diminish the commercial value of Australia's existing market access, by not only removing flexibility in where product is sent year-to-year, but by also rendering some TRQ allocations too small to be commercially viable. Australia appreciates the recent constructive and pragmatic engagement from the EU on these issues with a view to reaching agreement before the end of the transition period and seeking to ensure implementation of any agreed arrangements in a timely manner. This will provide certainty to Australian exporters with the new post-Brexit trading environment.

21.14. The delegate of China indicated the following:

21.15. The statement will address item 21 and item 35. China's concerns and requests on this issue remain unchanged. China has been actively and constructively engaged with the EU and the UK on this issue. In February, China formally provided its requests to the EU and the UK. Despite the several rounds of bilateral consultations and negotiations have been carried out with the EU and the UK, it is regretful that there is not much progress that has been achieved. China hopes that the UK and the EU would substantially improve the offers in the bilateral negotiations with a view to reaching mutually satisfactory outcomes at an early date.

21.16. The delegate of the United States indicated the following:

21.17. As was already noted here and in other committees, the United States remains concerned that the approach as proposed by the EU and UK will lead to a loss of access for US goods into both

markets. The United States identified its priorities in both markets and are engaging with the EU and UK in productive negotiations that ensure that US trade interests are maintained. However, the United States finds it worrisome that the EU and UK proposals fail to clarify how bilateral EU-UK trade will be treated in the absence of an EU-UK bilateral agreement once the transition period ends in a little more than one month from now. Currently, that bilateral trade is not subject to the TRQs. Other WTO Members have the opportunity to export the full TRQ quantity into either the UK or EU-27. But if the UK and the EU-27 are subject to the same TRQs the rest of the Members face, the United States will be quickly crowded out and lose access to both markets.

21.18. The delegate of Brazil indicated the following:

21.19. In July, during Brazil's last intervention on this topic, Brazil urged the UK and the EU delegations to undertake that all TRQs eventually established contain the observation "except for the UK" and "except for the EU", respectively, in case at the transition period an agreement is not signed between the parties. Five months later, the demand remains valid, as we continue with the same concerns. The EU and the UK have not concluded their negotiations and there is risk that the limited but essential quotas tariffs that make up the commitment to access the EU and the UK markets are flooded with products from the bilateral trade, displacing other Members of the WTO.

21.20. Alternatively, following the logic of the EU itself during the negotiations on Article XXIV and Article XXVIII due to the enlargements of the EU, in which the EU trade with the partner is subtracted in accessing the increase in quota volume, the so-called "netting out", it would be essential for the EU and UK to include the volume of bilateral trade in quota volume if they chose not to exclude each other from access to TRQs, the so-called "netting in". Systemic concern also persists, as the EU insists on its own interpretation of procedures established by Article XXVIII and other related instruments, denying that the reduction in the volume of the current EU-28 TRQs, from 1 January 2021, implies leaving other Members in worse conditions of access compared to those that currently exist.

21.21. The reasons why Brazil – and many others delegations – considers that it will be in worse conditions of access to the European market and which were raised in previous meetings remain, in face of uncertainties in the negotiations between the EU and the UK and non-recognition by the EU that a successful conclusion of negotiations under Article XXVIII will demand flexibilities in its negotiating position.

21.22. The delegate of Switzerland indicated the following:

21.23. Switzerland is of the view that legal uncertainties regarding the reallocation of TRQ quantities to the EU-27 and UK from 1 January 2021 must be avoided and that in this respect the Article XXVIII negotiations need to be concluded as soon as possible. Switzerland asks both the UK and the EU to come forward as soon as possible with a solution to ensure that existing tariff quotas are not filled by bilateral trade between the EU and UK.

21.24. The delegate of the Republic of Korea indicated the following:

21.25. The Republic of Korea would like to join previous speakers in expressing systemic concerns regarding the proposed modification of EU TRQ commitments. The Republic of Korea has a very keen interest in the ongoing negotiations between the EU and other WTO Members, as the modification will bring about significant effects on the WTO system. Therefore, Korea will continue to monitor the development of the negotiations between the EU and other WTO Members.

21.26. The delegate of Chinese Taipei indicated the following:

21.27. Chinese Taipei wishes to address item 21 and item 35 together here. With the end of the Brexit transition period now imminent, Chinese Taipei is closely following developments in the trade negotiations between the EU and the UK on the assumption that the result will have a profound impact on market access for other WTO Members. As was stated before, Chinese Taipei is particularly concerned about the methodology used by the EU and UK for the modification of TRQs following Brexit. Chinese Taipei strongly urges the EU to ensure that future market access conditions are maintained at the current level and that they will be no less favourable than those provided prior to the negotiation, as stipulated under GATT Article XXVIII.

21.28. In addition, it is still unclear as to whether the rest of the WTO Members will have to compete with the EU or the UK to access each other's modified quotas. Chinese Taipei urges both parties to address this subject very carefully so that any unintended trade disruption that could occur from the 1 January 2021 can be avoided. Chinese Taipei also encourages them to take account the concerns raised by Members at this meeting today, and we all look forward to further updates on this matter in the coming weeks.

21.29. The delegate of Mexico indicated the following:

21.30. As was already said, Mexico shares the concerns expressed by Members that have already taken the floor. Mexico wishes to reiterate its systemic concern over the EU's intention to modify the tariff quotas included in its Schedule of Concessions and the proposed methodology for doing so, which would result in a reduction, and even an elimination, of market access opportunities. In addition, the lack of clarity on the EU's future obligations to the UK in the context of the WTO adds to our systemic concern.

21.31. In light of the above, Mexico urges the EU to continue discussions with WTO Members and to take into consideration the trade and systemic concerns raised, with a view to finding a mutually satisfactory solution through procedures compliant with the rules of the WTO.

21.32. The delegate of India indicated the following:

21.33. India has already expressed its concerns, both in writing and during formal consultations with the EU. India has also made it clear how the present methodology and threshold years, taken into account by the EU for apportionment of tariff rate quotas, adversely affect Members rights. Moreover, the nature of the future trade relationship between the EU-27 and the UK not being known at this stage, also leads to uncertainty in these areas.

21.34. India expects that the EU will provide reasonable opportunities to all WTO Members, including India, to exercise their rights under the WTO Agreements and take into account concerns raised. India looks forward for fruitful negotiations with the EU.

21.35. The delegate of Indonesia indicated the following:

21.36. Indonesia thanks proponents for putting placing this item on the agenda and shares their concerns. Indonesia urges the EU to come up with a solution as soon as possible by continuing to respect the WTO rules as well as to maintain the level of concessions on a reciprocal basis.

21.37. The delegate of Paraguay indicated the following:

21.38. Paraguay will deal with item 21 and item 35 of today's agenda in the interests of time, as they are related. Paraguay would like to thank the delegations that proposed these items for inclusion in the agenda and recall its concern that third-party market access could adversely impact these processes. The uncertainty that continues to prevail is truly worrying for their trading partners, who still have not been provided with the definition of certain topics linked to the allocation of tariff quotas, not only in terms of how they are to be divided up, but also the possible saturation of *erga omnes* TRQs given the no deal between the European Union and the United Kingdom, which would effectively mean a substantive loss of market access. Once again, Paraguay urges the delegations of the European Union and the United Kingdom to ensure compliance with the commitment they both made to maintain the same levels of market access following this process and to ensure that no trading partner is disadvantaged as a result.

21.39. The delegate of the European Union indicated the following:

21.40. Negotiations under the Article XXVIII procedure are still ongoing with the partners who have recognized rights. The most recent round, in October 2020, showed good progress in these discussions. This included many of the Members who raised this issue at today's meeting. The EU welcomes the increased engagement of many WTO Members and aims to make progress paving the way towards a constructive finalization of discussions with as many Members as possible by the end of the year.

21.41. The Chairperson proposed that the Council take note of the statements made.

21.42. The Council so agreed.

22 EUROPEAN UNION – DRAFT IMPLEMENTING REGULATIONS REGARDING PROTECTED DESIGNATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS, TRADITIONAL TERMS, LABELLING AND PRESENTATION OF CERTAIN WINE SECTOR PRODUCTS – REQUEST FROM THE UNITED STATES

22.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the United States had requested the Secretariat to include this issue on the agenda.

22.2. The delegate of the United States indicated the following:

22.3. The United States is disappointed that it again has to raise this issue in this Council. In the interests of time, the United States requests that the minutes for this meeting reflect its intervention from the November 2019 CTG meeting.⁴ This statement reads as follows:

22.4. The delegate of the United States expressed disappointment at having again to raise US concerns over the EU's policies on geographical indications and traditional terms for wine, in particular with regard to its pending applications for traditional terms. The United States had been raising concerns over these policies and the associated regulations for 20 years. In their view, the EU's persistent failure to provide any information left the United States no choice but to raise these concerns again. At several TBT Committee meetings, in this Council, and in the EU's responses to US comments, the EU had said that the pending applications for traditional terms were still under consideration, but that the EU could not provide a precise timeline for their approval. However, the US failed to understand why the EU was unable to provide an estimate of the timeline or information on the status of the applications. Furthermore, the US did not understand why the EU had chosen not to include timelines and greater transparency with regard to traditional terms as part of its review and revision of the relevant measures, even though the EU had provided some timelines and transparency for geographical indications in its recent revised regulations. She asked the EU why there was such a difference and why the EU appeared to be making no effort to ensure that delays on the approval of traditional terms would discontinue. The US also asked the EU to clarify whether, and if so how, the processing of these applications would change following the recent EU parliamentary elections, including whether responsibility for processing applications would be assigned to a new agency within the European Commission. The US reiterated its request that the EU provide transparency on the status of other applications so that the US could see how its own applications compared. In addition, she noted that the US did not understand why the EU seemed unable or unwilling to provide transparency regarding the applications that had been submitted, or to provide greater predictability through timelines in respect of traditional terms. The United States once again requested the EU to move expeditiously to approve their applications so that they could remove this longstanding item from the Council's agenda. The US expected that, given the EU's proposal on improving the process for addressing concerns in WTO Committees, it would spend additional time trying to address the concerns raised by its trading partners, or even to provide basic information relating to specific trade concerns raised against it.

22.5. The delegate of Argentina indicated the following:

22.6. Argentina has expressed on many occasions, particularly in the TBT Committee, its concern regarding the fact that the traditional terms "Reserva" and "Gran Reserva" may not be used on Argentine wine labels. As was indicated, Argentina successfully completed the substantive procedure to approve such terms in March 2012 under the EU's own legislation. In light of the facts, Argentina is of the view that the implementation of the EU's standard discriminates against third countries.

22.7. The delegate of New Zealand indicated the following:

22.8. New Zealand recognizes that Members have the right to protect their consumers from deceptive practices in line with their obligations under the WTO. New Zealand asks that the European Union take into consideration concerns raised by Members relating to the scope and application of

⁴ Document G/C/M/136, paragraph 21.2.

the system of traditional terms, as well as transparency, process, and timelines relating to applications by third countries who wish to use traditional terms in the European Union.

22.9. The delegate of the European Union indicated the following:

22.10. The European Union understands the continued interest of the US (and other Members) in this issue. The EU has completed the revision of its internal legislation on traditional terms which was discussed in previous TBT Committees (Commission Delegated Regulation (EU) 2019/33 and Commission Implementing Regulation (EU) 2019/34). The EU believes that its internal legislation offers a meaningful and transparent system of protection to traditional terms used on wine products from the EU as well as on products from third countries. In the past, the EU has demonstrated its ability to address specific Members' concerns in this area either via its internal legislation or via bilateral agreements.

22.11. The Chairperson proposed that the Council take note of the statements made.

22.12. The Council so agreed.

23 EUROPEAN UNION – QUALITY SCHEMES FOR AGRICULTURAL PRODUCTS AND FOODSTUFFS – THE REGISTRATION OF CERTAIN TERMS OF CHEESE AS GEOGRAPHICAL INDICATIONS – REQUEST FROM THE UNITED STATES AND URUGUAY

23.1. The Chairperson informed Members that, in communications dated 12 November 2020, the delegations of the United States and Uruguay, respectively, had requested the Secretariat to include this issue on the agenda.

23.2. The delegate of Uruguay indicated the following:

23.3. Uruguay reiterates its concern and regrets having to refer to this item once again in this Council. In this regard, Uruguay would like to refer to previous statements, reaffirming the concern about the European Union's decision to register the term "Danbo" as a protected geographical indication, despite objections by a number of Members. In systemic terms, it is worrying that an important Member of the WTO is disregarding recognized international rules and standards and calling into question the harmonization, coherence and value of the multilateral work undertaken in the Codex. In trade terms, the creation of unnecessary barriers to the marketing of this type of cheese in the European Union and the impact this has when extended to third markets is a matter of concern. There is also the issue of the uncertainty created by this situation as to the legitimate expectations of producers, many of whom are immigrants of European origin and small-scale producers, who brought with them or acquired rich cultural knowledge, including on cheese production.

23.4. Uruguay does not agree with the position that this is exclusively an intellectual property issue that should not be dealt with in this forum, and points out that the standard under which these rights were originally granted was correctly notified by the European Union to the TBT Committee in November 2013. In this connection, Uruguay would like to once again repeat the following questions with regard to the practical implementation of Community legislation on quality schemes for agricultural products and foodstuffs, on which we have still not received an answer: (i) Has the registration of terms such as protected geographical indications been refused, or have some flexibilities been introduced for their use, in response to the objections or observations made by producers or authorities of the member States of the European Union? In which cases? (ii) Has the registration of terms such as protected geographical indications been refused, or have some flexibilities been introduced for their use, in response to the objections or observations made by producers or authorities of other WTO Members? In which cases?

23.5. To conclude, Uruguay urges the European Union to comply with the Codex international standards and to reconsider its regulatory approach in order to avoid the creation and proliferation of unnecessary restrictions on international trade in cheese.

23.6. The delegate of the United States indicated the following:

23.7. The United States is disappointed that it again has to raise this issue in this Council. In the interests of time, the US requests that the minutes for this meeting also reflect its intervention from the November 2019 CTG meeting.⁵ This statement reads as follows:

23.8. The delegate of the United States regretted that her delegation had again to raise this issue in this Council. The United States and other WTO Members had voiced their objections to the EU's proposed protection of the term Havarti as a geographical indication (GI) during the 2014 opposition period, in this Council and in other WTO Committees; insofar as Havarti had been established as an international standard under the Codex Alimentarius, the EU had nevertheless moved forward with the process. Havarti had undergone a rigorous review to prove its use in the public domain and in international trade, which had been reconfirmed by Codex members, including the EU, in 2007, 2008, and 2010. The EU's decision to move forward raised serious questions about the views of Denmark and the EU Commission regarding the legal relevance of Codex and the integrity of the international standards system, as well as the international trading system. The US reminded the EU that no WTO Agreement was superior to another. Therefore, the fact that the EU asserted that it was following procedures under the Trade-Related Aspects of Intellectual Property (TRIPS) Agreement did not mean it could disregard TBT commitments to uphold international standards. The EU had to comply with both WTO Agreements. The US strongly encouraged the EU to uphold its WTO TBT obligations to follow international standards and to consider a less trade restrictive approach to protecting Danish cheese producers by linking Havarti with the place of origin and protecting only the entire compound term.

23.9. The delegate of Argentina indicated the following:

23.10. Argentina regretfully reiterates its concern over the registration of the term "Danbo" as a protected GI in favour of Denmark. Neither the comments made by Argentina and other Members nor the international reference standard CODEX STAN 264 were taken into account when registering this term. Under this standard, "Danbo" is established as the generic name for this food product and the product's country of origin must be declared on the label. Given that it is the international reference standard for the identity and quality of "Danbo" cheese, no country that bases its technical regulation on this standard should encounter constraints to trade due to a misappropriation of the term.

23.11. As Argentina stated in the previous meeting, it does not see the point of deploying efforts to multilaterally agree a Codex standard on "Danbo" cheese, only for the use of this term to later become the exclusive preserve of Danish producers. Moreover, Argentina is aware that, for the EU, this is essentially a matter of intellectual property rights that falls outside the purview of the CTG. Argentina also begs to differ on this point. The above-mentioned Codex standard did not regulate a GI, but rather regulated the generic name of a product manufactured across the world (and not only in Denmark). In essence, registering the term "Danbo" as a GI constitutes an undue restriction on international trade in this cheese. In any case, as Argentina has stated on previous occasions, its concerns are not purely trade-related, but also encompass systemic aspects, in particular the impact on international harmonization efforts.

23.12. The delegate of New Zealand indicated the following:

23.13. New Zealand is raising this item in the Council because of a conflict in positions the EU has taken in standard-setting bodies and the actions they have taken *ex post facto* to restrict the labelling within the EU of products produced using those standards by producers outside of Denmark. This does not relate solely to grounds for granting or denying IP protection, but also to the importance of legal consistency, upholding internationally agreed standards, and not frustrating legitimate expectations of businesses operating within those standards.

23.14. New Zealand remains concerned that the European Commission has chosen to register the terms "Danbo" and "Havarti", despite having previously agreed to a Codex standard in which the European Commission and Denmark both acknowledged "the country of origin statement preserves its generic nature". Such actions will negatively affect producers outside Denmark who have invested

⁵ Document G/C/M/136, paragraph 14.6.

with the legitimate expectations that they could use the standard. The EU's approach to registering cheese names for which there are existing CODEX standards shows disregard for the integrity of the standards-setting system that promotes reliability and consistency in international trade rules, which we would expect the EU to support.

23.15. The delegate of the European Union indicated the following:

23.16. The EU has always said that the fact that a GI name is subject to a specific Codex Alimentarius Standard or that it is listed in Annex B to the Stresa Convention does not imply that it has become generic. Generic status in the EU can only be assessed with regard to the perception of consumers on EU territory. In the EU, the relevant public is comprised mainly of the reasonably well-informed members of the public and/or customers who may purchase the product or a like product.

23.17. Regulation (EU) No. 1151/2012 on quality schemes for agricultural products and foodstuffs, as well as subsequent delegated and implementing regulations, were notified to the WTO under the TBT Agreement as they contain provisions relevant to the TBT Agreement (for example, provisions related to technical standards, definitions and labelling issues). Nevertheless, even if intellectual property rights (in particular, elements related to the substantive protection of geographical indications) are part of the notified measures, those are not relevant for TBT purposes.

23.18. The Chairperson proposed that the Council take note of the statements made.

23.19. The Council so agreed.

24 EUROPEAN UNION – AMENDMENTS TO THE DIRECTIVE 2009/28/EC, RENEWABLE ENERGY DIRECTIVE – REQUEST FROM COLOMBIA

24.1. The Chairperson informed Members that, in a communication dated 6 November 2020, the delegation of Colombia had requested the Secretariat to include this issue on the agenda.

24.2. The delegate of Colombia indicated the following:

24.3. Colombia reiterates its concerns with regard to the Directive 2009/28/EC of the European Parliament and the Council and the fact that the first generation biofuels with the high risk of causing direct land use change have been gradually reduced with regard to their contribution to renewable quotas to zero per cent in 2030. As has already been stated, Colombia welcomes public policies that aim to protect the environment and to promote the use of renewable fuels and energies. Colombia is a country which is extremely committed to fighting deforestation and has undertaken relevant commitments for reduction of palm oil produced in regions of deforestation. And so, Colombia is looking to extend crops which have a lower environmental impact which will address these problems.

24.4. In Colombia's view, the current provisions of these European rules are incompatible with the obligation of national treatment and the MFN of the GATT 1994 and the TBT Agreement. This measure is *de facto* discriminatory between imported like products, as well as imported and domestic like products. Colombia should highlight the competitive relationship and the high technical and economic substitution which exists with other oils such as soy oil. Colombia wishes to call attention to the way in which the Directive excludes different versions in terms of similar raw materials which are competitive, many of which are produced within the European Union's territory. Colombia would like to request the European Union to undertake a revision of the act in 2021 and invites the EU to take into consideration the comments submitted.

24.5. The delegate of Guatemala indicated the following:

24.6. Guatemala affirms its interest in the topic as a palm-oil producing country and will therefore follow the discussion on this issue.

24.7. The delegate of Costa Rica indicated the following:

24.8. Costa Rica wishes to thank the delegation of Colombia for bringing this subject to the attention of the Council once again. Costa Rica would also like to take this opportunity to again urge the EU

to take account the impact that this policy could have on world trade in biofuels, and also the impact on population groups that depend on these products, especially in developing countries that have invested in sustainable production practices. Costa Rica will closely monitor the concerns outlined by other Members with regard to this policy, both in the TBT Committee and in the Dispute Settlement Body.

24.9. The delegate of the European Union indicated the following:

24.10. The EU thanks Colombia for raising this issue. The European Union notes that the issue of amendments to the EU Renewable Energy Directive is now subject to WTO dispute settlement proceedings, notably under DS593 (*EU – Certain measures concerning palm oil and oil palm-based biofuels*). In order to preserve the integrity of such proceedings the European Union will defer all discussions to that forum and accordingly refrain from discussing this matter in this Council today.

24.11. The Chairperson proposed that the Council take note of the statements made.

24.12. The Council so agreed.

25 INDIA – RESTRICTIONS ON IMPORTS OF CERTAIN PULSES – REQUEST FROM AUSTRALIA, CANADA, THE EUROPEAN UNION, THE RUSSIAN FEDERATION, UKRAINE, AND THE UNITED STATES

25.1. The Chairperson informed Members that, in communications dated 12 November 2020, the delegations of Australia, Canada, the European Union, the Russian Federation, Ukraine, and the United States, respectively, had requested the Secretariat to include this issue on the agenda.

25.2. The delegate of the Russian Federation indicated the following:

25.3. The Russian Federation would like to uphold its long-standing concern regarding India's policy restricting the importation of yellow peas and other pulses to its territory. In April 2020, India introduced a zero volume sub-quota for yellow peas. The Russian Federation considers such a measure as a *de facto* import prohibition on yellow peas, which will be in effect until April 2021. India has also remained active regarding the minimum import price requirement for pulses, legal grounds for which within the WTO framework the Russian Federation would like India to clarify. Russia would also be grateful if India could explain in detail its position on the necessity to import yellow peas only through the seaport Kolkata.

25.4. The Russian Federation notes that such restrictive trade measures resulted in a significant decrease of Russian exports of yellow peas to India. In accordance with India's statements at previous meetings of the CTG, India sticks to the position that a total prohibition on importation of yellow peas and quotas on pulses, as well as other restrictive measures, could be justified under Article XX of the GATT 1994, in particular paragraphs (a) and (b). Russia urges India to provide detailed clarification of the ways in which such measures on yellow peas importation are necessary to protect public morals and human life and health. The Russian Federation considers that the application of "temporary" import quotas, which have been ongoing for three years, the minimum import price requirement, ports of entry restriction and the imposition of an import ban on yellow peas for the current year do not comply with India's obligations within the WTO. Therefore, Russia requests India to bring its measures into conformity with WTO rules.

25.5. The delegate of Australia indicated the following:

25.6. Australia's concerns with India's restrictive measures on pulses imports are well known to Members, particularly India's quantitative restrictions (QRs) on a variety of pulses. These concerns are shared by a number of other Members, including developing Members. Despite Australia's ongoing efforts, India has failed to provide a sufficient explanation of the WTO-basis for the QRs, which India has implemented for more than three years. These are no longer temporary and must be removed. Pulses are not a "small" commodity for India, neither by tonnage nor the value produced and consumed, nor with respect to trade. Therefore, India's measures matter in the global pulses market. India's current suite of measures on pulses, including significant levels of market price support, high tariffs and QRs, continue to negatively impact the stability and predictability of the global pulses market and are demonstrably ineffective.

25.7. This is evident simply in the fact that India has continued to renew some of the measures, despite calling them temporary. Putting aside their WTO consistency, if the QRs were effective, they would have stabilized the Indian pulses market and have been phased out. But the reality is that the QRs have only added to the problem and have made the global pulses market more unstable and unpredictable. Since this Council last met in June, India has continued to implement additional changes to the existing QRs, announcing on 1 October what appears to be an additional 150,000 tonnes of Urad, with restrictive import licensing requirements. Australia has made clear on numerous occasions that it is seeking stability and predictability in the global pulses market and ensuring measures are WTO consistent. Australia does not believe this is an unreasonable request to a WTO Member, particularly such an important and large country like India. It is what Members should all strive to achieve in the interests of farmers, traders and consumers alike.

25.8. Australia has posed a series of questions at the last meeting of the Council in June, and in late 2019, including providing them to India in writing, and has still not received a response. Australia will avoid repeating the questions, but notes that it was requesting India to provide a detailed explanation of how India's QRs satisfied the requirements of GATT Article XI:2(c)(ii) and Article XX(a) and (b), which Australia does not believe are appropriate or legally available in respect of India's import restrictions on pulses. Australia again requests India to provide prompt and fulsome responses bilaterally, and table those responses in this Council expeditiously; or otherwise it requests India to remove the measures immediately.

25.9. The delegate of the United States indicated the following:

25.10. The United States has repeatedly stated its concerns with India's use of domestic support policies, multiple increases in tariff rates, and the application of quantitative import restrictions for pulses including pigeon peas, mung beans, black gram lentils, and peas. The US concerns remain unchanged. Despite India stating several times that its QRs on pulses were temporary, in April the Indian Ministry of Commerce and Industry issued Trade Notice No. 05/2020-21 extending QRs on pulses for the Indian fiscal year through 31 March 2021. Therefore, the US requests that India confirm that these allegedly "temporary" measures will be permanently removed starting 1 April 2021.

25.11. The delegate of Ukraine indicated the following:

25.12. Ukraine would like to reiterate its concerns about India's pulses policy. Despite the systemic concerns expressed by Members at almost all meetings of the Committee on Agriculture, the CMA, and the CTG, India has continued to impose QRs on imports along with other trade-distorting policies in relation to various pulses for about three years and not provided substantial explanations as to the nature and duration of such restrictive measures. Needless to say, such measures have a destructive effect on the international pulse crop markets. As a result, Ukraine's exports of pulses to India have been negatively affected and dropped significantly.

25.13. India's import restrictive measures seem to violate both GATT Article XI and Article 4 of the AoA, although India does not want to agree with this and refers to Article XX of the GATT 1994. Ukraine believes that measures such as QRs, minimum import prices and limitations of imports to one single port of entry can hardly be justified as not violating the requirements of Article 4.2 of the AoA. Ukraine also stresses that India's QRs are not temporary and transparent as Article XI:2(c) of GATT requires. Ukraine would like to ask India when its pulses policy will be changed and import restrictive measures eliminated in order to guarantee predictable trade opportunities to access India's pulses market.

25.14. The delegate of Canada indicated the following:

25.15. As the largest supplier of pulses to India, Canada has been most negatively affected by India's measures to limit the import of pulses. Pulses are an important source of protein for many Indian consumers and Canada is a high quality and reliable supplier. Canada is disappointed that India continues to use QRs on the import of dried peas and other pulses. This situation has been going on for more than two years for peas and three years for other types of pulses. It is difficult for Canada to see how India can still be claiming these measures to be temporary. The combination of a prohibitive minimum import price, import quota of zero tonnes and restriction on the port of entry constitutes a perfect storm of measures that is blocking all access for yellow dried peas to

India for an entire year. As expressed in other committees, these measures violate both GATT Article XI:2(c) and Article 4 of the AoA.

25.16. In the June 2020 CTG, India justified these measures by arguing that Article 4.2 of the AoA did not envisage the tariffication of temporary or short-term measures, and that consequently Article 4.2 of the AoA should not extend to GATT 1994 Article XI:2(c). However, Canada questions the validity of such a rationale. The Appellate Body report in *Indonesia – Import Licensing Regime* clearly ruled that "Members cannot maintain quantitative import restrictions on agricultural products that satisfy the requirements of Article XI:2(c) of the GATT 1994 without violating Article 4.2 of the AoA."

25.17. The elimination of QRs was and is a fundamental principle of the GATT and the AoA. Article 4.2 of the AoA prohibits Members from maintaining, resorting to, or reverting agriculture-specific non-tariff measures. Such measures include quantitative import restrictions, minimum import prices, and discretionary import licensing as currently being used by India. To conclude, Canada reiterates its call for India to immediately and expeditiously review the measures it has in place on pulse imports and to implement alternative, less trade-distorting, WTO-consistent policy options that promote a predictable and transparent import regime for pulses.

25.18. The delegate of the European Union indicated the following:

25.19. Unfortunately, there is no positive progress to report since our last meeting in June. The EU's previous comments are unfortunately still valid. The EU finds it hard to comprehend that after three years of quantitative import restrictions in place, India is unable and unwilling to reply as to how its policy conforms to WTO rules. For over three years, India has conveyed that the measures were temporary. After three years the measures are clearly not temporary. The EU urges India to eliminate these trade-distorting measures as soon as possible.

25.20. The delegate of Argentina indicated the following:

25.21. Argentina wishes to echo the concerns raised by those who requested this item, which relate to the legal basis and alleged temporary nature of the measure implemented by India, which restricts imports of certain pulses.

25.22. The delegate of India indicated the following:

25.23. India would like to thank the delegations of the Australia, Canada, the European Union, the Russian Federation, Ukraine, the United States, and Argentina for their continued interest in this matter. Most of the issues raised today have also been raised in the earlier meetings of this Council as well as in other Committees. Most recently, in the CMA meeting held on 12 November 2020. In this context, India would like to reiterate that the objective of this measure is to cater to the food and livelihood security of small and marginal farmers. India submits that a mere increase in tariffs on pulses has not been sufficient to handle the prevailing domestic demand and supply situation of pulses in India. India's government has been regularly reviewing this measure based on the market situation of pulses, owing to which the quota of pulses has been increased from time to time.

25.24. A few Members have sought to know relevant specific WTO provisions under which India has imposed these measures. India's delegation has replied earlier that the QRs on pulses are necessary for the enforcement of governmental measures to remove any surplus of pulses, as permitted under Article XI(2)(c)(ii) of the GATT 1994, and the protection of public morals and human, animal, or plant life or health in India, as recognized under Article XX(a) and (b) of the GATT 1994. India believes that the General Exceptions under Article XX allow a Member to impose measures necessary to protect its small and marginal farmers' food and livelihood security.

25.25. The Chairperson proposed that the Council take note of the statements made.

25.26. The Council so agreed.

26 INDONESIA – IMPORT AND EXPORT RESTRICTING POLICIES AND PRACTICES – REQUEST FROM THE EUROPEAN UNION, JAPAN, AND NEW ZEALAND

26.1. The Chairperson informed Members that, in communications dated 12 November 2020, the delegations of the European Union, Japan, and New Zealand, respectively, had requested the Secretariat to include this issue on the agenda.

26.2. The delegate of the European Union indicated the following:

26.3. This is a long-standing agenda item. The European Union already stressed that an announced shift towards more trade openness and a deeper integration of Indonesia in world trade, which the EU welcomes, cannot result solely in measures to improve the country's trade balance and an exclusive focus on promoting exports and attracting investments. To truly integrate in global value chains, a country also needs to be open to increasing imports. Creating a trade and investment-friendly climate is necessary to achieve this result. The EU is therefore encouraged by the passing by the Indonesian Parliament of the Omnibus Law on Job Creation. The Bill is designed to stimulate domestic and foreign investment by removing bureaucratic inefficiencies and excessive licensing requirements as well as opaque, overlapping and contradictory regulations. A host of implementing regulations will have to be passed in the coming months and the EU is looking forward to seeing the trade facilitation effect of those measures.

26.4. However, as of today, the EU trade and investment relations with Indonesia continue to be hampered by a long list of pervasive non-tariff barriers. The list of measures is long, and the EU will only elaborate on recent developments. On the export restrictions side, as of 1 January 2020 the ban on nickel export has been brought forward by two years. Although the EU understands the Government objective of developing the downstream sector of minerals, this policy, inconsistent with the WTO obligations of Indonesia, is creating distortions to international prices and adds uncertainty to the sector. Imports of food and agricultural products in Indonesia are hampered by the lack of transparency and undue delays in SPS import approval procedures. The EU is in particular concerned by the lack of progress on its export applications on beef, dairy, poultry, pork and plant products, which in some instances were submitted more than six years ago. On most of the 34 EU pending applications, Indonesia has failed to provide any feedback for many years. Moreover, Indonesia has only concluded the approval procedure and opened the market in very few cases. The long-lasting period needed for risk assessment is also not justified from a scientific point of view.

26.5. Recently, the EU industry also warned that a new legislation (Regulation No. 77 of 2019 regarding the "Second Amendment on the Ministry of Trade Regulation No. 85/M-DAG/PER/10/2015 regarding the Provisions on the Imports of Textiles and Textile Products") aims at preventing importation of a significant number of textiles and textile products by means of an extremely complex import licensing scheme. Since January 2020, those products can only be imported to meet the processing needs of domestic producers and small or mid-sized industries. This legislation has not been notified in accordance with WTO terms. Moreover, the EU is concerned about the Ministry of Trade Regulation No. 68/2020 of 28 August 2020 concerning Provisions for the Imports of Footwear, Electronics, and Two-Wheeled and Tricycle Bicycles, clearly aiming at suppressing the imports of the targeted consumer goods.

26.6. The EU would also like to raise the *de facto* ban that some products of EU origin have suffered in the last years. Without any formal notification or justification, imports of alcoholic beverages and dairy products have been denied access to the Indonesian market in 2019 and 2020. Although dairy importers received licences in June 2020 and just recently there was information of a partial unblocking of the import licences for alcoholic beverages, the EU is expecting the Indonesian Government to fully re-establish normal terms of trade, by allowing importers to place EU products on the Indonesian market and fulfil their customers' orders. The EU recalls that the denial of import licences to products of EU origin, and products of EU origin only, is in blatant violation of Indonesia's WTO commitments.

26.7. Finally, uncertainty continues to surround the implementation of Law No. 33/2014 – also known as the Halal Law. Government Regulation No. 31 of 2019 on the Implementation of Law No. 33 of 2014 entered into force in May 2019. None of those measures has been notified to the TBT Committee. The European Union would request Indonesia to provide clarification on the specific products covered within the defined categories (Halal and Haram). Furthermore, Indonesia's

requirement for a bilateral government-to-government Mutual Recognition Agreement as a pre-condition for the Indonesian Halal Product Assurance Agency (BPJPH) to start recognizing Halal-certifying agencies in a foreign country is complicated in practice and unnecessarily burdensome. The additional registration requirement for Halal certifications issued by foreign bodies appears to be duplicative and time-consuming. The EU therefore invites Indonesia to consider less cumbersome practical solutions to continue recognizing Halal certifying institutions and to provide further information on the technical implementation of the cooperation between BPJPH and foreign Halal agencies. The EU also calls upon Indonesia to keep Halal certification and Halal labelling voluntary as a less trade restrictive measure, and not to impose non-Halal labelling for products or services not claimed by the producer as being Halal. The EU considers that "non-Halal" labelling is unnecessary and creates an excessive burden for operators. The EU refers for more detail to its comments and questions raised in the TBT Committee.

26.8. To sum up, the EU urges Indonesia to fully restore market access to EU alcohol beverages, in compliance with its WTO obligations, and asks to reduce the high number of trade barriers and to refrain from issuing new ones, in line with its commitments in the G-20.

26.9. The delegate of Japan indicated the following:

26.10. Unfortunately, Japan continues to have concerns over Indonesia's local content requirement measures. Japan does not wish to repeat its concerns as those were expressed in this Council and other relevant committees. Focusing on new developments, Japan would like to note that it has still been observing an increasing number of trade restricting measures that may not be consistent with WTO Agreements. For example, Indonesia has newly introduced a local content requirement measure for TV equipment. On Indonesia's safeguard measures on carpets and other textile floor coverings, Japan is disappointed as it is not able to receive any reasonable explanation from Indonesia during Committee on Safeguards and bilateral consultations. Japan remains concerned and disappointed as it sees new trade restrictive measures being introduced. Indonesia has explained that it has been conducting a comprehensive review of these measures. Japan would appreciate any specific details and updates on the plans Indonesia will adopt as well as on the latest situation regarding these measures.

26.11. The delegate of New Zealand indicated the following:

26.12. New Zealand welcomes Indonesia's commitment to implement the WTO decision under WTO Case DS477-478 and the steps that have been taken to date. New Zealand echoes the concerns raised by the European Union and Japan. New Zealand believes that Indonesia's restrictions on agricultural imports undermine core WTO principles. New Zealand is particularly concerned about the inconsistent issuance of import licences. Delays in import licences earlier this year prevented commercially meaningful access for New Zealand horticultural products to the Indonesia market for a significant proportion of our export season. With the 2021 import season opening this month for import licensing applications, it looks forward to the timely issuance of commercially meaningful import licences to allow trade to flow freely for the season. New Zealand requests an update from Indonesia on how the issues previously experienced will be addressed ahead of the 2021 season.

26.13. The delegate of Australia indicated the following:

26.14. Australia welcomes the opportunity to comment on this agenda item. Australia shares Members' concerns regarding Indonesia's import restricting measures, particularly import licensing restrictions on agricultural products. Australia notes that a number of Indonesia's import policies continue to unnecessarily restrict and impact Australian exports. Australia encourages Indonesia to bring all its measures into compliance with its WTO obligations. Australia thanks Indonesia for its engagement with Australia to date on this issue and requests this continues to ensure any delays are resolved and trade can resume.

26.15. The delegate of the United States indicated the following:

26.16. This Council is well aware of the breadth of concerns the United States has with Indonesia's trade and investment regime. In previous interventions in this body, the US has reviewed in some detail the broad range of its concerns including localization requirements, import licensing requirements, standards requirements, pre-shipment inspection requirements, and export

restrictions, including taxes and prohibitions, among others. These types of restrictions affect a broad range of sectors.

26.17. The US would like to focus its remarks today on Indonesia's application of tariffs on certain ICT products that raise serious concerns regarding its WTO bound tariff commitments. The US continues to note concerns that Indonesia is applying tariffs at the border on a category of ICT products that appear to exceed its WTO bound tariff commitments. For example, Indonesia has a duty-free tariff commitment for all products that are classified under tariff subheading 8517.62. However, US and Indonesian traders report that a 10% duty is being levied for certain products in this tariff category.

26.18. The US has been raising this issue repeatedly with Indonesia over the past year including in the Market Access and ITA Committees as well as bilaterally. Unfortunately, Indonesia has yet to provide a substantive response to the US concerns. US companies have also engaged the Indonesian government directly on this issue, seeking clarification of Indonesia's application of these tariffs. Despite their efforts, they too have yet to receive a satisfactory response from Indonesia.

26.19. The costs of Indonesia's policies in this space are not insignificant. Indonesia's tariffs not only impose an unfair financial burden on foreign firms, but they also limit access for Indonesian consumers and firms to important high-tech products. The US is hopeful that raising this issue today can help move towards an expeditious resolution of this issue and thanks the Indonesian delegation in advance for its engagement.

26.20. The delegate of Indonesia indicated the following:

26.21. Indonesia took note of concerns by the EU, Japan, New Zealand, Australia, and the US regarding Indonesia's foreign export authorizations. Indonesia is now in the process of making a better foreign trade and investment climate through a series of regulations and policy improvements. The current one is the Omnibus Law. Indonesia is doing its best to address concerns by Members in the relevant committees, and would like to highlight that, according to its statistic import of goods remains stable amidst this present pandemic situation and despite the concerns raised. Specifically, Indonesia would like to address the local content provision in terms of three aspects: first, in relation to government procurement policy; second, in relation to policies which fulfil the need to maintain Indonesian peoples' welfare and their life necessities; and third, in relation to policies on strategic resources.

26.22. The Chairperson proposed that the Council take note of the statements made.

26.23. The Council so agreed.

27 MEXICO – FRONT OF PACK NUTRITION LABELING (NOM-51) – REQUEST FROM THE UNITED STATES

27.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the United States had requested the Secretariat to include this issue on the agenda.

27.2. The delegate of the United States indicated the following:

27.3. The United States has provided comments on, and continuously raised concerns with, Mexico's notification of NOM-051, "General Labeling Specifications for Pre-Packaged Foods and Non-Alcoholic Drinks – Commercial and Health Information". The US wants to thank Mexico for providing clarifying guidance to address delays at the border caused by confusion over whether food service products are subject to application of NOM-051. The guidance has mitigated the backup that US exporters were experiencing at the border. The United States, however, continues to have concerns that NOM-051, intended to address public health, may be more trade restrictive than necessary to meet Mexico's legitimate health objectives, may not be based on robust scientific evidence, does not appear to consider the relevant international standards, and may contribute to consumer confusion. Most recently, the US is concerned about unnotified amendments in Mexican law stemming from NOM-51 setting caffeine limits on beverages.

27.4. In addition, the United States raised its concern at the October meeting of the TBT Committee regarding several unprecedented measures related to NOM-051, including Mexico's proposed amendment to its Regulation on Sanitary Control of Products and Services and its state regulations restricting the sale of food and beverages to minors. While the US is pleased to hear that processed products can continue to be fortified with vitamins and minerals, it remains concerned that Mexico's Sanitary Control regulation seeks to restrict use of characters, animations, cartoons, celebrities, athletes or pets, or interactive elements, such as games or digital downloads, when products require a front of pack warning label for excessive sugar, fat, salt, or calories, in compliance with NOM-051. In addition, any advertising of such products requires pre-approval from the Comisión Federal para la Protección contra Riesgos Sanitarios (COFEPRIS). These restrictions limit a company's ability to promote its product with consumers and compete in the market, while the pre-approval of advertising is burdensome and likely to result in delays that negatively impact sales of foods and beverages.

27.5. The United States continues to remain concerned that the Mexican States of Oaxaca and Tabasco have published measures banning the sale of foods and beverages that carry a front of pack warning label for sugar, fat, salt, or calories over certain thresholds, in compliance with NOM-051. The US understands that 25 of the 32 states in Mexico are considering enacting restrictions and a federal ban is also being contemplated. Preliminary industry and market research firms estimate that more than 80% of the pre-packaged foods and non-alcoholic beverages in Mexico will have at least one warning label, meaning they could not be purchased or provided to minors except by a parent or guardian, and not at all if the parent is under the age of 18. These measures could affect up to \$3.4 billion in trade from the United States to Mexico.

27.6. In addition, the US has learned via communications through our respective Enquiry Points that Mexico does not believe that state-level measures should be notified to the WTO TBT Committee, and therefore does not plan to do so. In the United States' view, these measures form part of a larger package of measures that include federal level technical regulations, and therefore should be notified to the WTO. Can Mexico explain why it believes the measures should not be notified?

27.7. The delegate of Costa Rica indicated the following:

27.8. Costa Rica wishes to thank the delegation of the United States for bringing this matter to the attention of the CTG. Costa Rica, like other delegations, has expressed its systemic and trade-related concerns at Mexico's proposal on front-of-pack nutrition labelling in the TBT Committee. As things currently stand worldwide in light of the COVID-19 pandemic, the implementation of measures of this kind constitutes a challenge that hampers worldwide economic recovery efforts, especially in countries that depend on trade in agricultural and agri-food products. Costa Rica urges Mexico to review the implementation period, to ensure that it is based on science and on work relating to international standards, such as that being done on front-of-pack nutrition labelling in the context of the Codex Alimentarius.

27.9. The delegate of Guatemala indicated the following:

27.10. Guatemala would like to thank the United States for bringing this item to the agenda. Guatemala is concerned with the Mexican rule that has come into force and that it does not take on board the concerns aired by Members in the different committees where it was discussed. This type of measure tends to trigger unnecessary distortions to trade as these are measures which could be considered optional to limit trade beyond what is necessary.

27.11. The delegate of Paraguay indicated the following:

27.12. Paraguay supports Mexico's goal to protect public health and considers that the provision of nutritional information for the consumer would be an appropriate strategy. Having said that, Paraguay shares the concern expressed by other countries regarding the mandatory declaration of added sugar, which is not provided for under Codex guidelines. Furthermore, Paraguay is also concerned that there is no analytical method for distinguishing total sugars from added sugars to a food, which renders enforcement difficult, since this is dependent on the information provided by the industry. The absence of harmonization based on international guidelines regarding nutritional

information labelling could pose a barrier to trade among countries. Paraguay urges Mexico to take these observations into consideration and review this measure.

27.13. The delegate of Mexico indicated the following:

27.14. Mexico thanks the US delegation for its interest in Mexican Official Standard NOM-051 SCFI/SSA1 2010: General specifications for the labelling of pre-packaged food and non-alcoholic beverages. Mexico would like to refer to its technically detailed statements from previous TBT Committees and to the statement delivered at the last CTG.⁶ Mexico is developing a comprehensive national strategy that seeks to combat public health issues in the country, such as obesity and excess weight, in both adults and minors, the effects of which have been further exposed by the COVID-19 pandemic. The state measures that have been approved in some Mexican states, relating to the sale of certain pre-packaged products and non-alcoholic beverages to minors, and the adjustments to instruments like the Ministry of Health's Regulations on Sanitary Control of Products and Services, are aimed at strengthening this new national strategy and making it coherent. Mexico would like to reiterate that its aim is not to create unnecessary barriers to international trade, but rather, to achieve a legitimate objective. Mexico welcomes and takes note of the statements made today and reiterates its commitment to pursuing an open dialogue.

27.15. The Chairperson proposed that the Council take note of the statements made.

27.16. The Council so agreed.

At this point of the meeting, at the outset of the second day, the Chairperson and the delegation of the United States referred to the conduct of the current meeting.⁷

28 MONGOLIA – MEASURES APPLIED WITH RESPECT TO CERTAIN AGRICULTURAL PRODUCTS – REQUEST FROM THE RUSSIAN FEDERATION

28.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the Russian Federation had requested the Secretariat to include this issue on the agenda.

⁶ See document G/C/M/137, paras. 13.23-13.27; document G/TBT/M/82, paras. 2.42-2.43.

⁷ The Chairperson referred to the Technical Note that had been sent to Members before the meeting outlining the time-limits for interventions. The same Technical Note had also been sent for the June meeting. He indicated that he had followed the recommendations in the Technical Note because he considered it important to advance with the agenda. The aim of all Members was to resolve issues, and the best way of doing so was to focus the discussion on new issues, and not to repeat old ones. Instead, delegations could refer to previous statements. He noted that in his 20 years of experience at the Ministry of Foreign Affairs in Sweden he had learnt that keeping statements short and to the point was crucial. The key messages could be made at the meeting and then further technical details could be provided in the written statements. Furthermore, in other international organizations the time for oral interventions could be much shorter, and most WTO Members were also members of those organizations. The Chairperson noted that, under agenda item "Other Business", he would invite delegations to an informal meeting to explore their views on this subject.

The delegate of the United States indicated the following:

The United States only wanted to make a brief intervention to register its concern with some of the modifications imposed on Members yesterday, which appear, now that they have been put into practice, to restrict or undermine the effectiveness of the Council as a forum for discussing and resolving trade issues. The US has on several previous occasions stated that it does not support the modifications proposed by some other Members, many of them adopted by the Chair yesterday, and wanted to once again restate its concerns, and clarify for the record, that these modifications are not the result of a Committee consensus. The US fully shares the Chair's objective of making the CTG a more effective forum for discussion and believes that improvements are needed, and possible. However, the US believes that these new procedures are not the correct path to achieve this goal. In fact, the US is troubled by the "path of least resistance" culture that they seem to be encouraging. The US would welcome a continuation of the consultation process on improving the committee functioning. Members should be focused on encouraging and increasing a collective expectation of substantive responses and engagement, and the US would like to work with the Chair towards that goal. In the meantime, the US would ask that Members be afforded the time they believe is necessary to raise issues or respond to each other, that Members put on the record what they believe to be the most appropriate, and that any subjective or normative characterization about new or old information or issues be avoided, since these terms can have unintended prejudicial impacts.

28.2. The delegate of the Russian Federation indicated the following:

28.3. The Russian Federation reiterates its statement made during the previous meeting of the Council concerning Mongolia's measures applied with respect to importation of certain agricultural products. Since 2013, Mongolia has used a quota regime for importation of certain agricultural products. Mongolia did not open quotas for imports of bottled water, liquid milk, and wheat flour for 2020. However, these products were not excluded from the list of agricultural products subject to annual QRs, which means that the quotas may be imposed in the future.

28.4. Mongolia's quota regime continues to be inconsistent with Mongolia's obligations under WTO Agreements, in particular, Article XI of the GATT 1994 and Article 4.2 of the AoA, as well as Mongolia's accession commitments under paragraph 20 of its Working Party Report. In light of this, the Russian Federation expects Mongolia to clarify when it is going to abolish the quota regime on importation of certain agricultural products, as Mongolia previously stated that the quota regime was implemented temporarily until the Enrichment Law came into force in December 2019.

28.5. The Russian Federation also has concerns regarding the Enrichment Law, which sets out the mandatory requirements for wheat flour to be fortified with vitamins and mineral compounds in order to be marketed. The measure in question is a technical regulation under Annex 1 of the TBT Agreement as it sets product characteristics and requirements for production methods. The technical regulations shall not be elaborated, adopted, and applied in a discriminative and trade-restrictive manner. Besides, Mongolia has not provided a period for comments and a reasonable interval between publication and entry into force of this regulation.

28.6. The Russian Federation requests Mongolia to suspend the Law, to notify it to the WTO, to take into account the comments of WTO Members, and to provide a reasonable interval for adaptation. The Russian Federation has raised certain issues with respect to the application of Mongolia's quota regime and the Law on the Enrichment of Food Products in various WTO Committee meetings, including the TBT Committee. The Russian Federation would like to ask Mongolia to provide its feedback on these issues. The Russian Federation expects Mongolia to take all further necessary steps to bring its legislation and measures into compliance with the relevant WTO provisions. The Russian Federation will continue to monitor the revisions to Mongolia's quota policy and food nutrition measures carefully.

28.7. The delegate of Mongolia indicated the following:

28.8. Mongolia thanks the Russian Federation for its continued interest in Mongolia's trade policy. Mongolia would like to reiterate its statement delivered at the CTG's previous meeting, as well as those given at the meetings of the Committee on Agriculture, the CMA, and the TBT Committee this year. Mongolia reported that the import prohibitions had been removed since April 2018 and that import quotas on wheat flour and liquid milk had been abolished since the beginning of this year following the recommendations of the National Food Security Council in November 2019. These products are entering the market without any quota. The measures are being taken step-by-step.

28.9. With regard to the specific concerns of the Russian Federation that were raised bilaterally, Mongolia would like to inform Members that internal consultations are taking place, including the necessary amendments to the Food Law. Mongolia informs Members that all necessary measures continue to be taken by its Government in order to bring the laws and regulations into conformity with WTO rules. These measures include the draft Trade Law and the draft Safeguards Regulations.

28.10. The Chairperson proposed that the Council take note of the statements made.

28.11. The Council so agreed.

29 NIGERIA – FOREIGN EXCHANGE RESTRICTIONS AFFECTING DAIRY IMPORTS – REQUEST FROM THE EUROPEAN UNION

29.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the European Union had requested the Secretariat to include this issue on the agenda.

29.2. The delegate of the European Union indicated the following:

29.3. The EU would like to indeed bring to the attention of the CTG the restrictions imposed by Nigeria as of February this year as regards access to foreign currency for the importation of dairy products and its derivatives. The EU already raised a question to Nigeria in the meeting of the Committee on Agriculture in July, when Nigeria justified the measure under GATT Article XII (related to the Restrictions to Safeguard the Balance of Payments), Article XVIII (Governmental Assistance to Economic Development) as well as Article XXI (on security exceptions). While the EU fully understands the exceptional economic circumstances for Nigeria, the EU continues to be concerned that this measure is applied to protect domestic industry in a manner which is not compatible with WTO rules. Actually, the Central Bank of Nigeria published a press release indicating that this measure was aimed at promoting the local production of milk in Nigeria. *Prima facie* this measure was not therefore justified by balance-of-payments issues.

29.4. While recognizing the provisions of GATT Article XII and Article XVIII(b), as well as the Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted in November 1979, the EU would appreciate if Nigeria could explain how it intends to fulfil its commitments, as set out in the Understanding on the Balance-of-Payments Provisions of GATT 1994, and in particular: (i) to "announce publicly, as soon as possible, time-schedules for the removal of restrictive import measures taken for balance-of-payments purposes" and to explain why if this is not done; (ii) "give preference to those measures which have the least disruptive effect on trade"; (iii) "justify why price-based measures are not adequate" if QRs are imposed.

29.5. Could Nigeria explain how the measure complies with the Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted in November 1979, which specifies that measures should not be taken "for the purpose of protecting a particular industry or sector"? As regards the justification given by Nigeria under GATT Article XXI (National Security) could Nigeria further explain in which precise way the measure is expected to address Nigeria's national security difficulties, and in particular illustrate what is the underlying emergency in international relations as provided for in GATT Article XXI(b)(iii)? Finally, the EU would appreciate clarifications from Nigeria on how the backward integration programme works in practice (notably the eligibility criteria) as well as how much flexibility there is as regards the inclusion of other companies in the list of six companies published on 11 February 2020.

29.6. The delegate of Nigeria indicated the following:

29.7. Nigeria wishes to thank the EU for its interest in Nigeria's measure regulating access to Foreign Exchange (Forex) from the official Forex Market for Milk and Dairy Products Importation. The EU had raised a similar question at the 93rd Committee on Agriculture Meeting and Nigeria has responded through the AGIMS ID 93016. However, since the issue has been placed on the agenda of this Council, Nigeria's delegation wishes to provide the following clarifications.

29.8. Nigeria relies heavily on oil as its main source of foreign exchange government revenues. The sharp decline in demand and prices of oil in recent years negatively impacted Nigeria's external reserve and exerted unprecedented pressure on our currency (Naira). This is further exacerbated by the COVID-19 pandemic, which triggered exceptional reversals in capital flows as a result of decreased global risk appetite. These developments have significantly weakened Nigeria's ability to finance its imports, undermine its Balance-of-Payment position, and increase Nigeria's chances of defaulting on its sovereign debt if timely and appropriate measures are not taken. The Nigerian measure regulating access to Forex from the official Forex market for Milk and Dairy Products Importation is a temporary measure taken within the framework of Article XII of GATT 1994 to avert a looming economic catastrophe. As we speak, the Nigerian economy has slipped into recession. This is Nigeria's second recession in the last four years.

29.9. Nigeria is also saddled with severe livelihood and extreme poverty difficulties with over 62% of Nigeria's population of 190 million still living in extreme poverty conditions. This measure was taken within the framework of paragraph 4(a) of Article XVIII of the GATT 1994 to address Nigeria's livelihood and extreme poverty difficulties. It is also pertinent to note that Section B of Article XVIII (paragraph 8 to 12 of Article XVIII) provides for special balance-of-payment exceptions for developing countries, like Nigeria, experiencing the difficulties mentioned above. Nigeria's extreme poverty and livelihood security difficulties, as well as its high rate of youth unemployment (23% as

at 2019), has also triggered an exponential increase in social ills and vices which have further worsened our national security situation. This measure is part of temporary measures taken to address Nigeria's national security difficulties.

29.10. It is pertinent to note that it is not Nigeria's intention to restrict access to its Market or discriminate between locally produced and imported milk and dairy products. The temporary measure only relates to criteria for accessing Forex from the official Forex Market for Milk and Dairy Products Importation. All companies including those that are eligible under the measure to access Forex from the official Forex market are free to source Forex from other sources for the importation of milk and dairy products. Regarding the specific question that the EU delegation raised in this Council, Nigeria would appreciate it if the EU could forward the question formally to enable Nigeria to respond appropriately, because the EU made a reference to some WTO provisions that Nigeria needs to clarify and is willing to provide such clarification as soon as it receives the formal request from the EU regarding its question. In conclusion, Nigeria wishes to state that this measure was necessitated by extraordinary economic circumstances and *force majeure*.

29.11. The Chairperson proposed that the Council take note of the statements made.

29.12. The Council so agreed.

30 PANAMA – IMPORT RESTRICTING PRACTICES – REQUEST FROM COSTA RICA

30.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of Costa Rica had requested the Secretariat to include this issue on the agenda.

30.2. The delegate of Costa Rica indicated the following:

30.3. Costa Rica wishes to express its deep concern regarding the growing number of unjustified import restrictions that Panama has been implementing, and the negative impact that these measures have had on bilateral and regional trade. The adverse effects of these measures are being accentuated by the high level of economic vulnerability caused by the COVID-19 pandemic. Costa Rica has been facing unjustified obstacles to its tomato exports since 2011 and the situation deteriorated last year following Panama's implementation of new barriers for bananas, plantains, pineapples, and strawberries from Costa Rica.

30.4. Furthermore, new measures were taken on 30 June this year, which led to the sudden closure of the Panamanian market to imports of dairy products, pork, beef, processed poultry meat, sausages and fish food from Costa Rica and other regional partners. The matter was raised at the Committee on Agriculture meeting in July. Unfortunately, in addition to the *de facto* closure of the Panamanian market to imports of dairy products in June, Panama, in its most recent communication, signalled its intention to eliminate its bound tariff rate quotas for liquid and evaporated milk. Both matters were addressed in the SPS Committee and the CMA in November. During these meetings, Costa Rica again highlighted Panama's apparent breaches of its obligations under the SPS Agreement and its MFN treatment obligation under Articles I:1 and XI:1 of the GATT on the non-adoption of import restrictions or prohibitions.

30.5. Costa Rica has sought dialogue with the various Panamanian authorities in order to understand their reasoning and find mutually satisfactory solutions. To date, these efforts have not yielded results. Despite multiple bilateral meetings in recent months, the Panamanian authorities refuse to explain the reasons for the implementation of measures that are inconsistent with regional and multilateral trade rules. Instead, they have focused their argument on form and time infringements and have emphasized the need to reduce their trade gap with Costa Rica as a valid argument for the imposition of their measures, which, pursuant to bilateral, regional and multilateral trade rules, does not constitute grounds for the measures applied.

30.6. Costa Rica is concerned that Panama's trade policies in the agricultural sector are shifting towards protectionist measures that deliberately obstruct trade and are clearly inconsistent with Panama's WTO commitments. Such measures have become even more damaging against the backdrop of the pandemic. This is particularly the case given the highly sensitive nature of the goods in question, especially dairy products. Costa Rica remains willing to give dialogue in good faith another chance and will do so for as long as is reasonable and warranted by the circumstances. In

this vein, Costa Rica respectfully and strongly urges the Panamanian authorities to uphold their WTO commitments and lift the import prohibitions preventing the normal flow of trade between the two countries.

30.7. The delegate of Mexico indicated the following:

30.8. Mexico thanks Costa Rica for having raised this item on today's agenda and joins this concern as expressed by that delegation with regard to what seem to be protectionist measures that are resulting in regional trade restrictions. Mexico has continued in its dialogue with Panama to find a solution to its concerns. However, Mexico must, at this stage, point out that there has been a lack of response from the authorities in that country with regard to the renewal of certain Mexican exporters' in pasteurized milk and other animal products. This issue has been raised here as well as in the SPS Committee.

30.9. Mexico also expresses its interest in the most recent communication received from Panama in G/SECRET/45 of 12 August, in which it sets out its intention to remove bound tariff quota rates for liquid milk. The proposed modification would remove tariff rate quotas and preferences with regard to the very high bound and applied tariff rates in these products. Mexico therefore expresses its interest in the procedural aspects as well as the protection of its rights. Mexico, like Costa Rica, calls for the modification of the Schedule under Article XXVIII and the fact that this requires negotiation and compensation. Mexico therefore urges Panama to continue in constructive dialogue to address the concerns with regard to the trend and impact its measures are having.

30.10. The representative of Panama indicated the following:

30.11. Panama takes note of Costa Rica's comments and will forward its statement to Capital. With regard to dairy products, Panama held consultations with Costa Rica on 16 November. Panama is following the procedures under Article XXVIII and is exercising the rights enjoyed by all Members, including Costa Rica. As to plant certification, Costa Rica's comments are not new, and the situation has not changed, since the last two occasions on which Costa Rica raised its concerns. Panama would like to summarize what it has already said on the matter.

30.12. It has not been possible to inspect the plants referred to by Costa Rica since 2013. Their animal and plant health certifications for export to Panama would have expired shortly thereafter. In spite of this, with a view to facilitating trade, and in light of the close trade ties uniting the two countries, Panama has temporarily and voluntarily extended the periods for approval of plants until June 2020. Obviously, this extension does not mean that Panama is waiving its rights under any WTO Agreement, including the SPS Agreement, or under any other Agreement between our countries. Throughout this temporary extension, Panama has been in constant communication with Costa Rica, with a view to Costa Rica initiating the process to renew the certifications.

30.13. Moreover, throughout this period, and to date, instead of initiating the necessary assessment and certification process, Costa Rica has preferred to argue on various grounds that Panama does not have the right to conduct its assessment to ensure food safety, and to protect human life and health and the country's animals and plants. The authorities in Panama are still in contact. Panama remains fully committed to resolving the situation if Costa Rica decides to initiate the appropriate assessment and certification process. Panama will inform our Capital of any comments made today.

The delegate of Costa Rica thanked Panama for its reply and expressed his readiness to provide a written copy of its statement to Panama.

30.14. The Chairperson proposed that the Council take note of the statements made.

30.15. The Council so agreed.

31 RUSSIAN FEDERATION – TRADE RESTRICTING PRACTICES – REQUEST FROM THE EUROPEAN UNION

31.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the European Union had requested the Secretariat to include this issue on the agenda.

31.2. The delegate of the European Union indicated the following:

31.3. The Russian Federation continues to apply a policy of import substitution and forced localization of production which is contrary to the spirit and often also to the letter of WTO commitments. Moreover, this policy is being expanded and developed further. Unfortunately, the concerns the EU expressed at the Council's meeting in June remain and the EU would like to touch more particularly on five issues of concern. First, in addition to the EU's previous statements, the EU would like to note that over this summer Russia amended Federal Law No. 223 "On the Procurement of Goods, Works, Services by Certain Types of Legal Entities" with provisions expanding the economic activity subject to this law. There is a requirement for the government to adopt a decree establishing quotas for foreign products in public procurement by SOEs and some unspecified private entities. The draft Russian government decree is designed to limit imports of foreign products if these products are procured by the state-owned enterprises and some commercial entities, as mentioned. If adopted, this decree would be a major violation of WTO rules. The EU was disappointed by the lack of engagement on the questions we raised at the CMA on 12 November. The EU therefore reiterates those questions. When will Russia notify the legal basis for this decree? What is the planned scope of the import restrictions? When does the Government plan to adopt the implementing act?

31.4. Second, the EU continues to raise the blockage of EU cement exports to Russia, effective since 2016, and urge Russia to proceed quickly to the change of standards as it indicated in the TBT Committee's October meeting. Third, as stated as well at the October TBT Committee meeting, the EU considers the amendment to the Federal Law "on protecting consumer rights" on the pre-installation of Russian software mandatory in a number of consumer electronic devices a potentially discriminatory one and request its notification. Fourth, the EU also requests Russia to notify Federal Law 468 "on Viticulture and Winemaking" and regrets that Russia refuses to do so, as stated at the last TBT Committee meeting. This law introduces many new requirements for the placing of wine products on the Russian market, and it therefore has to be notified to the WTO in accordance with the TBT Agreement. Furthermore, this law uses European geographical indications as definition for certain categories of wine, like Champagne, vin de Cahors, or Cognac, and the implementation of this law is not clear, potentially blocking imports into Russia of real Champagne. The EU expects that the amendments to the law currently in preparation will be proposed to eliminate the EU's concerns. And fifth, and finally, on 29 September, Russia has announced the introduction of an export ban on timber, starting from 1 January 2022. The EU would like Russia to explain its compatibility with WTO rules and notify the draft legislation on it.

31.5. The delegate of Ukraine indicated the following:

31.6. Ukraine thanks the EU for keeping this issue on the agenda and echoes the concerns raised with regard to the Russian Federation certification requirements for cement. Ukraine continues to have strong concerns on the Russian Federation certification requirements for alcoholic drinks as well. Ukraine would like to refer to its statements made in the course of the previous TBT Committee meetings on these issues for further detail.

31.7. The delegate of Australia indicated the following:

31.8. Australia understands that Russia's Federal Law No. 468 of 27 December 2019 on wine making and wine growing in the Russian Federation entered into force on 26 June 2020. Australia has raised its specific concerns in the TBT Committee, and briefly restates those here. The Federal Law poses several barriers to the importation of wine into Russia, which coupled with the short timelines for the law's implementation, are of concern to the Australian wine industry. A key concern is the mandatory declaration of vintage and variety required under the new law. This does not reflect International Organisation of Vine and Wine (OIV) practices, of which Russia is a member.

31.9. Russia's Federal wine law includes provisions covered by the TRIPS Agreement, including geographical indications. Australia invites Russia to notify the measure to the Council for TRIPS accordingly. Additionally, Australia notes that several obligations within the Federal wine law are inconsistent with the Eurasian Economic Union Technical Regulation 047/2018 "On safety of alcohol products", which is expected to enter into force in January 2021. Australia seeks further clarification from Russia on how this regulation and Federal Law No. 468 will be implemented. Australia encourages Russia to take into account these concerns when reconsidering the implementation of

the new Federal wine law and looks forward to Russia notifying the WTO accordingly as soon as possible.

31.10. The delegate of the United States indicated the following:

31.11. The United States would like to thank the EU for raising concerns about Russia's trade restrictive practices. Russia's list of restrictive practices continues to grow, so the United States must continue to draw attention to these issues. In particular, the United States would like to highlight three particular issues – forced localization, the software pre-installation mandate, and the track and trace regime. The United States has previously voiced concerns about Russia's growing list of measures that favour domestic products, works, and services, at the direct expense of imports. In its latest effort to control its economy, Russia has proposed a measure to classify all state-owned enterprises and state corporations as "critical information infrastructure" facilities. Such a step would designate nearly half the Russian economy as "critical information infrastructure" and allow the Russian government to exert even greater control over the commercial decisions of these enterprises, including their purchasing decisions.

31.12. The United States will provide specific written questions to Russia, but for the benefit of this Council, could the delegate of the Russian Federation assure this Council that his/her government will ensure that purchases made by commercial enterprises that are state-owned or state-controlled are governed by commercial considerations, as provided for in its Working Party Report? Regarding the software pre-installation mandate, the United States has mentioned previously its concerns about the pre-installation requirement established in Federal Law No. 425-FZ "Law on Protection of Consumer Rights." The United States continues to seek an explanation of how this mandate complies with Russia's WTO obligation on national treatment. Regarding Russia's Track and Trace labelling regime, this Council, and Russia, are familiar with United States concerns about Russia's "track and trace" regime, which mandates the application of an encrypted label to a variety of goods. Specifically, the United States remains concerned about the potential for significant supply chain disruptions at the border and about unequal access to the machinery and the technological systems of the regime. The United States will continue to carefully monitor Russia's implementation of the regime.

31.13. The delegate of the Russian Federation indicated the following:

31.14. The Russian Federation would like to thank the European Union, Ukraine, Australia, and the United States for their interest in the trade policy of the Russian Federation. The Russian Federation commented previously on many of the concerns raised today and would refer to its previous statements in this Council as well as in the TBT Committee, the Committee on Agriculture, and the CMA.⁸ Today the Russian Federation just wants to highlight the following. On cement certification, currently, the standard in question is being reviewed. However, no precise timeline for the outcome of the discussion can be provided now. On the law on winemaking, the Russian Federation stresses that the federal law is not aimed at setting unnecessary obstacles to international trade but to creating the brand "wine of Russia" and developing winemaking in Russia, including improving consumer properties and improvement of Russian wineries. This legal act was developed taking into account the obligations of the Russian Federation in the WTO.

31.15. As for the pre-installation of the Russian software, the Russian Federation states once again that the measure does not set any restrictions and prohibitions for installation of foreign software and nor does it set any requirements on de-installation of any pre-established software, whether Russian or foreign, and applies equally to both Russian and foreign technically complex goods. As for export restrictions on wood and the draft decree related to imports of certain entities, the Russian Federation draws the attention of the Membership to the fact that currently the Russian government has not adopted legal acts on these issues. The Russian Federation urges the European Union, Ukraine, Australia, and the United States to send their statements in writing so that they can be conveyed to Capital.

31.16. The Chairperson proposed that the Council take note of the statements made.

⁸ Document G/C/M/137, paras. 33.20-33.26.

31.17. The Council so agreed.

32 KINGDOM OF SAUDI ARABIA – TRADE RESTRICTIVE POLICIES AND PRACTICES CONCERNING TURKEY – REQUEST FROM TURKEY

32.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of Turkey had requested the Secretariat to include this issue on the agenda.

32.2. The delegate of Turkey indicated the following:

32.3. Turkey and the Kingdom of Saudi Arabia are important trade partners for each other, with close economic cooperation in various platforms and a bilateral trade volume exceeding USD 6 billion by 2019. However, the strong trade ties between the two countries have recently been disrupted by the trade restrictive policies of Saudi Arabia against the imports from Turkey. In recent months, imports from Turkey have systematically been subject to unreasonably long delays at Saudi customs and unnecessarily burdensome product safety inspections. Customs clearances have been taking generally more than 30 days due to these practices. As a result, hundreds of containers of fresh fruits and vegetables are being perished, Turkish exporters are facing high demurrage fees, and Turkish exports are being driven out of the Saudi Arabian market.

32.4. These restrictive and discriminatory practices took a new turn in October and became even more worrisome for Turkey. Turkish exporting companies in various sectors have been informed by the Saudi importers to suspend or to cancel their already contracted shipments as the importation of Turkish products into Saudi Arabia would not be permitted. Also, some major logistic companies have warned their customers about the obstacles and very long delays in customs procedures for imports sourced from Turkey, as well as the high additional costs related to these delays. In addition, Turkish exporters have been informed of "letters of commitment" signed by the importers pledging not to import from Turkey. This process has also been in parallel with a general backlash against Turkish products in the Saudi market.

32.5. As a result of these policies, Turkey's exports to Saudi Arabia decreased by more than 40% during the first half of November, when compared with both the same period of the last year and the first half of October this year. This sharp decline is even more dramatic in some sectors, such as steel, automotive, furniture, clothing and jewellery, while the exports of fresh fruits, vegetables and food products have almost totally halted. Turkey is seriously concerned about these import prohibitive policies and practices of Saudi Arabia against Turkish goods, which are in clear violation of Article I of the GATT on MFN treatment, and Article XI of GATT on QRs. Moreover, Turkey also believes that the discrimination against Turkish products in the Saudi Arabian market is also in breach of Article III:4 of GATT on the principle of National Treatment.

32.6. In this vein, Turkey would like to invite Saudi Arabia to bring its policies and practices concerning Turkey in line with its WTO obligations and to ensure a smooth flow of trade for Turkish goods. On the other hand, Turkey does believe that the recent communication that took place at the highest level between Turkey and Saudi Arabia will guide us in solving the situation amicably. Turkey stands ready to engage bilaterally with Saudi Arabia for addressing all trade-related matters and promoting fair and balanced bilateral trade relations.

32.7. The delegate of the Kingdom of Saudi Arabia indicated the following:

32.8. The Kingdom of Saudi Arabia always affirms its commitments to all trade rules stipulated in the WTO Agreements. The Kingdom of Saudi Arabia is a keen supporter of the multilateral trading system to achieve its objectives aiming to liberalize international trade among Members. Having said that, Saudi Arabia emphasizes that no official or unofficial instructions have been issued by the Saudi authorities to prevent dealing with the Turkish companies or to hinder the importation of goods coming from Turkey. In fact, Saudi Arabia has confirmed to Turkey on several occasions that its borders and markets are open to all goods and products, including those coming from Turkey. Therefore, the Kingdom of Saudi Arabia asks the delegation of Turkey to provide it with its statement and concerns in detail in writing in order to convey it to Capital for further review and consideration.

32.9. The Chairperson proposed that the Council take note of the statements made.

32.10. The Council so agreed.

33 KINGDOM OF SAUDI ARABIA, KINGDOM OF BAHRAIN, THE UNITED ARAB EMIRATES, OMAN, AND QATAR – SELECTIVE TAX ON CERTAIN IMPORTED PRODUCTS – REQUEST FROM THE EUROPEAN UNION, JAPAN, SWITZERLAND, AND THE UNITED STATES

33.1. The Chairperson informed Members that, in a communications dated 9 and 12 November 2020, the delegations of the European Union, Japan, Switzerland, and the United States had requested the Secretariat to include this issue on the agenda.

33.2. The delegate of Switzerland indicated the following:

33.3. Switzerland refers to its past statements in this Council⁹ as well as in the CMA, where it repeatedly raised concerns with regard to the selective tax, and notably addressed issues related to the reform of the tax and the harmonization of the tax rate for energy drinks and other sugar-containing beverages. In addition to these concerns, Switzerland would like to reiterate its opposition to the foreseen introduction of a digital tax stamp on beverages as these are not high-value goods subject to counterfeiting and smuggling. Such a requirement is not international best good practice for the soft drinks industry, as the sector does not suffer from tax avoidance. Switzerland calls upon the competent authorities to look for other less trade restrictive alternatives as the costs of the stamp – as currently foreseen – would outweigh the benefits to governments and industry. Switzerland has taken note of the statement made by the United Arab Emirates (UAE) in the name of the Gulf Cooperation Council (GCC) countries at the Market Access Committee two weeks ago that the ongoing study at GCC level regarding the selective tax should be completed soon and that it foresees to replace the current *ad valorem* tax by a specific tax. Switzerland expects to be informed sufficiently in advance about the results and recommendations of the study; that is, before a final decision is taken at GCC level. Switzerland encourages the GCCs to continue to engage and work closely with Switzerland and other Members, as well as the private sector, in order to modify the selective tax and related measures, so that they are applied in a transparent and non-discriminatory manner and meet their legitimate health policy objectives.

33.4. The delegate of Japan indicated the following:

33.5. Japan has been expressing its concerns over this issue of the selective tax on carbonated soft drinks taken by certain GCC Members since last year. Especially in the United Arab Emirates, a high tax rate is imposed on some Japanese carbonated soft drinks due to their classification as energy drinks based not only on the drinks' ingredients but also on the marketing and merchandizing methods used for them. Japan takes note of the statement by GCCs at the recently held Market Access Committee concerning its recent studies. Japan looks forward to the subsequent update of the studies and continues to pay close attention to future developments to make sure that the tax be administrated in a transparent and reasonable manner based on objective evidence.

33.6. The delegate of the United States indicated the following:

33.7. The United States' concerns remain as stated in previous meetings of this Council and the CMA. The United States' concerns have yet to be addressed. At the last CMA meeting in June, an offer was made to engage with the United States on this issue in more detail. The US understands that the United Arab Emirates has identified particular officials to follow-up with the United States on that offer. The United States has attempted to contact them but has not yet received a response. Could the UAE please let the United States know how it can ensure that this discussion takes place?

33.8. The delegate of the European Union indicated the following:

33.9. The European Union maintains its serious concerns as already voiced in this Council, and in the CMA, as well as in bilateral contacts with the GCC countries in relation the GCC "Treaty on Excise Tax" of December 2016. The EU welcomes the expansion of the tax base to include other sweetened beverages by the Kingdom of Saudi Arabia and the United Arab Emirates, thus no longer discriminating soft drinks containing sugar. However, the EU is still concerned that the GCC countries have not decreased the tax for energy drinks from 100% to 50% in order not to discriminate between

⁹ Document G/C/M/137, paras. 18.2-18.5.

energy drinks and other sugary drinks. The EU also acknowledges recent positive steps by the GCC countries to revise the excise tax, switching from an *ad valorem* tax to a specific tax based on content, in line with international best practice. The EU calls for a uniform implementation of the positive adjustments of the excise tax in all GCC countries. The EU also looks forward to receiving the results of the study the GCC is currently undergoing regarding the revision of the tax, once it is available. The EU strongly encourages the GCC Members to engage private industry stakeholders on the process for revising the tax, as well as to provide immediate relief for industry until the revision takes effect.

33.10. The delegate of the United Arab Emirates indicated the following:

33.11. On behalf of the GCC member States, the United Arab Emirates would like to thank the delegations that took the floor for the interest they attach to the tax situation in the GCC member States, and specifically on the drinks excise tax issue. The United Arab Emirates would like to refer to its statement delivered at the CMA on the 12 November. The United Arab Emirates has taken note, on behalf of the GCC member States, of the comments made today by the delegations of Switzerland, the United States, Japan, and the European Union, and would like to assure them that their concerns are currently under consideration by the competent authorities in the GCC member States. As indicated by the Kingdom of Bahrain in the previous meeting of the CTG, the GCC member States will keep the interested delegations updated on any further development that will occur in this matter.

33.12. The Chairperson proposed that the Council take note of the statements made.

33.13. The Council so agreed.

34 SRI LANKA – IMPORT BAN ON VARIOUS PRODUCTS – REQUEST FROM THE EUROPEAN UNION

34.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the European Union had requested the Secretariat to include this issue on the agenda.

34.2. The delegate of the European Union indicated the following:

34.3. With this item, the European Union would like to bring forward a discussion that started at the level of the CMA, and would like to express its concerns with the Imports and Exports Control Regulations adopted by Sri Lanka this year, in an alleged move to ease pressure on the exchange rate and overall balance of payments. The measures were first published in April 2020, with reference to the Imports and Exports Control Act of 1969, and with an initially foreseen expiration date of 15 July. However further updates were released in May and in June, and again a revision was circulated in July of this year. These revisions broadened the scope and removed the expiration date, such that the measures remain in force now until further notice. The measures result in a broad quantitative restriction heavily affecting trade in goods. As such, the European Union has serious doubts that Sri Lanka is accomplishing its commitments under the GATT Agreements (specifically, the "Understanding on the Balance-of-Payments Provisions of the GATT 1994"). Even in exceptional circumstances, the Government needs to comply with WTO rules. Concretely, it means for instance that QRs should be avoided also when balance-of-payments issues arise. The side effects of restrictive measures should be the least trade distortive and ensure there is no discrimination among supplying countries.

34.4. Apart from these formal requirements, the European Union tends to believe that the underlying motivation is the protection of Sri Lankan industries and import substitution under the guise of foreign currency pressure. In fact, the far-reaching import restrictions result in a *de facto* wide import ban. These measures are potentially affecting hundreds of millions of EU exports. Although the European Union has noted official statements alleging the measures to be temporary, the EU has not yet seen any changes in the Regulation. For the time being, these measures apply "until further notice", creating a lot of uncertainty and financial problems for traders and investors. The European Union notes that, at the last CMA, on 12 November, Sri Lanka categorized these measures as restrictions or delays on payments and transfers, covering certain activities in the financial sector, and that delays on payments and transfers were allowed under GATS flexibilities. Without prejudice to this particular argument, the European Union would only note that restrictions

taken under GATS should also be notified to the WTO (General Council and the Committee on Balance-of-Payments Restrictions). In addition, measures taken under GATS would also need to be temporary and as least trade restrictive as possible.

34.5. In conclusion, the European Union would like to express its deep concerns about the measures taken by the Government of Sri Lanka, which are strongly affecting EU exports. The European Union notes to this day the lack of a formal notification and justification of the measures, despite repeated calls by the EU and other WTO Members to do so. In the absence of any justification, the European Union calls for their full withdrawal.

34.6. The delegate of Argentina indicated the following:

34.7. Argentina wishes to support the concern raised by the EU, since notification No. 2184/21 from the Government of Sri Lanka affects Argentine exports of mung beans.

34.8. The delegate of Australia indicated the following:

34.9. Australia thanks the European Union for raising this item. Australia shares the concerns of the European Union with respect to these measures implemented by Sri Lanka. These measures appear to be overly trade-restrictive, do not appear to have a clear end-date, noting that they are in place "until further notice", and have not been notified to the WTO. Australia appreciates the difficult circumstances that Sri Lanka is under as a result of the impacts of COVID-19 on its economy and trade. Nevertheless, a well-functioning, transparent, predictable, and stable global trading system is and will remain fundamental to global economic stability during the pandemic and the economic recovery post-pandemic. This is true for Sri Lanka and all other WTO Members. Australia therefore requests Sri Lanka to notify the WTO of these measures as soon as possible and provide an explanation of the WTO basis for its measures. Australia would appreciate if Sri Lanka could reassure Members that the measures will only be implemented to address the immediate impacts of COVID-19, will not be maintained longer than necessary, and ensure that they are being implemented in a manner consistent with Sri Lanka's WTO obligations.

34.10. The delegate of Sri Lanka indicated the following:

34.11. Sri Lanka takes this opportunity to appreciate the interests being shown by the delegations of the EU, the United States, Australia and Argentina, on Sri Lanka's trade policies in general and for directing their specific concerns on the current trade measures taken by Sri Lanka to curb the COVID-19 pandemic in the island. Sri Lanka is also pleased to inform that it has been holding discussions with the EU delegation in different configurations since July 2020 and is encouraged to notice that the EU side has gained a better understanding on the very specific and challenging circumstances leading to Sri Lanka's decision to impose these measures. Sri Lanka made a very detailed statement at the Market Access Committee when this matter was raised on 12 November 2020 and the text of its intervention was also shared with the EU delegation at its request and the content of this statement is still relevant in addressing the concerns raised. In addition, Sri Lanka wishes to state the following.

34.12. As informed, the measures temporarily suspended the banking services, so that it served to limit facilitation of banking services by Sri Lankan banks. In effect, the measures imposed restrictions on or delay on payments and transfers. This enabled GOSL to limit the flow of scarce foreign exchange going out of the country during the COVID-19 pandemic. By temporarily limiting the provision of banking services necessary to pay for importation of goods, the measures essentially seek to temporarily stem the outflow of foreign exchange from Sri Lanka. The specific banking services affected by the measures in question include certain services listed in Sri Lanka's schedule of specific commitments under WTO GATS for the banking sector (please refer to page 5 of document GATS/SC/79/Suppl.2 of 26 February 1998), particularly: (a) acceptance of deposits and other repayable funds from the public; (b) lending of all types, including, *inter alia*, consumer credit, mortgage credit, factoring and financing of commercial transactions; (d) all payment and money transmission services; (e) guarantees and commitments; (f) trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following: - foreign exchange; (j) settlement and clearing services for financial services, including securities, derivative products, and other negotiable instruments.

34.13. Such banking service sub-sectors listed in Sri Lanka's schedule of specific commitments under the GATS are directly relevant to the provision by commercial banks of trade payment financial services and arrangements needed to conduct importation of goods into Sri Lanka. By temporarily prohibiting banks operating in Sri Lanka (including both domestic banks and the Sri Lankan branches or subsidiaries of foreign banks) from providing the listed financial services, the measures affect the ability of the Sri Lanka-registered and -located branch or subsidiary of a foreign bank to provide such services to Sri Lankan or foreign service consumers (GATS Mode 3 – commercial presence). In doing so, the measures affect the trade in services covered by Sri Lanka's GATS-specific commitments and thereby pertain to or affect the operation of the GATS. Because the measures apply to domestic Sri Lankan banks and the Sri Lankan branches or subsidiaries of foreign banks, the measures do not affect GATS Mode 1 (cross-border supply), GATS Mode 2 (consumption abroad), or GATS Mode 4 (presence of natural persons): (a) the ability of foreign banks incorporated and located outside Sri Lanka to directly provide the banking services in question into Sri Lanka to service consumers located in Sri Lanka (GATS Mode 1 – cross-border supply); (b) the ability of foreign banks incorporated and located outside Sri Lanka to directly provide the banking services in question in situ overseas to service consumers coming from Sri Lanka (GATS Mode 2 – consumption abroad); and (c) the ability of foreign banks incorporated and located outside Sri Lanka to provide such services by sending its staff to Sri Lanka to prepare the documents in relation to such services and utilizing funds based overseas (GATS Mode 4 – presence of natural persons).

34.14. The restrictions imposed by the measures in question on the banking services at issue as described above conform to the GATS. While Mode 3 (commercial presence) market access with respect to the provision of banking services has been restricted (subject to General Conditions specified in Sri Lanka's Schedule), such restrictions are consistent with the requirements under GATS Article VI on domestic regulation, and the GATS Annex on Financial Services. This is due to the policy flexibility and space that Sri Lanka incorporated into its GATS Schedule of Specific Commitments with respect to Mode 3 (commercial presence) limitations on both market access and national treatment on the provision of banking services. This policy flexibility arises from the fact that Sri Lanka's Mode 3 market access and national treatment commitments were subject to the "General Conditions" that Sri Lanka inscribed in its schedule which, *inter alia*, specified that its commitments were subject to laws, rules and regulations issued by the Government of Sri Lanka which are consistent with GATS Article VI and the Annex on Financial Services. (please refer page 4 of WTO Document: GATS/SC/79/Suppl.2 of 26 February 1998).

34.15. Sri Lanka amended the provisions in the applicable domestic regulation, namely, the Import and Export Control Regulation No. 11 of 2011 (Special Import License and Payment Regulations of 2 January 2012), which has already been notified to the WTO Committee on Import Licensing in 2014 (document G/LIC/N/1/LKA/2 of 19 February 2014). This regulation lays sub-regulations pertaining to the terms and conditions on payment terms for importation of goods into the country for commercial purposes. The way in which the General Conditions in Sri Lanka's GATS schedule were well written meant that Sri Lanka was not locked into applying only those laws, rules and regulations that existed at the time that it submitted its GATS offer (on 26 February 1998) – thereby implying that those law, rules and regulations would be those as applied currently and as may be amended from time to time. Accordingly, the amendments made to the provisions of the Import and Export Control Regulation No. 11 of 2011 (Special Import License and Payment Regulations of 2 January 2012) are within the purview of Sri Lanka's commitments and are not in violation of any of its WTO commitments.

34.16. Given that the measures in question with respect to the banking services at issue are consistent with GATS Article XVI, and given that the measures also conform to GATS Article XVII on national treatment, because they apply equally to both domestic and foreign banks in Sri Lanka, there is no need for Sri Lanka to seek recourse to GATS Article XII on restrictions to safeguard the balance of payments to justify the measures in question with respect to the banking services at issue. Concerns were also raised that Sri Lanka's transparency obligations under the GATS Article III have not been complied with: under GATS Article III:1 and Article III:2, Sri Lanka is required to publish these measures promptly or make them otherwise publicly available. Sri Lanka has already complied with these obligations as the measures were all published or made publicly available by the relevant central government authority at the latest by the time of their entry into force. Further, GATS Article III:3 also requires Sri Lanka to "promptly and at least annually inform the Council for Trade in Services (CTS) of the introduction of any new, or any changes to existing, laws, regulations or administrative guidelines which significantly affect trade in services covered by its specific commitments under this Agreement." As the measures in question significantly affect the trade in

services (Modes 2 and 3) of the specific banking services covered by Sri Lanka's schedule of specific commitments, Sri Lanka is required to inform the CTS of such measures pursuant to GATS Article III:3 "promptly" – i.e. "without undue delay" or "at least annually" – this means that there is no specific deadline for when Sri Lanka should make the notification. Sri Lanka has the right to enjoy the benefit of this ambiguity and seek shelter under the time period indicated under "at least annually". In line of this, as stated before, Sri Lanka will soon be submitting to the CTS of its notification as required under GATS Article III:3. In conclusion, Sri Lanka's delegation will continue its dialogue with the EU, United States, the Argentinean and the Australian delegations in a more constructive way with a view to addressing their ongoing concerns.

34.17. The Chairperson proposed that the Council take note of the statements made.

34.18. The Council so agreed.

35 UNITED KINGDOM – DRAFT GOODS SCHEDULE AND PROPOSED UK TRQ COMMITMENTS: SYSTEMIC CONCERNS – REQUEST FROM AUSTRALIA, BRAZIL, CANADA, CHINA, NEW ZEALAND, THE RUSSIAN FEDERATION, THE UNITED STATES, AND URUGUAY

35.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegations of Australia, Canada, China, New Zealand, the Russian Federation, the United States, and Uruguay had requested the Secretariat to include this issue on the agenda. Brazil's request to co-sponsor this item was received after the Council's agenda had closed.

35.2. The delegate of Brazil indicated the following:

35.3. Brazil would like to highlight that the concerns expressed in item 21 of the CTG Agenda also apply to the United Kingdom. Additionally, Brazil would like to highlight that the UK becoming a new independent WTO Member poses a series of challenges related, for example, to the conversion to pounds sterling of its tariffs and Final Bound Total Aggregate Measure of Support (FBTAMS) expressed in euros, as well as by its proposal for consolidation of tariffs, which is not economically viable as they are below the minimum percentage of 5% of the internal consumption negotiated in the Uruguay Round. When invoking its right to FBTAMS as an original WTO Member, the UK should also assume the full range of obligations that were negotiated for agricultural goods during the Uruguay Round.

35.4. It is worth recalling that a delicate balance was reached in Market Access at the time, which involved, above all, tariffication, consolidation and reduction of tariff rates; elimination of QRs; the creation of agricultural tariff quotas; and the consolidation of the rights to impose special safeguards. Regarding the tariff lines whose access was limited by means of TRQs, their volumes should correspond, at the end of the transition period, to at least 5% of domestic consumption of the equivalent product. Many of the new British TRQs do not comply with this limit. Brazil also draws attention to the need for the UK to comply with basic WTO obligations, such as the most favoured nation clause. Although negotiations are still ongoing, the British Government has already announced it will carry out simplified border control procedures for animal origin products from the EU in relation to that of other Members. Finally, Brazil recalls that there is still uncertainty in the way whereby the essential efforts to preserve the "Good Friday Agreement" with respect to the transit of goods will be compatible with WTO rules and other Members' rights.

35.5. The delegate of Uruguay indicated the following:

35.6. When, in July 2018, the United Kingdom submitted the original draft Schedule XIX, under the 1980 Procedures, its certification was contested by a number of WTO Members. These objections led to the formal opening of a process under Article XXVIII, which is currently under way, on the tariff rate quota concessions that appear in its draft Schedule. The additional amendments recently proposed by the United Kingdom in document G/MA/TAR/RS/570/Rev.1 add another layer of complexity to the procedure for drawing up the Schedule by the Member in question. Beyond the issue of tariff rate quotas, Uruguay still has concerns about the United Kingdom's claim to an automatic right to have FBTAMS without the matter being analysed by Members and without having verified compliance with the conditions proposed in the joint letter of the Permanent Representatives of the United Kingdom and the European Union of 11 October 2017. Moreover, the question arises

as to whether it is appropriate for the United Kingdom to attempt to replicate the rights to invoke the special agricultural safeguard, under Article 5 of the AoA, for all products and under the same criteria and conditions as set out in the European Union's Schedule. Third, the proposal to introduce one currency conversion in the draft Schedule of Concessions based on the average daily exchange rate in the period 2015–2019 also raises concerns, given its ability to generate bound tariffs and AMS entitlements higher than those that could result from considering other representative periods, and from its factual linkage with the process under Article XXVIII under way.

35.7. Uruguay hopes that the open procedure under Article XXVIII of the GATT on tariff rate quotas will be settled through substantive bilateral negotiations between the Members concerned and the United Kingdom. It also hopes to continue holding open talks with a view to securing market access commitments that are adapted to the reality of bilateral trade and the specific interests of the parties involved, and do not undermine current access opportunities, complying fully with the provisions of the relevant multilateral rules. Given the uncertainty about the form that the future trade relationship between the European Union and the United Kingdom will take, Uruguay also wishes to reiterate the need to take into account in the negotiations and to address the concerns over the possible exhaustion of the *erga omnes* tariff rate quotas proposed by bilateral trade between the European Union and the United Kingdom, which would exclude the other Members. Uruguay hopes to continue to engage in constructive discussions with the United Kingdom with a view to reaching timely solutions that will lead to an independent Schedule of Concessions being formally established in the WTO, while safeguarding the rights of the other Members concerned.

35.8. The delegate of the United States indicated the following:

35.9. As the United States noted under Agenda Item 21, the United States remains troubled with the approach taken by the UK and EU with respect to post-Brexit market access commitments. The primary goal of the United States is to ensure that the UK's independent goods schedule is fair and does not result in a loss of access to either the UK or EU market. The United States notes the liberalization the UK has announced as part of its Global Tariff, which will become effective on 1 January 2021. However, the United States remains concerned that an unfair split of TRQs with the EU could become part of the UK's bound schedule. The United States is also concerned about the UK's copy and paste approach to the Special Agricultural Safeguard (SSG) in its post-Brexit goods schedule. The United States would like to hear the rationale for keeping the SSG for products that are not sensitive, and in some cases not even produced, in the UK. The United States will continue to engage with the UK to ensure our trading interests are not adversely affected.

35.10. The delegate of New Zealand indicated the following:

35.11. In addition to New Zealand's points made under Item 21, New Zealand would like to draw attention again to the following matters in regard to the UK's proposed draft goods schedule. Again, these are questions that New Zealand has raised consistently over the past few years, but it does not yet have answers on these important systemic questions: (i) what plan the UK has to undertake the necessary consultation with other WTO Members on its claim to establish a new, very substantial, entitlement to trade distorting domestic support. As Council Members will be aware, the AoA does not contain provisions enabling a Member to amend its AMS commitments. In these circumstances, any proposals the UK might want to make to alter the current aggregate measure of support commitments, including any currency alterations and their potential impacts, would need to be fully consulted and agreed by other interested WTO Members; (ii) what the UK's justification is for its claims to apply the special agricultural safeguard to 685 agricultural products, including products for which it has no domestic production; (iii) what basis the UK has to justify its claims to apply a "minimum entry price" and the "Meursing Tables" market management systems following its exit from the EU single market and adoption of an applied tariff schedule that eliminates these trade distorting market measures.

35.12. As New Zealand has said previously, it remains ready to work with the UK and other WTO Members to find ways to resolve these concerns; as well as the important matters we have raised under agenda item 21 above. Importantly, though, New Zealand is looking to the UK to redouble its efforts, and to bring a practical, problem-solving approach, to bear to these discussions, if it is to reach satisfactory conclusions with other WTO Members in the short time remaining.

35.13. The delegate of Australia indicated the following:

35.14. Australia has consistently raised concerns with the EU and UK's approach to splitting the EU's existing TRQs as a result of Brexit since it was first proposed in 2017. It is clear that the proposed modifications to TRQs will diminish the commercial value of Australia's existing market access, by not only removing flexibility in where product is sent year-by-year, but by also rendering some TRQ allocations too small to be commercially viable. That said, Australia appreciates the recent constructive and pragmatic engagement from the UK on these issues with a view to reaching agreement before the end of the transition period and seeking to ensure implementation of any agreed arrangements in a timely manner. This will provide certainty to Australian exporters with the new post-Brexit trading environment.

35.15. Beyond the proposed TRQ splits, Australia continues to be concerned that the issues it has raised with the UK's initial rectification remain unaddressed. Australia considers the UK's draft goods schedule circulated on 24 July 2018, contains substantive changes to the UK's current WTO concessions, including the UK's AMS commitments, and Special Safeguard (SSG) entitlements. Australia does not believe that the UK should have automatic rights to an AMS entitlement without scrutiny from the Membership and potential changes. Australia is concerned with the UK's inclusion of AMS entitlement of GBP 4.95 billion, and it is worth noting that the EU still has not formally proposed any corresponding reductions to its AMS entitlements. The UK needs to find a multilateral solution to this issue and to demonstrate to other Members that its expected future domestic support programmes will not unduly distort global agricultural trade. Australia calls on the UK to reassure Members that the UK is a strong advocate for domestic support reform, to help show that it will be part of the solution, even if it has such a large initial AMS entitlement.

35.16. Finally, Australia also does not think the UK should be able to simply "copy and paste" special safeguard rights from the EU's WTO Goods Schedule – which have a distinct history and basis from the Uruguay Round and could result in the perverse outcome of providing the UK SSG rights for products that the UK does not produce. Australia stands ready to have constructive discussions with the UK to help resolve these matters and move towards certification of the UK's goods schedule.

35.17. The delegate of Switzerland indicated the following:

35.18. Switzerland refers to its statement under agenda item 21 and asks the EU and UK to avoid legal uncertainty regarding reallocation of TRQ quantities from 1 January 2021.

35.19. The delegate of India indicated the following:

35.20. India has already expressed its concerns, both in writing and during formal consultations with the United Kingdom. India has also made it clear to the United Kingdom how the present methodology and the threshold years, taken into account by the United Kingdom for apportionment of tariff rate quotas, and some other provisions in its Schedule, adversely affect Members' rights. Moreover, the nature of the future trade relationship between the EU-27 and the UK not being known at this stage, also leads to uncertainty in these areas.

35.21. India expects that the United Kingdom will provide reasonable opportunities to all Members, including India, to exercise its rights under the WTO Agreements and take into account the concerns raised. India looks forward for fruitful negotiations with the United Kingdom.

35.22. The delegate of Mexico indicated the following:

35.23. As Mexico has indicated previously, it would like to express its interest and share the concerns voiced by Members who have spoken before it with regard to the AMS and special safeguards that the UK is claiming. As Mexico indicated under agenda item 21, it reiterates its systemic concern as to any plans to modify TRQs that are part of the UK and the EU's schedule, particularly in view of the proposed methodology. Mexico also reiterates its concern in view of the uncertainty as to future obligations that will fall to the United Kingdom and the European Union with regard to the use of the quotas by each side. Mexico urges the UK to pursue discussions with Members and to address the systemic and trade concerns voiced such that a mutually satisfactory solution can be found.

35.24. The delegate of the Russian Federation indicated the following:

35.25. The Russian Federation continues to have significant concerns regarding the UK's approach to its TRQ' renegotiations. Russia stresses the impossibility of concluding negotiations without an agreement on compensation to be provided by the UK. The Russian Federation urges the UK to provide its compensatory proposal. The Russian Federation also stresses the importance of establishing the UK's schedule of tariff concessions in full compliance with WTO rules. Russia has raised certain questions in respect of the UK's draft schedule. These questions are related, *inter alia*, to the methodology of apportionment of AMS and the proposed currency conversion. These questions were transmitted to the UK in writing. However, we have not yet received any response. The Russian Federation urges the UK to provide a clarification of its proposed modification of its schedule.

35.26. The representative of the United Kingdom indicated the following:

35.27. The United Kingdom would like to update Members that it has now held a number of negotiation rounds under Article XXVIII and would like to thank relevant Members for their continued engagement in this process. In particular, the United Kingdom is grateful to those Members with whom it has held increasingly constructive conversations in recent months. The United Kingdom is committed to engaging in good faith with Members in these discussions and looks forward to building on the progress and constructive conversations of recent rounds. Turning to some specific points raised by Members, on the issue of EU use of UK *erga omnes* TRQs: the Political Declaration, signed by both the UK and the EU on 24 January 2020, sets out the ambition for the negotiations in the UK-EU Free Trade Agreement (FTA), which are ongoing. If a deal within these parameters is agreed, it would allow zero-tariff, zero-quota trade between two equal partners. Trade between the UK and the EU would proceed under the terms of the FTA, and the EU would not need to access the UK's *erga omnes* TRQs.

35.28. On AMS, the United Kingdom notes some Members asked about whether the European Union's AMS will reduce proportionally in line with the commitment set out in the UK's Schedule XIX. The United Kingdom cannot comment on the European Union's ongoing processes. However, the United Kingdom would recall that it was clear in the joint UK-EU letter to WTO Members of 11 October 2017 that the final bound commitment level for domestic agricultural support would be apportioned between the EU and the UK, and that intention was reiterated in the explanatory note to the UK's schedule.

35.29. On the redenomination of the UK's Goods Schedule into pounds sterling, the UK would refer Members back to the explanatory note that accompanied document G/MA/TAR/RS/570/Add.1 for the explanation for the exchange rate used. In choosing the exchange rate, the United Kingdom looked at relevant precedent and used a methodology that avoided speculation on the "natural" exchange rate, avoided the inherent volatility of day-to-day exchange rate fluctuations, and reflected the most recent and relevant economic conditions at the time, ensuring the scope of the concessions and commitments offered for application to the United Kingdom are not altered.

35.30. On Special Safeguards, the United Kingdom would note to Members that the UK's draft Schedule replicates the concessions and commitments applicable to the UK as expressed in the EU-28 Schedule. The United Kingdom remains open to further discussions with Members on the various issues raised today, with the aim of maintaining the existing balance of rights and obligations between the United Kingdom and its trading partners.

35.31. The Chairperson proposed that the Council take note of the statements made.

35.32. The Council so agreed.

36 UNITED STATES - REVISED ORIGIN MARKING REQUIREMENT FOR GOODS PRODUCED IN HONG KONG – REQUEST FROM HONG KONG, CHINA

36.1. The Chairperson informed Members that, in a communication dated 11 November 2020, the delegation of Hong Kong, China had requested the Secretariat to include this issue on the agenda.

36.2. The delegate of Hong Kong, China indicated the following:

36.3. Hong Kong, China would like to express its strong objections to the revised origin marking requirement promulgated by the United States Customs and Border Protection (USCBP) that affects goods produced in Hong Kong and imported into the US. On 11 August this year, the USCBP announced a revised requirement that goods produced in Hong Kong and to be imported to the US may no longer be marked to indicate "Hong Kong" as their origin, but must be marked to indicate "China" instead for the purposes of the origin marking requirement set forth in Section 304 of the Tariff Act of 1930, 19 U.S.C. § 1304. The revised origin marking requirement has already come into effect since 10 November 2020.

36.4. Hong Kong, China maintains its strong objection to this revised origin marking requirement and has on various occasions requested that it be withdrawn immediately. The US measure unilaterally and arbitrarily dictates the name to be used on the origin marking of Hong Kong products without regard to the facts, prevailing commercial practices, and relevant WTO rules. The US disregards the fact that Hong Kong, China is a separate customs territory and a WTO Member in its own right. The US requirement also brings difficulties and additional burden to the business communities of both sides as well as confusion to consumers in the US.

36.5. Hong Kong, China is concerned that the US measure is inconsistent with the US obligations under multiple WTO Agreements, including, but not limited to, the following provisions of GATT 1994: (i) Article I:1, because in respect of the rules and formalities of importation pertaining to marks of origin, the US does not extend to products originating in Hong Kong, China immediately and unconditionally the same advantage, favour, privilege, or immunity that the US extends to like products originating from other WTO Members; (ii) Article IX:1, because on marking requirements, the US accords less favourable treatment to the products of Hong Kong, China; (iii) Article X:3(a), because the US does not administer its origin marking requirements in a uniform, impartial, and reasonable manner.

36.6. Hong Kong, China has also raised at the General Council, the Committee on Trade Facilitation, the Committee on Technical Barriers to Trade, and the Committee on Rules of Origin, and would not repeat here, its concerns on the inconsistency of the US measure with provisions in the various WTO Agreements. Over the past months, Hong Kong, China has been trying to resolve the matter with the US through bilateral engagements, but to no avail. On 30 October, with a view to resolving the matter through bilateral efforts, Hong Kong, China requested consultations with the US in accordance with the Dispute Settlement Understanding and the relevant provisions in the WTO Agreements. Hong Kong, China appreciates that the US has accepted our request for consultations.

36.7. Hong Kong, China is a staunch supporter of the rules-based multilateral trading system. Hong Kong, China takes the rights and obligations under the WTO Agreements seriously and expects all Members to respect the WTO rules and honour their commitments. Barring the outcome of the bilateral consultations with the US, Hong Kong, China would like to reiterate in today's forum its strong wish that the US honour its commitments under the WTO Agreements, and withdraw immediately its revised origin marking requirement on Hong Kong products.

36.8. The delegate of the United States indicated the following:

36.9. On 30 October 2020, Hong Kong, China requested consultations under the Dispute Settlement Understanding regarding what it characterizes as "certain measures affecting marks of origin". The United States replied to that request on 9 November 2020. As reflected in the US response, the President has determined that the situation in Hong Kong, China is a threat to the national security of the United States. Without prejudice to whether the consultations request raises issues of national security not susceptible to review or capable of resolution by WTO dispute settlement, the United States has accepted the request of Hong Kong, China, to enter into consultations. As such, the United States does not understand why Hong Kong, China is raising this issue in this Council.

36.10. The Chairperson proposed that the Council take note of the statements made.

36.11. The Council so agreed.

37 UNITED STATES – EXECUTIVE ORDER ON SECURING THE BULK-POWER SYSTEM – REQUEST FROM CHINA

37.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of China had requested the Secretariat to include this issue on the agenda.

37.2. The delegate of China indicated the following:

37.3. China would like to refer to its statement in previous meetings in this Council.¹⁰ China would like to request the US to provide clarification on how to define "foreign adversary", and ensure that the measures taken by the US are consistent with the WTO rules.

37.4. The delegate of the United States indicated the following:

37.5. As the United States has stated previously, the referenced Executive Order, issued by the President on 1 May, is a matter of the US national security. The United States does not believe that the WTO Council for Trade in Goods is the appropriate forum to discuss issues related to national security.

37.6. The Chairperson proposed that the Council take note of the statements made.

37.7. The Council so agreed.

38 UNITED STATES – IMPORT RESTRICTIONS ON APPLES AND PEARS – REQUEST FROM THE EUROPEAN UNION

38.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of the European Union had requested the Secretariat to include this issue on the agenda.

38.2. The delegate of the European Union indicated the following:

38.3. The European Union regrets that the United States has so far failed to solve this matter, despite the EU raising this issue at multiple occasions in the SPS Committee and in this Council as well. For more than a decade, exports of apples from the EU to the US have been allowed under the so-called pre-clearance system. However, this pre-clearance system of the US is overly costly and burdensome. In practice, only very limited amounts of apples and pears are imported from the EU into the United States under this pre-clearance system. Therefore, the EU applied already in 2008 to have market access under a systems approach. Under a lengthy and complex approval procedure of the US, it took nearly eight years for the United States to conclude its scientific pest risk assessment that apples and pears could be imported from several EU member States in all safety based on the conditions assessed.

38.4. Despite this positive scientific assessment, dating back to 2014, the United States is still blocking the publication of its Federal Notice, which is the last remaining step to allow imports of apples and pears from the EU under this systems approach, and this without any scientific ground. The US is herewith going against the SPS Agreement as the scientific risk assessment of the US has been finalized already years ago and demonstrated that safe imports from the EU can take place. The EU urges the US to base its import policy on science in line with its WTO commitments and in this regard to finalize the last purely administrative step to allow market access of apples and pears from the EU without any further delay. The EU looks forward to continuing to cooperate with the US aiming at finding a swift solution to this matter.

38.5. The delegate of the United States indicated the following:

38.6. The United States thanks the European Union for its continued interest in the status of the request from eight EU member States to export apples and pears under a systems approach to the United States. The US Department of Agriculture continues to work through its administrative procedures on this request. The United States would again note that the EU is able to export apples and pears to the United States under the existing pre-clearance program. The US appreciates the

¹⁰ Document G/C/M/137, paras. 15.2-15.3.

bilateral engagement on this issue, including during the October 2020 Plant Health Working Group meeting.

38.7. The Chairperson proposed that the Council take note of the statements made.

38.8. The Council so agreed.

39 UNITED STATES - MEASURES REGARDING MARKET ACCESS PROHIBITION FOR ICT PRODUCTS – REQUEST FROM CHINA

39.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of China had requested the Secretariat to include this issue on the agenda.

39.2. The delegate of China indicated the following:

39.3. China would like to refer to its statement in previous meetings of this Council.¹¹ In addition, China also noted with concern that there are more Chinese companies having been negatively affected by the Executive Order on Securing the Information and Communications Technology and Services Supply Chain in recent time. On 6 August 2020, the US issued two executive orders, entitled "Addressing the Threat Posed by TikTok" and "Addressing the Threat Posed by WeChat." These are the first Executive Orders that take action in respect of the "emergency" declared in Executive Order on Securing the Information and Communications Technology and Services Supply Chain. On 18 September 2020, the US Department of Commerce implemented the Executive Order related to TikTok by promulgating a new rule, which covered a very broad range of transactions. The global ICT industry, including US companies, is worried about the vague and broad wording of the above Executive Orders and implementation rules, and worried that the national security justifications set out in the text of the measures are exclusively a disguise for the ulterior motives, such as forced technology transfer, appropriating value from successful Chinese companies. China is of the view that the actions and measures taken by the US abused the concept of national security, violated the principle of market competition and international trade rules, and will damage the interests and image of the US. China would like to request the US to immediately stop these practices and ensure that the relevant measures are consistent with the WTO rules.

39.4. The delegate of the United States indicated the following:

39.5. As stated previously, the United States does not believe that the WTO Council for Trade in Goods is the appropriate forum to discuss issues related to national security.

39.6. The Chairperson proposed that the Council take note of the statements made.

39.7. The Council so agreed.

40 UNITED STATES – EXPORT CONTROL MEASURES FOR ICT PRODUCTS – REQUEST FROM CHINA

40.1. The Chairperson informed Members that, in a communication dated 12 November 2020, the delegation of China had requested the Secretariat to include this issue on the agenda.

40.2. The delegate of China indicated the following:

40.3. China would like to express its concern on the tightened export control measures taken by the US recently. The typical example is the HUAWEI company, for which the US has formulated twice the tailor-made new rules and restricted other countries' companies from supplying products to Huawei. China is of the view that the US has been using the national power to suppress Chinese companies. And the relevant measures abused the concept of national security and export control, ignored the international trade rules, undermined the market principles, and endangered the global supply chain. China urges the US to immediately remove the Chinese companies and the research institutions from the "Entity List" in order to create sound conditions for the relevant companies to

¹¹ Document G/C/M/137, paras. 30.3-30.7.

carry out normal trade and investment and to avoid further negative impacts on the global supplying chain.

40.4. The delegate of the United States indicated the following:

40.5. As the United States has stated previously, the United States does not believe that the WTO Council for Trade in Goods is the appropriate forum to discuss issues related to national security.

40.6. The Chairperson proposed that the Council take note of the statements made.

40.7. The Council so agreed.

41 WORK PROGRAMME ON ELECTRONIC COMMERCE

41.1. The Chairperson recalled that a Ministerial Decision had been adopted at MC11 (document WT/MIN(17)/65), in which Ministers had agreed to maintain the existing Work Programme on E-Commerce, and to endeavour to reinvigorate the WTO's work on E-Commerce. The Ministerial Decision had also instructed the General Council to hold periodic reviews in its sessions of July and December 2018, and July 2019, based on the reports submitted by the relevant bodies, among them the CTG; and to maintain the current practice of not imposing customs duties on electronic transmissions. Therefore, this Council was again tasked to discuss the E-Commerce aspects relating to trade in goods and, in order to fulfil its mandate, the E-Commerce issue was a standalone agenda item.

41.2. Since MC12 had been postponed on two occasions, and in order to fulfil the renewed mandate of this Council to update the General Council about the discussions that had taken place on this issue, he invited delegations to continue to express their opinions and to make suggestions as to how to work on the preparation of the periodic review to be held in the General Council in preparation for MC12 [at its session of December 2020]. He also informed delegations that to fulfil this mandate, it was his intention to submit to the General Council, once again, a factual report under his own responsibility, as his predecessors had also done.

41.3. The delegate of the United States indicated the following:

41.4. Regarding the Council's report to the General Council, the United States requests that the draft be approved by Members by written procedure.

41.5. The delegate of India indicated the following:

41.6. As the digital revolution is still unfolding, India on a number of occasions has stated that it is important to first understand the complex and multi-faceted dimensions of the issues related to E-Commerce. India still does not comprehend the full implications of effects of E-Commerce on competition and market structures, issues related to transfer of technology, data storage and automation and its impact on traditional jobs and gaps in policy and regulatory frameworks in developing countries. India, therefore, has been a proponent of strengthening our multilateral work under the non-negotiating and exploratory 1998 Work Programme on E-Commerce.

41.7. Under this multilateral Work Programme, with the intention of understanding the implications of the moratorium on customs duties on electronic transmissions, India, along with South Africa, has introduced three submissions which explain our understanding on the scope and impact of the moratorium. In December 2019, India joined the consensus for a six-month extension of the moratorium, with an understanding that the Work Programme on E-Commerce will be reinvigorated with the specific objective of achieving clarity on issues related to the scope of the moratorium, the definition of electronic transmissions, identification of products which are covered under the moratorium, as well as its impact.

41.8. In this context, India would also draw the attention of the Membership to paragraph 3.1 of the Work Programme, which requires this Council to examine and report on aspects of electronic commerce relevant to the provisions of GATT 1994, the trade agreements covered under Annex 1A of the WTO Agreement, and the approved work programme. The said paragraph also provides an

inclusive list of issues to be deliberated on here in this Council. India would therefore urge the Membership to sincerely deliberate and report on these mandated issues, instead of prematurely jumping to rule-making on such important issues.

41.9. The delegate of Botswana, on behalf of the African Group, indicated the following:

41.10. Botswana is delivering this statement on behalf of the African Group. As stated before, there is a direct link between the moratorium on customs duties on electronic transmissions and tariff revenue loss. For this reason, the CTG is best placed to oversee such discussions with a special focus on the E-Commerce moratorium and implications for developing countries. The African Group recognizes that there are economic and policy implications arising, on the one hand, from the increase in trade in electronic transmissions, and on the other, the continuation of the moratorium. The African Group sees merit in the CTG engaging in a deeper conversation about: (i) the scope and definition of electronic transmissions, including whether all Members have a common understanding of what electronic transmissions entail; (ii) the implications of the moratorium on revenue; and (iii) the impact of the moratorium on digital industrial policy, particularly in the context of our African continental industrialization agenda. The African Group looks forward to more discussions on that basis to help our Ministers make an informed decision about the E-Commerce moratorium at MC12.

41.11. The COVID-19 pandemic has highlighted the importance of digital connectivity and E-Commerce; it has also brought to light the implications of the digital divide both within and between countries, particularly infrastructure gaps to enabling E-Commerce in Africa, and how to develop it. Flowing from this, and given the disproportionate impact of the COVID-19 pandemic on the African continent, the African Group calls for discussions to be reinvigorated on the Work Programme with a view to comprehensively addressing the development aspects of E-Commerce facing African countries, and to enable equitable participation and meaningful distribution of the economic and transformational benefits of E-Commerce to all Members. Last but not least, the CTG has specific functions and issues to be examined as mandated by the Work Programme and that we need not repeat. That said, the African Group calls for a collective and constructive engagement to discuss the Work Programme with a view to providing our Ministers with enough information to make an informed decision at MC12.

41.12. The Chairperson proposed that, in order to fulfil the Buenos Aires mandate and support the work of the General Council on the Work Programme on E-Commerce, he make, under his own responsibility, a purely factual report to the General Council in December 2020, based on the discussion held in this Council during 2020, and circulate it to Members for approval.¹²

41.13. The Chairperson proposed that the Council take note of the statements made.

41.14. The Council so agreed.

42 CONSIDERATION OF ANNUAL REPORTS OF THE SUBSIDIARY BODIES OF THE COUNCIL FOR TRADE IN GOODS

42.1. The Chairperson noted that, pursuant to the "Procedures for an Annual Overview of WTO Activities and for Reporting under the WTO" (WT/L/105), which were adopted by the General Council on 15 November 1995, all bodies constituted under Agreements in Annex 1A of the WTO Agreement were required to submit a factual report to the Council for Trade in Goods annually, and the Council was to take note of these reports.

42.2. Such factual reports were adopted at the last meeting of each subsidiary body and submitted to the CTG for its consideration. In the case of the Committees on Agriculture, the corresponding factual reports would be submitted to the General Council directly.

42.3. The Chairperson proposed that the Council take note of the following factual annual reports: Committee on Anti-Dumping Practices (G/L/1366); Committee on Customs Valuation (G/L/1372); Committee on Import Licensing (G/L/1369); Committee on Market Access (G/L/1377); Committee on Rules of Origin (G/L/1378); Committee on Safeguards (G/L/1367); Committee on Sanitary and

¹² The Chairperson's factual report was distributed to all delegations. Since no delegation proposed changes to it within the deadline established, the report was circulated under document G/C/67.

Phytosanitary Measures (G/L/1376); Committee on Subsidies and Countervailing Measures (G/L/1368); Committee on Technical Barriers to Trade (G/L/1379); Committee on Trade Facilitation (G/L/1375); Committee on TRIMs (G/L/1363 and G/L/1363/Corr.1); Committee of Participants on the Expansion of Trade in Information Technology Products, ITA (G/L/1371); Working Party on State Trading Enterprises (G/L/1370); and Pre-shipment Inspection and Independent Entity (G/L/1373).

42.4. The Council so agreed.

43 ADOPTION OF THE ANNUAL REPORT OF THE COUNCIL FOR TRADE IN GOODS TO THE GENERAL COUNCIL (G/C/W/787)

43.1. The Chairperson drew Members' attention to the draft report of this Council to the General Council, circulated in document G/C/W/787. In accordance with the "Procedures for an Annual Overview of WTO Activities and for Reporting under the WTO" (WT/L/105), which had been adopted by the General Council on 15 November 1995, it was agreed that "[T]he respective sectoral Councils should report in November each year to the General Council on the activities in the Council as well as in the subsidiary bodies" and that the reports of the sectoral Councils should be "factual in nature, containing an indication of actions and decisions taken, with cross-references to reports of subordinate bodies and could follow the model of the GATT 1947 Council reports to the CONTRACTING PARTIES".

43.2. He noted that the draft report before Members would be updated in light of the present meeting.

43.3. The delegate of Hong Kong, China indicated the following:

43.4. In paragraph 24.1 there is a factual correction as Hong Kong, China did not make a statement under this item.

43.5. The delegate of the United States indicated the following:

43.6. The US guidance was not delineated in terms of sections, but the US has some minor edits that it will request in writing. For example, in the current draft, paragraphs 19.1 and 19.2 provide a prejudicial description of that issue. The United States also requests, given the number of bracketed paragraphs that will not be finalized until after this meeting, that the Secretariat seek Members' consensus on the Annual Report through a written procedure.

43.7. The Chairperson proposed that the Secretariat subsequently circulate the revised draft report in a communication to Members indicating a deadline for comments before its formal adoption.¹³

43.8. The Council so agreed.

44 OTHER BUSINESS

44.1 Procedures to Enhance Transparency and Strengthen Notification Requirements under WTO Agreements (JOB/GC/204/Rev.4 JOB/CTG/14/Rev.4)

44.1. The Chairperson recalled that, at the start of the meeting, it was indicated by the United States that they wished to refer to this issue, on behalf of the co-sponsors, to inform Members about an update on this proposal.

44.2. The delegate of the United States indicated the following:

44.3. The United States is speaking as one of the co-sponsors of this proposal. Our revision to the Notification Proposal, entitled "Procedures to Enhance Transparency and Strengthen Notification Requirements Under WTO Agreements" has been issued for this meeting as document JOB/CTG/14/Rev.4 and document JOB/GC/204/Rev.4. The revision reflects that the proposal now has a total of 11 co-sponsors. The proposal continues to have strong support. In the

¹³ The Annual Report of the Council for Trade in Goods was adopted by written procedures on 3 December 2020 and circulated as document G/L/1381, dated 4 December 2020.

current challenging environment, the co-sponsors remain committed to this effort to strengthen WTO institutional transparency and improve Members' compliance with notification obligations. The United States will continue its outreach to Members to explain and build support for this proposal and intends to return with a full update at the Council's spring meeting.

44.4. The Chairperson proposed that the Council take note of the statement made.

44.5. The Council so agreed.

44.2 Functioning of the CTG and its Subsidiary Bodies – Information from the Chair

44.6. The Chairperson reminded Members that an informal meeting of the Council had been held on 5 February 2020, organized by his predecessor, on the request of several Members at the meeting of November 2019. They had held informal consultations on a number of issues relating to the better functioning of the CTG and its subsidiary bodies. On that occasion, Members had welcomed the initiatives on elaborating on a tentative yearly plan of meetings; the reminders to delegations about dates of meetings and the closure of their respective agendas; the elaboration of CTG/Committee contact lists; the elaboration of a general e-mail address for delegates responsible for the CTG; and the scheduling of an annual briefing session addressed to new delegates; while some considered that other initiatives should be further discussed and contained in a specific proposal for Members for discussion. He noted that these were all housekeeping issues, as was the issue of time-keeping and efficiency in the running of meetings, including his encouragement not to repeat but rather to refer to previous statements where these would be identical. He referred again to the Rules of Procedure of the General Council, applicable also to this Council, and signalled his willingness to continue this discussion.

44.7. At the same time, he noted that the COVID-19 pandemic had delayed a lot of the Membership's work. Nevertheless, the Secretariat were preparing a yearly e-plan of meetings of the CTG and its subsidiary bodies, indicating when agendas would close. In this context, he noted that the issue of the scheduling of meetings across the Council and subsidiary bodies had been raised by many delegations, and future planning would be approached in such a way as to avoid clashes to the extent possible. He noted that such clashes in meeting dates were a problem for small delegations in particular, including his own.

44.8. He encouraged Members to reflect on all of the issues relevant to the Council's better functioning, noting a wish in this connection to see progress on the trade concerns raised, and even their resolution. In conclusion, he informed Members that it was his intention to invite them all to an informal meeting in the beginning of next year in order to discuss these issues further.

44.9. The delegate of Hong Kong, China indicated the following:

44.10. Last year, Hong Kong, China requested the inclusion of an agenda item on Better Functioning of the CTG and subsidiary bodies, to focus on small steps that could reduce the administrative burden of Members and the Secretariat, so that more resources could be devoted to substantive work in the WTO. These are not something merely nice-to-have but are practical enhancements to alleviate the pain points of Members in our day-to-day work. The year plan of meetings is an example. With this "can do" spirit, we could also tackle the new administrative challenges arising from the pandemic. The CTG is well positioned to encourage good practices among its subsidiary bodies. Hong Kong, China welcomes an informal platform which could provide the space for Members and the Secretariat to understand each other's particular challenges on administrative tasks, and to explore together ways to make the organization more effective.

44.11. The delegate of Canada indicated the following:

44.12. Just two closing points from Canada. One, support the informal discussions next year, and Canada considers this an important opportunity for Members to continue to elaborate and to think a little more about how best to operate these meetings, as has been an ongoing discussion for a number of years. Two, Canada also wants to take this opportunity to encourage all delegates to register themselves and their areas of responsibility in the e-registration system, where Members can pull up a list of the delegates who have indicated that they are responsible for the CTG, for

example. This makes it easier and faster for Members to identify their contacts and counterparts from other delegations.

44.13. The delegate of Paraguay indicated the following:

44.14. Paraguay understood that under this item Members would have the opportunity to look at the technical considerations for the CTG meetings. As this was not possible at the beginning of the meeting, Paraguay was wondering if there would be a specific meeting to discuss this because Paraguay would like to make its position clear. Paraguay understands that the technical considerations of the meeting have been the same here as in the last meeting, although the circumstances have certainly changed. There is more than one WTO meeting room equipped for Interpretify which means that meetings can take place simultaneously, and there is therefore no need to eliminate these meetings at the expense of others. Paraguay therefore thinks that there is no need to limit the time available for statements. In fact, this time-limit has not existed in recent meetings, as part of the virtual meetings that have been held and the number of topics on the agenda cannot be an argument for limiting the speaking time. In fact, in the TBT and other meetings in October and November, Members have taken longer than normal to finish their meetings.

44.15. These agendas should not just be seen as a simple procedure. The aim of them is not and cannot be to save time. The WTO monitoring function is fundamental to the Organization's work. Despite its disagreement with these time-limits, Paraguay has done its best to respect them. However, the limit of three minutes and the maximum of four minutes is insufficient, particularly for those delegations that are not making statements in English. Such delegations need to speak slowly for the interpreters, which is not possible within these limits, and added to which, there are also the problems with Interpretify, which do not allow Members to transmit their full message. These limits are having a significant impact on Members' ability to take part effectively, which is why yesterday, as well as not being able to slow down the speed of Paraguay's speeches, Paraguay was also obliged to remove entire paragraphs on specific aspects regarding questions that remain pending in relation to insufficient responses that we have had in other committees, particularly with regard to a multi-sector concern that has been debated in many of the subsidiary bodies of the CTG, including those whose scope goes beyond the CTG, such as the TPR. To ensure that this is reflected in writing, Paraguay is submitting its statements, but these do not have the same effect. This is a very political body, therefore, statements made here are also of a political nature, and therefore should be granted the necessary time. Paraguay acknowledges the flexibility that the Chairperson has shown, and no delegation has been cut off either. And Paraguay hopes that, in the future, and despite continuing in virtual format, Members will not have these limits and can therefore continue as usual with these procedures without them having any impact against us.

44.16. In this regard, Paraguay would like to say that, while consultations have been held in CTG subsidiary bodies, at the last cluster of meetings, in November, on these procedures, this issue was not raised. The exceptional use of such procedures in these circumstances should not be a rule for the future. Therefore, the logistical aspects, which modify the functioning of the CTG, need to be discussed and approved by the Membership. Rule 22 of the Rules of Procedure found in document WT/L/161 says that an intervention can be limited but only with the agreement of the Member. Rule 23 says that, to the extent possible, statements will be brief, and that a more detailed statement can be sent, but this is a best endeavour clause. Another provision on best endeavour is in Rule 24, which says that Members will do everything possible to avoid repeating themselves, but it does not make any specific reference to previous statements.

44.17. Finally, Paraguay would like to note that, despite these logistical restrictions, Paraguay understands that there is a proposal which needs to be discussed by the CTG. Therefore, Paraguay will not go into further detail, although it would like to highlight that this proposal, to date, does not have the necessary consensus of Members and that there are still divergences. Therefore, Paraguay cannot refer to these guidelines as a rule, or implement the recommendations in committees and Councils of the WTO.

44.18. The representative of the United Kingdom indicated the following:

44.19. The United Kingdom supports efforts to improve the functioning of the CTG, and the Chairperson's suggestion of convening an informal meeting on this. While Members will need to discuss their views on different possible approaches in the informal meeting that has been proposed,

the United Kingdom certainly welcomes the fact that the Chairperson is looking for ways to make Members' exchanges in this Council more effective.

44.20. The delegate of Colombia indicated the following:

44.21. Colombia thanks the United States and Paraguay for their comments on this topic. Colombia appreciates the need for flexible and productive sessions but believes that Members should be cautious when it comes to adopting a "one-size-fits-all" approach. The discussions that reach and take place here in the CTG, are important, serious, and challenging for all Members and their local audiences in terms of developing levels of production in economic terms. As such, it is not a matter of simply rubber stamping these issues on the same basis for all Members and all interventions. The Chairperson is right that Members must use the time responsibly and with utmost precision. Nevertheless, Colombia thanks the Chairperson for his proposal and would invite him at the beginning of next year to discuss flexible alternatives with the Membership in order to reflect a better balance.

44.22. The delegate of Costa Rica indicated the following:

44.23. Costa Rica agrees with the points sketched out by the United States at the beginning of this meeting today and with what was just said by the delegations of Paraguay and Colombia. As Costa Rica sees it, time restrictions are to be applied only in exceptional circumstances and, as such, Costa Rica urges the Chairperson and the Secretariat to consider alternatives for organizing meetings to ensure that time does not become a limiting factor for the presentation and discussion of concerns such as those that have been before Members in recent days. Costa Rica has maintained a consistent stance on time-limits, both in this Council and its subsidiary bodies. Costa Rica does not feel time-limits are the best way to resolve the issue of increased trade concerns taking up the Council's time. Rather, what is needed to deal with this is willingness on the part of Members to address the trade concerns which are arising ever more frequently. Lastly, Costa Rica agrees with the Chairperson as to the need to improve the way in which this Council works, and Costa Rica stands ready to work with the Chairperson to look for solutions, as Hong Kong, China mentioned, in the course of the consultations to take place early next year.

44.24. The delegate of the European Union indicated the following:

44.25. The European Union certainly believes that there is room to improve the way this Council works as well as the way Members interact. To this end, the EU stands ready to continue its engagement in the context of the informal consultations that suggested by the Chairperson. In this regard, the EU believes that it is useful to consider following some good practices, while also noting that it is a matter of genuine collective effort and the choice and responsibility of Members to follow such good practices. By way of preliminary food for thought, and in light of the discussions Members have had today and in previous meetings, the EU sees that a number of trade concerns are raised from subsidiary bodies, and notes that it may be useful to explore amongst Members how best this Council can add value to the discussions that happen in subsidiary bodies rather than just repeating them. The EU also believes that Members could further reflect on how to make the best use of time while, as mentioned by several Members, and by the Chairperson, Members should not lose sight of the prime objective, which is to better address and possibly to resolve their trade concerns. Therefore, the EU looks forward to the informal consultations early next year.

44.26. The delegate of Mexico indicated the following:

44.27. Mexico echoes Members' concerns on this issue. Mexico appreciates the special circumstances and the need to render these meetings much more efficient, and Mexico also understands the high cost entailed by virtual meetings. However, Mexico also recognizes the fact that the imposition of time-limits on speaking could hamper Members' ability to get their points across. Nevertheless, the Chairperson can rest assured that Mexico will provide support in trying to find a balanced approach to addressing these concerns from all sides.

44.28. The delegate of Guatemala indicated the following:

44.29. Guatemala shares the concerns expressed by previous speakers. Guatemala also agrees that it should be up to Members to decide whether or not they choose voluntarily to submit a written

statement prior to a meeting. It is important to improve the functioning of the Council but it is also important to recognize the importance of the discussions, which seek to improve the situation, or make inroads on trade concerns that have not been dealt with previously in the subsidiary committees. Indeed, participation in this Council is not just a matter of coming and reading a statement; rather, it is a matter of engaging in political discussions of the topics raised, as noted by other delegations. Guatemala feels that it is important to engage in consultations early next year with a view to improving the way in which this Council functions.

44.30. The delegate of Argentina indicated the following:

44.31. Like other delegations, Argentina shares the Chairperson's objective of improving the functioning and efficiency of this Council and the way it deals with its various agenda items. Various delegations also underscored the importance of reaching consensus on the procedures and guidelines to be followed when it comes to addressing the trade concerns brought before the Council. In this regard, Argentina echoes the remarks made on time-limits and the use of time. In any event, Argentina's interventions would not exceed three minutes. In this context, Argentina notes that it is not entirely happy about making reference to previous statements. Argentina is always pleased to hear about new developments in meetings but, generally speaking, such developments require responses from the Member in relation to whom the concern is being raised, although shifting the burden to the Member that must respond is often a challenge.

44.3 Date of Next Meeting

44.32. The Chairperson noted that the next meetings of the Council were scheduled to take place on 17 and 18 March 2021 and 10 and 11 May 2021. However, these dates would be confirmed in due course, as well as the date of the informal meeting to discuss better functioning.¹⁴

44.33. Regarding the closing of the agenda, he reminded delegations that, according to the Rules of Procedure, meetings of WTO bodies were convened by a meeting notice issued not less than ten calendar days prior to the date set for the meeting. The agenda itself therefore closed one WTO working day prior to the circulation of the meeting notice; that is, 11 calendar days before the date set for the meeting (or, if the date fell on a weekend, the previous Friday).

44.34. The meeting was closed.

¹⁴ The date of the next CTG meeting was subsequently confirmed for 31 March–1 April 2021, with the agenda closing on 18 March 2021. The date of the following CTG meeting was announced for 8-9 July 2021, with an agenda closing date of 25 June 2021.