



Committee on Market Access

**MINUTES OF THE COMMITTEE ON MARKET ACCESS
9 OCTOBER 2018**

CHAIRPERSON: MS ZSÓFIA TVARUSKÓ (HUNGARY)

The Committee adopted the agenda as reproduced in document WTO/AIR/MA/8, with the inclusion of the following item under Other Business: Russian Federation – Quantitative Restriction on Export of Birch Logs – Statement by the European Union. An annotated agenda was circulated in document JOB/MA/136.

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1. INTRODUCTION OF HARMONIZED SYSTEM CHANGES TO SCHEDULES OF CONCESSIONS – STATUS REPORT

1. The Chairperson informed Members that considerable progress had been made in the overall status of the different HS transpositions.

– HS96 (L/6905 and WT/L/756)

2. The Chairperson informed Members that the schedules of concessions of all the 64 developing countries and LDCs Members listed in the Annex of the Special Procedures in document WT/L/756 had been successfully transposed into HS96 and certified. She noted that one file remained pending in HS96, of the Bolivarian Republic of Venezuela, which was ongoing under a separate procedure on the basis of GATT document L/6905.

3. The Committee took note of the Secretariat's report.

– HS2002 (WT/L/605 and WT/L/807)

4. The Chairperson reported that 114 schedules of concessions had been transposed and certified. She noted that there were three schedules pending, from China, the Philippines, and the Bolivarian Republic of Venezuela. The Chairperson indicated that she understood that Members were actively engaged in two of these three cases.

5. The Secretariat added that a revised report had been circulated in document JOB/MA/42/Rev.23, dated 8 May 2018. The status of the HS2002 transposition files after the multilateral review of 28 May 2018 was as follows: 115 files had been certified or were in the process of certification; one file had been released for multilateral review and other Members had commented on it; and one draft file had been completed and sent to Members for its first review. Finally, 18 Members had not been affected by the transposition, as eight Members had acceded in HS2002, another eight Members had acceded in HS2007, and two Members had acceded in HS2012.

6. The Committee took note of the Secretariat's report.

– **HS2007 (WT/L/673 and WT/L/830)**

7. The Chairperson reported that 108 schedules of concessions had been transposed and certified, and that only 17 schedules remained pending.

8. The Secretariat added that a revised report had been circulated in document JOB/MA/104/Rev.18, dated 8 May 2018. The status of the HS2007 transposition files after the multilateral review of 28 May 2018 was as follows: 108 files had been certified or were in the process of certification; one file had been released for multilateral review and other Members had commented on it; two files had been released for multilateral review and would be examined at the next meeting; four draft files had been completed and sent to Members for their first review; and 10 draft files remained to be prepared. Finally, ten Members had not been affected by the transposition as eight Members had acceded in HS2007 and two Members had acceded in HS2012.

9. The Committee took note of the Secretariat's report.

– **HS2012 (WT/L/831)**

10. The Chairperson reported that 87 schedules of concessions had been transposed and certified, and that only 45 schedules remained pending.

11. The Secretariat added that a revised report had been circulated in document JOB/MA/129/Rev.4, dated 8 May 2018. The status of the HS2012 transposition files after the multilateral review of 28 May 2018 was as follows: 88 files had been certified or were in the process of certification; two files had been released for multilateral review and other Members had commented on them; six files had been released for multilateral review and would be examined at the next meeting; seven draft files had been completed and sent to Members for their first review; and 30 draft files remained to be prepared. Finally, two Members had not been affected by the transposition as they had acceded in HS2012.

12. The Committee took note of the Secretariat's report.

2. INTRODUCTION OF HARMONIZED SYSTEM 2017 CHANGES TO SCHEDULES OF CONCESSIONS USING THE CTS DATABASE (WT/L/995) – NOTES ON METHODOLOGY (JOB/MA/135)

13. The Chairperson drew Members' attention to the document that had been prepared by the Secretariat entitled "Transposition of Members' CTS Files to the HS2017 Nomenclature: Notes on Methodology" (JOB/MA/135). She noted that this document was similar in nature to the methodology notes that had been prepared for previous transpositions, with the latest (for HS2012) contained in document G/MA/330.

14. A member of the Secretariat (Mrs Alya Belkhodja) described the contents of the document. She recalled that the procedural and general technical aspects had been adopted by the General Council Decision of 7 December 2016 (document WT/L/995), which had tasked the Secretariat with assisting Members in preparing their submissions for the HS2017 transposition exercise, and with verifying the submissions provided by Members that had prepared their own submissions. She explained that the proposed "Notes on Methodology" document for the HS2017 transposition exercise was similar to that used for the HS2012 transposition, but that it had also built upon the experience gained from previous transposition exercises. It also included measures proposed to improve the efficiency and quality of the work, including several simplifications of the transposition process and a standard procedure for verifying Members' submissions. Finally, she explained that the document was organized into seven sections and an Annex, as followed: (i) Section 1 provided an overview of the HS2017 amendments and a categorization of those changes; (ii) Section 2 elaborated upon the manner in which those changes would be introduced into the WTO Schedules of concessions and included detailed examples; (iii) Section 3 described the general methodology that the Secretariat would follow in the transposition; (iv) Section 4 discussed selected methodological issues, and concluded that certain simplifications, that were in line with the general mandate, might be required in order to avoid unnecessary complexity in the resulting HS2017 schedules; (v) Section 5 followed by describing the proposed simplifications; (vi) Section 6 presented the format of the transposition file; (vii) Section 7 described the general procedure that

would be followed by the Secretariat for verifying Members' submissions; and (viii) the Annex presented the complete HS2017 to HS2012 correlation table.

15. The representative of China thanked the Secretariat and noted that China would need more time to review the document's content. She suggested that the Committee continue its discussion of this item at its next meeting.

16. The representative of the United States thanked the Secretariat for preparing this document and noted that her delegation did not have any comments at that time. Nevertheless, she reserved the United States' right to revisit the methodology should any issues arise subsequently.

17. The representative of South Africa noted that South Africa did not have any comments at that time. She requested to discuss the note at the next meeting and to have a detailed presentation by the Secretariat regarding the parts of the note that built on experience gained from the previous transposition exercise.

18. The Committee took note of the Secretariat's report and of the statements made and agreed to revert to this issue at the Committee's next meeting.

3. EXTENSION OF THE HS-RELATED WAIVERS

19. The Chairperson recalled that the General Council had agreed to extend the relevant waivers for a number of Members on the basis of a "collective decision". These were the most recent: HS2002 (WT/L/1026); HS2007 (WT/L/1027); HS2012 (WT/L/1028); and HS2017 (WT/L/1029, WT/L/1029/Add.1 and WT/L/1029/Add.2). She noted that these waivers would expire on 31 December 2018. As the Members concerned had yet to complete their relevant procedures, she proposed that the Committee extend all of these collective waivers for an additional year, until 31 December 2019. She indicated that, if Members agreed, she would then propose that the Committee forward the draft waiver decisions granting such an extension, as contained in documents G/C/W/756, G/C/W/757, G/C/W/758 and G/C/W/759, to the General Council, through the Council for Trade in Goods (CTG), for appropriate action.

20. The Committee agreed.

4. OPERATION OF THE INTEGRATED DATABASE (IDB), INCLUDING STATUS OF SUBMISSIONS (G/MA/IDB/2/REV.48), AND THE CTS DATABASE – STATUS REPORT

21. The Chairperson noted that the report by the Secretariat was contained in document G/MA/IDB/2/Rev.48 and its corrigendum.

22. A member of the Secretariat (Mrs Alya Belkhodja) presented an update regarding the status of submissions. She noted that there were no new notifications received as of Friday, 5 October 2018, which had been the cut-off day for the report. The deadline for import submissions had been 30 September 2018 for 2017 imports, but for the 23 Members of the Preferential Trade Agreements (PTA) Transparency Mechanism, which required that inputs be submitted by preferential duties schemes, the deadline would be extended until end-October 2018.

23. The Chairperson drew Members' attention to the fact that the IDB Decision had been approved in 1997 by the General Council, in document WT/L/225. She noted that, over the past 20 years, the IDB had become an indispensable tool that Members, other international organizations, academia, traders, and the public, used to access reliable trade and tariff information. The scope of the database had been defined in documents G/MA/IDB/1/Rev.1 and G/MA/IDB/1/Rev.1/Add.1. However, significant changes had occurred during the course of the previous 20 years. Data needs and information sources had grown considerably, and Members had, since then, agreed to new notification requirements by other WTO bodies, such as the Trade Policy Review Body (TPRB), the transparency mechanism of the Committee on Regional Trade Agreements (CRTA), and the PTA-Transparency Mechanism of the Committee on Trade and Development (CTD). When the Committee on Market Access (CMA) approved the IDB project on 24 June 1997, the Chairman had noted *inter alia* that "when the Committee agreed, it would be possible to extend the scope of the PC IDB in the future to data other than those mentioned in document G/MA/IDB/1" (see

document G/MA/M/10). She asked Members if they wished to explore the possibility of revisiting the IDB Decision through an informal open-ended discussion to hear their views on this issue.

24. The representative of the United States thanked the Secretariat for the update and noted that, from her delegation's perspective, the IDB was an important tool in their daily work. She stated that there was a strong interest in ensuring that it was kept accurate and up-to-date. The United States concluded that it was open to revisiting the IDB Decision and was willing and interested in participating in any future discussions on this issue.

25. The representative of Canada supported an examination of the Decision with a view to ensuring that the information and data collected were relevant, as well as identifying potential new sources. He added that it was a good idea to review this to improve the effectiveness of the Committee's monitoring role.

26. The representative of the European Union also considered it important to review the IDB Decision and stated that the EU would participate in the consultations.

27. The representative of Switzerland thanked the Chair and the Secretariat for the update. She considered that it would be useful to have a discussion on the possibility of updating this decision, and noted Switzerland's interest in participating in the consultations.

28. The representative of Chinese Taipei expressed her delegation's support for the proposal and stated that Chinese Taipei would also like to participate in any future consultations.

29. The Committee took note of the Secretariat's report and of the statements made.

5. NOTIFICATIONS PURSUANT TO THE DECISION ON NOTIFICATION PROCEDURES FOR QUANTITATIVE RESTRICTIONS (G/L/59/REV.1, JOB/MA/101/REV.1)

30. The Chairperson recalled that the three issues under this agenda item were: (i) the examination of notifications received; (ii) the report from the Secretariat on the "Status of Notifications under the Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1)"; and (iii) the revised practical guide for the notification of quantitative restrictions (QRs), as prepared by the Secretariat. The Chairperson noted that, since the issuance of the Airgram, six new notifications had been received and were being processed by the Secretariat, from Japan; Hong Kong, China; Kazakhstan; Thailand; Chinese Taipei; and the United States. These notifications would be placed on the agenda of the Committee's next formal meeting.

A. Notifications

31. The Chairperson indicated that there were QR notifications from 11 Members to be reviewed. She noted that, since the Committee's previous meeting, in April 2018, and including the six QR notifications that were still to be processed, 16 new submissions in total had been received by the Secretariat. She was pleased to note that many of these new documents had been submitted by Members that had attended the informal capacity building workshop that had taken place in April 2018.

– Argentina (G/MA/QR/N/ARG/1/Rev.1, G/MA/QR/N/ARG/1/Rev.2)

32. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notification by Argentina that had been circulated in document G/MA/QR/N/ARG/1/Rev.1. The Chairperson noted that, since then, a new notification had been submitted by Argentina, which had been circulated in document G/MA/QR/N/ARG/1/Rev.2.

33. The representative of Switzerland noted that the notification only contained information relating to import or export prohibitions. As such, Switzerland considered this notification to be incomplete. For example, it did not give any information on goods subject to non-automatic import licences, even though Argentina had notified such licences to the WTO. Switzerland encouraged Argentina to add this information to its notification.

34. The representative of Argentina thanked Switzerland for its comments and the Secretariat for the collaboration that had been given to its experts in Capital who had submitted this notification. In this regard, Argentina noted that the workshop on quantitative restrictions had been extremely useful and had helped them to make progress with this notification. Argentina further noted that document G/MA/QR/N/ARG/1/Rev.2 included some changes to the previous document, as followed: the measures notified in the framework of the TBT Committee had been eliminated and the codes used in the 2nd column of the document relating to type of restrictions had also been changed. Finally, Argentina stated that Switzerland's comments would be transmitted to Capital for further clarification.

35. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *Brazil (G/MA/QR/N/BRA/1, G/MA/QR/N/BRA/2)*

36. The Chairperson recalled that the Committee had agreed to revert to the notification by Brazil for the periods 2012–2014 and 2014–2016. Questions had been raised by Switzerland and the United States. Brazil submitted a new notification for the period 2016–2018, which had been circulated in document G/MA/QR/N/BRA/2.

37. The representative of the United States thanked Brazil for its updated notification. The United States' understanding was that Brazil had prohibited the importation of coloured prints for theatrical and television markets, which meant that all films and television shows had to be printed locally within Brazil. This restriction had not been included in Brazil's notification. Thus, the United States asked if Brazil planned to update its QR notification to reflect this import prohibition and its justification for the measure.

38. The representative of Brazil noted that, as it had informed the Committee at its last meeting, its new notification on quantitative restrictions was based on the work of a task force that had been established for this specific purpose, and that it was a work in progress that would incorporate suggestions received from the Secretariat and Members, including Switzerland and the United States. With regard to the question from the United States, Brazil would forward it to Capital for consideration.

39. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *Cuba (G/MA/QR/N/CUB/4)*

40. The Chairperson drew Members' attention to a new notification from Cuba for the period 2018–2020.

41. The Committee took note of this notification.

– *European Union (G/MA/QR/N/EU/4)*

42. The Chairperson drew Members' attention to a new notification from the European Union for the period 2018–2020.

43. The Committee took note of this notification.

– *India (G/MA/QR/N/IND/2)*

44. The Chairperson recalled that India had submitted a new notification for the periods 2014–2016 and 2016–2018.

45. The representative of the European Union stated that the EU welcomed the fact that India had finally submitted its overdue notifications for the periods 2014–2016 and 2016–2018. The EU urged other Members with delays likewise to submit their notifications promptly. With regard to India's notification, the EU would engage bilaterally with India to clarify certain aspects of its notification

and would have an opportunity to revert to a particular quantitative restriction later during the meeting.

46. The representative of the United States noted that India had identified, under QR No. 65, an import prohibition on goods classified under HS heading 8517, which included telephones, cell phones, and other apparatus that transmitted voice, images, and other data. She asked if this prohibition applied to all products classified under HS 8517; if not, the United States asked India to specify which products classified under HS 8517 were subject to the prohibition, and under what circumstances. In addition, noting that one of the items on the agenda involved QRs implemented by India on certain pulses, although these were not included in India's latest notification, the United States asked when an updated QR notification reflecting these restrictions could be expected.

47. The representative of India informed Members that his delegation had submitted notifications to the Committee on Import Licensing and the Committee on Market Access. With regard to the intervention by the European Union, India welcomed the invitation to hold bilateral discussions with a view to clarifying certain issues. On the two issues raised by the United States, the first related to the coverage of item 65 in India's QR notification, which entailed restrictions on certain products classified under the HS 8517. In this regard, he had taken note of the questions and would forward them to Capital for consideration. With regards to the QRs on pulses, and the request from the United States to specify a WTO clause, India informed Members that these measures were temporary. The representative noted that the provisions governing such measures as they required legal examination, and that his delegation would revert back to the Committee on this issue at a later date.

48. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *Kazakhstan (G/MA/QR/N/KAZ/1)*

49. The Chairperson recalled that, at its last meeting, the Committee had agreed to revert to the notification by Kazakhstan for the period 2016–2018. Questions had been raised by Ukraine and Switzerland. A new submission by Kazakhstan had been circulated in document G/MA/QR/N/KAZ/1/Corr.1.

50. The representative of Switzerland recalled that his delegation had asked questions to Kazakhstan in April 2018 and that the notification had been amended accordingly. As a follow-up, regarding QR Number 17 on precious metals, he noted that the WTO justification provided by Kazakhstan had been GATT Article XX(h) and that, according to this provision, the country must also restrict its domestic production or consumption. Therefore, Switzerland asked Kazakhstan which restrictions had been imposed to limit its domestic production or consumption of precious metals.

51. The representative of Kazakhstan asked Switzerland to submit its question in writing for consideration in Capital.

52. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *Mauritius (G/MA/QR/N/MUS/4)*

53. The Chairperson drew Members' attention to a new notification by Mauritius for the period 2018–2020.

54. The Committee took note of this notification.

– *Mexico (G/MA/QR/N/MEX/1/Rev.1, G/MA/W/126, G/MA/W/138)*

55. The Chairperson recalled that, at its previous meeting, the Committee had agreed to revert to the notification by Mexico for the period 2014–2016. The European Union had submitted questions, circulated in document G/MA/W/126, and Switzerland had raised questions at that meeting. Since then, Mexico had submitted answers to these questions, which had been circulated in document G/MA/W/138.

56. The representative of the European Union thanked Mexico for its replies to the EU's questions on non-automatic licences, which had been circulated in May of that year. The EU was satisfied with the replies and had no further questions.

57. The Committee took note of the notification and of the statements made.

– *New Zealand (G/MA/QR/N/NZL/3)*

58. The Chairperson drew Members' attention to a new notification by New Zealand for the period 2018–2020.

59. The Committee took note of this notification.

– *Russian Federation (G/MA/QR/N/RUS/2, G/MA/QR/N/RUS/3, G/MA/W/119)*

60. The Chairperson recalled that, at its last meeting, the Committee had agreed to revert to two notifications from the Russian Federation for the periods 2014–2016 and 2016–2018. The European Union had raised questions, which had been circulated in document G/MA/W/119. At the Committee's previous meeting, additional questions had been raised by Ukraine and Switzerland. The Russian Federation had then submitted a new document, which had been circulated as document G/MA/QR/N/RUS/3/Corr.1.

61. The representative of the European Union reiterated the EU's concern over the Russian Federation's export ban on raw hides and skins. The EU noted that the ban had been first introduced by Government Decree No. 826 of 19 August 2014, for six months, and that the measure had been presented as temporary. However, the measure had since been renewed several times. The EU further noted that the latest measure, Resolution No. 650 of 5 June 2018, had extended the ban from 10 June to 10 December 2018, meaning that, by December 2018, this ban would have been in force for four-and-a-half years. The EU's understanding, and presumably that of other Members, was that a ban that had been in force for a period of four-and-a-half years could not be considered to be a "temporary ban" in the sense of GATT Article XI(2). Therefore, the EU urged the Russian Federation to put an end to the consecutive renewal of this export ban. In addition, the EU thanked the Russian Federation for its written response of 2016 to the EU's questions contained in document G/MA/W/119. Nevertheless, the EU would appreciate receiving updated and detailed explanations in response to its oral and written questions regarding this ban, notably as concerned the following: (i) why hides and skins continued to be essential to the Russian Federation; (ii) why the Russian Federation considered there to be a critical shortage of this product; (iii) why the Russian Federation considered that the issue could best be addressed by a temporary measure, or if, rather, a more permanent, WTO-compatible solution was needed; and (iv) what the volumes of hides and skins that had been produced in the Russian Federation were since 2014, and what the volume that had been used by Russian industry was for the same period. Her delegation indicated that it would appreciate a response at least to these four questions out of the 19 that had originally been submitted.

62. The representative of Switzerland recalled that his delegation had already asked the Russian Federation about several of its restrictions. Switzerland now had a follow-up question that was similar to the question asked by Kazakhstan, namely if the Russian Federation could indicate which restrictions had been imposed with a view to restricting its domestic production or consumption of precious metals.

63. The representative of Ukraine echoed the concerns that had been expressed by the European Union. Ukraine noted that the imposition by the Russian Federation of the temporary ban on export of leather semi-finished products four times in a row since 2014 indicated the systemic nature of this measure.

64. The representative of the Russian Federation thanked delegations for their interest in Russia's notifications, and emphasized that the measures at issue had been implemented for national defence procurement reasons, and that they fully complied with the WTO rules. The Russian Federation requested the EU and Switzerland to submit their questions in written form for further consideration.

65. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

– *United States (G/MA/QR/N/USA/2, G/MA/QR/N/USA/3, G/MA/W/116, G/MA/W/127)*

66. The Chairperson recalled that, at its last meeting, the Committee had agreed to revert to the notifications from the United States, which covered the periods 2014-2016 and 2016-2018. The European Union had circulated questions in documents G/MA/W/116 and G/MA/W/127.

67. The representative of the European Union noted that the EU had registered its concerns over trade in sturgeons numerous times in this Committee. In particular, the EU considered that it remained unclear why the United States considered, first, that wild and farmed sturgeons and their products were not separate categories, and second, that captive-bred sturgeon and its products were considered detrimental to the survival of wild stocks. The EU noted that, at past meetings of this Committee, the United States had informed Members about the ongoing reviews carried out by the US Fish and Wildlife Service on the listing of sturgeon species as endangered. The EU requested further updates in this regard.

68. The representative of the United States answered that there were no updates beyond those had been previously reported. She referred the European Union and other Members to the US statement made at the Committee's previous meeting, where a full update of the sturgeon species under review by the US Fish and Wildlife Service had been provided. In addition, the United States expressed its willingness to facilitate a discussion among the relevant authorities, as appropriate.

69. The Committee took note of the statements made and agreed to revert to this notification at its next meeting.

B. REPORT FROM THE SECRETARIAT (G/MA/QR/6)

70. The Chairperson drew Members' attention to document G/MA/QR/6 and its corrigendum, entitled "Status of Notifications under the Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1)". In this document, the Secretariat had summarized the status of notifications as of 28 September 2018. She noted that the Decision on Notification Procedures for Quantitative Restrictions provided that "Members shall make complete notifications of all quantitative restrictions in force by 30 September 2012 and at two yearly intervals thereafter". In this regard, she noted that although the situation had improved slightly, the overall compliance rate remained low. The Chairperson urged Members that had never notified, or that had failed to notify for the current biennial period (2018-2020), to comply with this important transparency provision; she also noted that the Secretariat was available to assist Members, if necessary.

71. The Committee took note of the Secretariat's report.

C. PRACTICAL GUIDE ON THE NOTIFICATION OF QUANTITATIVE RESTRICTIONS (JOB/MA/101/REV.1, JOB/MA/101/REV.2)

72. The Chairperson recalled that, at the Committee's previous formal meeting, the Secretariat had presented a revised version of the practical guide, which had taken on board a number of comments made by Members, and which had been circulated in document JOB/MA/101/Rev.1. At the request of one Member, the Chairperson had then encouraged Members to submit additional suggestions to the Secretariat. On 2 July 2018, the Secretariat e-mailed the suggestions that had been received by one delegation to all other delegations and, in response, two other Members had contacted the Secretariat. The Chairperson met with the three delegations concerned and, on 30 July, the Secretariat e-mailed a revised suggestion to Members. In response to that communication, two additional delegations then also contacted the Secretariat. The Chairperson recalled that the suggestions that had been received were editorial in nature and related to the references to dispute settlement reports. Bearing in mind all of the comments received, and that the practical guide was prepared under the Secretariat's "own responsibility and was without prejudice to the positions of Members or to their rights and obligations under the WTO", the text was aligned to the type of language that was used by the Secretariat in its Analytical Index. The revised version had been circulated in document JOB/MA/101/Rev.2.

73. The Committee took note of the document.

6. REPORT BY THE SECRETARIAT ON THE STATUS OF RENEGOTIATIONS UNDER ARTICLE XXVIII OF THE GATT 1994 (G/MA/W/123/REV.4)

74. The Chairperson drew Members' attention to the new revision of the "Factual Report on the Status of Renegotiations Under Article XXVIII of the GATT 1994". The Chairperson recalled that, at the Committee's previous meeting, Ukraine had proposed to modify the factual report to include a list of all Members that had submitted claims of interest, instead of simply noting their number. In this regard, the Chairperson reported that a small group consultation had been held on 1 October 2018, but that there had been no consensus on the proposal.

75. The Committee took note of the report by the Secretariat.

7. DRAFT REPORT (2018) OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS (CTG) (G/MA/SPEC/58)

76. The Chairperson noted that the Committee was required annually to submit a report on its activities to the CTG. The Chairperson noted that the Secretariat had circulated a draft report covering the activities of the Committee during the review period and that it would update the report in light of the comments made at the current meeting.

77. The Committee adopted the draft report and instructed the Secretariat to update it prior to its submission to the CTG.

8. REDUCTION OF MFN APPLIED DUTIES – COMMUNICATION FROM BELIZE (G/MA/W/139)

78. The Chairperson drew Members' attention to the communication by Belize in document G/MA/W/139, where Belize had informed Members that it had adjusted the MFN applied rates on certain products in line with its Schedule of concessions.

79. The representative of Canada noted that all Members recognized the importance of the TPR process, not just for transparency in terms of the trade policies and measures in place, but also in terms of a Member's self-examination of its own trade policies. Canada thanked the Secretariat for its work and Belize for adjusting their tariffs as communicated in this document.

80. The Committee took note of the document and of the statement made.

9. AUSTRALIA –DISCRIMINATORY MARKET ACCESS PROHIBITION ON 5G EQUIPMENT – STATEMENT BY CHINA

81. The Chairperson noted that this agenda item had been included at the request of China.

82. The representative of China stated that, in August 2018, Chinese telecom companies Huawei and ZTE, as well as Australian local telecom suppliers, had been informed by the Secretary of Australia's Department of Communications and the Arts that Huawei and ZTE had been prohibited from providing 5G technology to Australia. China noted that, to date, the prohibition had not been found in any official document by Australia. China submitted that the measure was: (i) inconsistent with GATT Article X, *Publication and Administration of Trade Regulations*, as laws, regulations or administrative rulings affecting the sale of import products had not been published promptly and in such a manner as to enable governments and traders to become acquainted with them; (ii) inconsistent with GATT Article XI, *General Elimination of Quantitative Restrictions*, as the prohibition led to QRs on telecom products imported from China; and (iii) inconsistent with GATT Article I, *General Most-Favoured-Nation Treatment*, as the treatment accorded to China's telecom products was less favoured than the treatment to the like products originating in other Members. Thus, China requested Australia to clarify the legal basis and specific details of this prohibition in writing, and urged Australia immediately to remove its prohibition on Chinese telecom products.

83. The representative of Australia thanked China for the opportunity to provide clarification on the matters that it had raised. He began by noting that ongoing and rapid technology changes were having a major impact on the global economy, and that the WTO Director-General had only recently spoken on this topic, namely how digital technologies were transforming global commerce, and the challenges and opportunities that this would create. Australia noted that, just as Members needed to ensure that the WTO's rules and the WTO itself remained relevant to the evolving global economy, governments also needed to consider the implications of these technological changes. In this context, Australia recognized the opportunities that 5G networks presented for economy-wide transformation. These networks would enable a new wave of innovation across the economy and would be used to connect other critical infrastructure, such as electricity and water. Government and businesses were increasingly storing and communicating large amounts of information on and across telecommunications networks and facilities. He added that, like other countries, the Australian Government was committed to safeguarding its critical national infrastructure, including in the telecommunications sector. In 2016, following extensive public consultations, the Australian Government had introduced to Parliament a Bill called the "Telecommunications and Other Legislation Amendment Bill 2016", which had introduced a regulatory framework to strengthen the security of Australia's telecommunications networks. As part of the explanatory memorandum accompanying the Bill – which was a matter of public record – it had been highlighted that the security and resilience of telecommunications infrastructure significantly affected the social and economic well-being of the nation. The key element of Australia's telecommunications security framework was a new security obligation: "[a]ll carriers, carriage service providers and carriage service intermediaries would be required to do their best to protect networks and facilities from unauthorised access and interference – including a requirement to maintain 'competent supervision' and 'effective control' over telecommunications networks and facilities owned or operated by them." The Australian delegate stated that, to ensure predictability and stability for investors and suppliers, and before the new laws had come into effect, the Australian Government had provided security guidance regarding 5G technology and the requirements of the legislative framework to the companies that would build this next generation of networks. He submitted that this security guidance had been provided based on careful, objective, and extensive review. In addition, he noted that the guidance had related exclusively to public 5G networks and that other networks and uses were therefore unaffected. He further noted that Australia had not proposed any restriction on the importation of equipment and that the Australian Government's statement on this security guidance was a matter of public record. This guidance had provided affected mobile network operators with a clear understanding of how their new legal obligations under the telecommunications security legislation could be expected to apply as 5G networks were developed. Therefore, Australia submitted that their approach had been non-discriminatory as it had not been targeted at any particular country or at suppliers from any particular country, and because the obligations applied equally to Australian-owned and foreign-owned carriers. Australia continued to welcome foreign business involvement in the telecommunications market, which was essential for the efficient and effective operation of Australia's telecommunications sector, and had engaged with relevant Members bilaterally on this issue and would continue to follow-up in this regard.

84. The Committee took note of the statements made.

10. ENLARGEMENT OF THE EUROPEAN UNION TO INCLUDE CROATIA - NEGOTIATIONS UNDER ARTICLE XXIV:6 OF THE GATT 1994 – STATEMENT BY THE RUSSIAN FEDERATION (G/SECRET/35/ADD.4)

85. The Chairperson noted that this agenda item had been included at the request of the Russian Federation.

86. The representative of the Russian Federation noted that the European Union had notified, in document G/SECRET/35/Add.2, of 26 July 2018, the conclusion of its negotiations under Articles XXIV:6 and XXVIII of the GATT 1994, which related to the modification of concessions in the EU Schedule in the framework of its enlargement to include Croatia. However, the Russian Federation did not consider these negotiations to have been concluded because the EU had failed to engage into negotiations with WTO Members having a principal supplying interest, as required by Article XXVIII:1 of the GATT. As had been elaborated in its communication, the Russian Federation had been recognized by the EU as a principal supplier of certain products. However, despite repeated calls on the EU to enter into compensatory adjustment negotiations, the EU had failed to engage in discussions with Russia. She recalled that the EU had argued that that the Russian "communication was sent long after the deadline set out in the applicable Procedures for Negotiations under

Article XXVIII of the GATT and, in addition, Russia's letter did not indicate any specific claim, and nor did it provide any supporting evidence". In this regard, the Russian Federation submitted that the principal argument that the EU relied upon in support of its position was paragraph 4 of the Procedures for negotiations under Article XXVIII of the GATT, but such argument did not withstand criticism. Firstly, because paragraph 4 of the Procedures stated that "any contracting party which considers that it has a principal or a substantial supplying interest ... should communicate its claim". However, she recalled that it had not been Russia, but the EU, which had determined the Russian Federation to be a WTO Member holding a principal or substantial supplying interest on the basis of its import statistics. Secondly, in respect of "Negotiating rights of Argentina in connection with the renegotiation of oilseed concessions by the European Communities" discussed at the GATT Council meeting held in November 1992: "the Director-General said that 'If the contracting party [which intends to negotiate for the modification or withdrawal of concessions under Article XXVIII:1] recognizes the claim [of principal or substantial supplying interest], the recognition would constitute a determination by the CONTRACTING PARTIES of interest in the sense of Article XXVIII:1'". The Russian Federation considered that it was enough for the two parties concerned to have agreed on this matter for it to constitute a "determination by the CONTRACTING PARTIES". Taking into account that the Russian Federation had not challenged the data that had been provided by the EU in its notification, her delegation submitted that the recognition of the Russian Federation as a principal supplier of certain products in the European Union's notification constituted a "determination by the CONTRACTING PARTIES". Otherwise, the EU would disagree with its own data, which was why paragraph 4 of the Procedures should not be applicable to a case where the other Member had not challenged the data provided by the Member renegotiating. The Russian Federation indicated that this thesis was also supported by paragraph 3 of the Procedures, which stated that "at the same time as the notification is transmitted or as soon as possible [...] the contracting party [intending to negotiate for the modification of concessions] should communicate to those contracting parties, with which concessions were initially negotiated, and those which had a principal supplying interest, the compensatory adjustments which it was prepared to offer". Thus, the Russian Federation considered that paragraph 3 of the Procedures provided for the possibility of simultaneous transmission of import statistics and compensatory adjustment proposal. Also, paragraph 3 of the Procedures did not contain any reference to paragraph 4 of the Procedures with the view of the determination of WTO Members holding a principal supplying interest. Thirdly, the Procedures did not establish rigid obligations. She clarified that this was not Russia's view, but an interpretation supported by the preparatory work of these Procedures and by the Panel in *EC – Poultry Meat*. By contrast, Article XXVIII:1 of the GATT and paragraph 4 of the Ad Note to Article XXVIII:1 of the GATT established obligations to negotiate with a WTO Member having a principal supplying interest. It was unclear to her delegation how, in the view of the EU, the guidelines would supersede the obligations established by the provisions of the GATT, as well as how a WTO Member, determined by the contracting parties as a principal supplier of certain products, could be deprived of its rights under Article XXVIII of the GATT. It appeared that the EU had violated Article XXVIII:1 of the GATT by not entering into negotiations with Russia. Thus, the Russian Federation objected to the conclusion of the EU negotiations under Articles XXIV:6 and XXVIII of the GATT and called upon the EU to engage in compensatory adjustment negotiations with Russia.

87. The representative of the European Union confirmed that her delegation had informed Members about the conclusion and outcome of the negotiations following Croatia's accession to the EU, 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 would be faithfully reflected in the EU-28 Schedule CLXXV, which was undergoing the process of certification, and which would soon be circulated with a list of rectifications as part of this process. In addition, the EU pointed 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 that had submitted a claim in conformity with the procedures and within the deadlines applicable under WTO rules, with a view to identifying if there existed an entitlement for compensation. Therefore, the EU reiterated that it had 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 most recent enlargement.

88. The representative of Japan shared the concerns of the Russian Federation over the EU's draft schedule. Japan expected the European Union appropriately to reflect the results of the consultations with other Members in its draft schedule and to finalize it without delay.

89. The Committee took note of the statements made.

11. THE EUROPEAN UNION – RENEGOTIATION OF TARIFF RATE QUOTAS UNDER ARTICLE XXVIII OF THE GATT 1994 – STATEMENT BY THE RUSSIAN FEDERATION (G/SECRET/42/ADD.1)

90. The Chairperson noted that this agenda item had been included at the request of the Russian Federation.

91. The representative of the Russian Federation recalled that the EU had notified, in document G/SECRET/42, of 24 July 2018, its intention to enter into negotiations under Article XXVIII of the GATT 1994. The Russian Federation expressed concern over the trade statistics that had been submitted by the EU, which included imports to the EU from the regional trade agreement partners and countries and territories that were not WTO Members. The Russian Federation considered that these trade statistics were not consistent with the concept of Principal Supplying Interest and Substantial Interest within the meaning of Article XXVIII of the GATT 1994. First, as had been elaborated in the communication by the Russian Federation, only WTO Members having a principal or substantial supplying interest could obtain the right to enter into compensatory adjustment negotiations. The countries and territories that were not Members of the WTO could not participate in these negotiations. The Russian Federation expressed concern over the fact that, by including countries and territories that were not WTO Members in the EU's data, which served as the starting point for the negotiation process, would distort the negotiating rights of WTO Members. Second, the Russian Federation noted that, according to paragraph 3 of the Understanding on the Interpretation of Article XXVIII of the GATT 1994, "in the determination of which Members have a principal supplying interest [...] or substantial interest, only trade in the affected product which has taken place on an MFN basis shall be taken into consideration". However, the data that had been submitted by the EU contained also data on imports from territories enjoying preferential treatment, which may unfairly be harming the negotiating rights of other WTO Members. The Russian Federation stated that, in its view, the EU's calculations should be based on total imports excluding those originating from the EU Regional Trade Agreement partners and countries and territories that were not WTO Members, thus reflecting the concept of Principal Supplying Interest and Substantial Interest. Therefore, the Russian Federation requested the EU to adjust its import data in accordance with the concept of Principal Supplying Interest and Substantial Interest provided for under Article XXVIII of the GATT, as well as under paragraph 3 of the Understanding on the interpretation of Article XXVIII of the GATT.

92. The representative of New Zealand registered his delegation's interest in this matter. New Zealand had expressed concern, at the general level, over the EU's proposal to reduce its bound tariff rate quota commitments in this way and, at the more detailed level, about the methodology and data provided by the EU, including identified errors that were still awaiting a response. The EU was proposing to modify commitments that covered a significant part of its trade in agricultural products. Consequently, New Zealand considered this to be a matter of systemic and general importance to the WTO Membership. In addition, New Zealand noted that the EU's proposal did not in any way address the EU's future obligations towards the UK, with whom the EU maintained a significant level of bilateral trade. New Zealand requested the EU to provide a more comprehensive and specific set of trade data in relation to its trade under WTO MFN terms, as such a process required.

93. The representative of Japan stated that her delegation also had a significant interest in this issue from the point of view of the impact that the apportionment of tariff rate quotas (TRQs) would have on actual trade. Japan considered it important that all trade statistics provided by the EU were appropriate to allow for a correct analysis. Japan echoed the concerns voiced by the Russian Federation on this issue. Japan requested the EU to provide a detailed explanation of whether or not the import data of the global TRQs attached to the draft EU schedule included data from the bilateral FTA with the EU or import data that exceeded the TRQ quantitative thresholds. In this regard, Japan requested the EU to provide, for example, an explanatory note regarding the import statistics that included its responses to Members' concerns. Japan expected the EU to provide follow-up information as soon as possible because the EU's deadline for the submission of claims was approaching. Moreover, Japan asked why the EU draft schedule had not included a clarification on the reduction of its Aggregate Measure of Support (AMS) while the UK draft schedule did show the UK share of AMS. In addition, she pointed out that the EU had been using different amendment procedures concerning their TRQs and AMS. Finally, Japan emphasized the importance of finalizing the draft

EU schedule soon after Brexit in order to ensure legal stability under the WTO Agreement; indeed, Japan considered it important that there be a high level of transparency in all future processes relating to this issue.

94. The representative of Canada registered his delegation's interest in this matter. Canada had questions regarding the approach that the EU had taken to modify its WTO commitments concerning TRQs. In particular, Canada had questions regarding the methodology as well as the data that had been used to determine the apportionment of TRQs. He considered that there had been a lack of certainty with regard to whether or not post-Brexit UK trade would be eligible for EU WTO MFN quotas.

95. The representative of Uruguay also registered Uruguay's interest in this topic. Uruguay highlighted the importance of clarifying any discrepancies in the information provided concerning statistics.

96. The representative of Australia registered his delegation's strong interest in this issue as an exporter of agricultural products covered by TRQs in the EU. Australia shared the concerns that had been raised about the data provided by the EU to enter into Article XXVIII negotiations. Australia also expressed its concerns over the data in Annex 3 of the notification, because of the following: (i) preferential trade from WTO Members with arrangements with the EU that had been included; (ii) imports for countries that were not WTO Members that had been included; (iii) data not supplied for the actual "*erga omnes*" TRQs that the EU was proposing to modify; and (iv) import data being only for the EU27, which meant that the EU had excluded the UK from its import data. Australia considered that these issues skewed the data and made it difficult to make a claim of interest in certain circumstances. Australia expected the EU to ensure that the "value" of its existing market access was maintained, not just the total "volume" of existing TRQs. Australia further submitted that the proposed modifications to tariff quotas would lead to economic loss by removing flexibility as to where products were sent year-to-year and by making some quota allocations too small to be commercially viable. Australia concluded by noting that it would submit a claim of interest to the EU.

97. The representative of United States expressed her delegation's concern over the accuracy of the data that had been provided by the EU. Her delegation believed that the EU apportionment proposal, as it stood, did not reflect commercial realities and would result in a loss of market access for the United States. The United States appreciated the information that had been provided by the EU and looked forward to submitting its claim of interest soon and to engaging directly with the EU.

98. The representative of Brazil noted that his delegation was currently reviewing the data that had been provided by the EU regarding the process of renegotiation of TRQs under Article XXVIII. In order to react to the EU's proposal to change its commitments, Brazil would need a more detailed set of trade data, which reflected the distribution of trade for the TRQs under negotiation. More specifically, given that Members were invited to submit claims of interest per TRQ, and the trade data that had been provided referred to tariff lines, Brazil submitted that the task of identifying negotiating rights had become unfeasible. Moreover, Brazil further submitted that the EU statistics included trade that had taken place not only on an MFN but also on a non-MFN basis, which was not in conformity with the provisions of paragraph 3 of the Understanding on the Interpretation of Article XXVIII. Brazil also noted that the draft schedule that had been used by the EU as a reference for negotiations under Article XXVIII had not been certified. Therefore, despite considering valid the negotiations based on that schedule, Brazil reserved the right to refer to the EU certified Schedule CLXXIII.

99. The representative of Thailand also registered his country's interest in this important issue in light of Thailand's numerous trade ties with the European Union. He stated that Thailand looked forward to receiving more fully comprehensive and complete information from the EU.

100. The representative of Colombia indicated that his delegation wished also to record its interest in this matter. Colombia considered it important to receive more details with regard to the sources and methodology of the statistical database that had been circulated to the Membership, as well as on the information on the use of TRQs that had also been circulated.

101. The representative of Argentina recorded his delegation's interest in this matter. Argentina believed that it was necessary to be given greater clarity as concerned the statistics that were going to be used throughout this procedure.

102. The representative of Mexico also placed on record her country's interest in this issue. Mexico was following with great attention and in detail the questions and concerns that had been presented by Members regarding the methodology and data presented. Mexico concluded that it expected the European Union to submit new information very soon.

103. The representative of China expressed her delegation's significant interest in this issue and shared the questions and concerns of other Members regarding the EU's data and methodology.

104. The representative of India noted his delegation's significant interest in the EU's methodology. His Capital was working on this issue and would be submitting its concerns to the EU in due course.

105. The representative of Cuba also noted Cuba's interest in this matter; its concerns had already been transmitted to the EU.

106. The representative of the European Union answered by pointing out that the title of the communication by the Russian Federation was misleading as it referred to the enlargement of the EU and Article XXIV:6 negotiations, which was not the subject of the communication. With regard to the subject of the communication itself, the EU recalled that it had notified WTO Members of its intention to modify the concessions on all its tariff-rate quotas, as a consequence of the upcoming withdrawal of the United Kingdom from the European Union, in document G/SECRET/42. The EU would carefully analyse any claims submitted by Members and carry out the ensuing consultations and negotiations with the appropriate Members in full conformity with its WTO obligations. With regard to the point that had been made in the communication from the Russian Federation on the certification of the EU-28 schedule not yet being completed, the EU agreed that the schedule had not yet been certified. However, this did not prevent the EU from modifying its presently existing commitments under the procedures of Article XXVIII. The EU invited Members to share their statements or questions in writing.

107. The Committee took note of the statements made.

12. RECTIFICATIONS AND MODIFICATIONS OF SCHEDULE XIX-UNITED KINGDOM – STATEMENT BY THE RUSSIAN FEDERATION

108. The Chairperson noted that this agenda item had been included at the request of the Russian Federation.

109. The representative of Russian Federation referred to the document of the United Kingdom, document G/MA/TAR/RS/570 of 24 July 2018, which contained the draft UK schedule of concessions and commitments. The Russian Federation understood that the Brexit process was complicated, complex, and broad in scope, and considered it necessary to find a mutually acceptable solution to ensure the effective implementation and enforcement of the United Kingdom's rights and obligations under the WTO system. First, the Russian Federation found it unclear how the draft UK schedule could be based on a draft EU schedule that had not yet been certified. While it appeared logical, in drafting its schedule, that the UK had to rely upon the EU's WTO Schedule, the Russian Federation was nevertheless concerned about the possibility of replicating possible errors from the EU's schedule when undertaking the certification of the UK schedule. The Russian Federation objected to the EU proposal for modifications to its schedule because of pending compensatory adjustment negotiations in the context of the EU's enlargement to include Croatia. She further noted that the resolution of the issue of certification of the EU's schedule seemed to be pivotal in order to proceed with the UK schedule. Second, in Russia's view, the changes that had been proposed by the UK in its draft schedule were not of a "purely formal character" and could not be considered in the context of procedures for rectification provided for under paragraph 2 of the Procedures for Modification and Rectification of Schedule of Tariff Concessions of 26 March 1980. The Russian Federation considered that the market access conditions that had been proposed by the UK, for example, tariff-rate quotas, were different from those currently applicable by the EU under its WTO commitments. The Russian Federation considered that the United Kingdom had undertaken to comply with the EU WTO commitments entirely and not partially. Thus, the Russian Federation considered that the

elimination of tariff-rate quotas for a number of products in the UK draft schedule, which were currently subject to EU TRQs, appeared to be inconsistent with Article XXVIII of the GATT. The Russian Federation also noted the allocation of a separate share of quota to certain WTO Members, which was in contrast to the original country-specific allocation in the EU's Schedule. The Russian Federation highlighted that the legal basis for the UK introducing newly formatted tariff-rate quotas in its draft schedule remained unclear. The Russian Federation submitted that these modifications appeared to be inconsistent with Article XXVIII and Article XIII of the GATT. The decrease or elimination of quota shares for "Other" WTO Members or *erga omnes* constituted a less favourable treatment when compared to the Russian Federation's current access to the UK market as part of the EU market. For example, other Members' shares in the quota "Common wheat (medium and low quality)" had decreased by almost 10%, while the *erga omnes* sub-quota had been eliminated. This situation represented a substantial deterioration of market access and not a replication of concessions and commitments, as had been claimed by the UK. Also, the Russian Federation considered that this appeared to be inconsistent with Articles I:1 and XIII of the GATT. In addition, the allocation of quotas among a few countries appeared to be inconsistent with Article XI:1 as well as Article XIII:2 of the GATT, because the absence of the other Members' share in the quota represented a *de-facto* prohibition of market access for third countries. Overall, the UK proposals resembled a withholding or withdrawing of concessions rather than the procedures for rectifications. For these reasons, the Russian Federation objected to the proposed rectifications and modifications of the UK draft schedule. The Russian Federation concluded by noting its understanding that all modifications to the UK schedule must be made based on the authorization of all WTO Members, as required by Article XXVIII:4 of the GATT, and by negotiation and agreement with all interested WTO Members. The Russian Federation concluded that such negotiations were indispensable because the proposed UK modifications, as stated above, did not *per se* constitute a technical change of purely formal character.

110. The representative of Australia expressed his delegation's strong interest in this issue as an exporter of agricultural products falling within tariff quotas in the UK. Australia expected the UK to ensure that the "value" of existing market access was maintained, not just the total "volume" of existing TRQs. Australia stated that the proposed modifications to tariff quotas would lead to an economic loss, by removing flexibility where a product had been sent year-to-year and by making some quota allocations too small to be commercially viable. Australia looked forward to working with the UK to constructively resolve these concerns.

111. The representative of New Zealand registered his delegation's interest in this matter. New Zealand expressed concern over the approach that had been proposed by the EU for determining its own trade commitments post-Brexit, as this approach would result in substantial reductions in the quantity and quality of market access commitments, especially with regard to TRQs and AMS commitments for domestic support. New Zealand noted that the UK proposal did not identify how the EU would be treated in the UK's market access commitments. New Zealand further noted that these were matters of general and systemic concern, as well as of specific commercial concern for his country. New Zealand looked forward to further dialogue with the UK on these issues with the aim of identifying mutually acceptable ways forward.

112. The representative of Japan expressed her delegation's significant interest in this issue and Japan was currently analysing the draft UK schedule. Her delegation understood that the apportionment of the UK's TRQs was based on the import statistics included in the draft EU schedule, so it requested the UK, in parallel with the EU, to provide an explanation of the import statistics that had been used when apportioning TRQs. Regarding AMS, Japan stated that the information that was the basis for drafting the schedule, such as the calculation methodology of AMS, was required for a correct analysis. Furthermore, Japan requested information about the specific data that had been used to support the AMS calculations. Japan emphasized the importance of finalizing the draft UK schedule soon after Brexit to ensure stability under the WTO Agreement and a high level of transparency in the future process relating to this issue.

113. The representative of Uruguay placed on the record the significant interest of his country in this matter. In particular, Uruguay expressed its concern over the statistics provided and the methodologies used.

114. The representative of the United States thanked the Russian Federation for including this item on the agenda and recalled that her delegation had expressed, over the past several months, its deep concern over not having had the opportunity to negotiate directly with the UK over its future

schedule of concessions. Under the current UK proposal, the United States would lose market access in key sectors in the event of a hard Brexit and this would be unacceptable. The United States urged the UK to move quickly in determining how to resolve this issue with the United States and other Members. Finally, the United States considered that Brexit should not result in a loss of market access that had been established through previous negotiated outcomes.

115. The representative of Canada registered his delegation's interest in the matter. Canada noted that its concerns were similar to those that had been raised under the previous item but wished nevertheless to highlight two aspects. First, Canada was concerned over the TRQ volumes that had been established in the UK's draft schedule, because many of these were not commercially viable. Second, Canada was concerned about the methodology that had been proposed by the UK for its domestic support commitments. Canada looked forward to continuing the discussions and informed the EU that it would be submitting a claim of interest in the following days.

116. The representative of Brazil noted that, as had been discussed bilaterally with the UK, his delegation had reservations regarding the certification of its schedule because the proposal contained substantial modifications of WTO concessions. Brazil considered that one possible alternative to facilitate the certification processes would be the replication of the EU's schedule, which could then be used as a basis for a subsequent renegotiation under Article XXVIII. In case the UK chose to proceed with the current certification process, Brazil would require, as stated in the previous item, more detailed trade data correctly to assess the consequences of the proposed changes.

117. The representative of Thailand registered his delegation's interest in this issue and reported that they were currently reviewing the UK's draft schedule.

118. The representative of China noted her delegation's significant interest in this issue. Her Capital was currently reviewing the UK's draft schedule and would claim its interest on this issue in due course.

119. The representative of Mexico placed on record its interest in this matter. Mexico was following with great care the presentation made and comments made by other Members *vis-à-vis* the statistics and data provided. Mexico further shared Members' interest in the issue of the terms used for calculating the AMF.

120. The representative of Guatemala also placed on record its interest in this matter and expressed concern over the process of Brexit. Guatemala's concern was based primarily on how Members' rights and commitments would be ensured, as well as clarity with regard to the treatment of the EU of UK TRQs and AMS.

121. The representative of El Salvador also placed on the record El Salvador's interest. El Salvador considered that any change in the UK's Schedule of concessions should be negotiated with those Members having a trade interest in the matter. Furthermore, El Salvador agreed on the need to maintain the current level of market access and not to negatively affect the trade interests of the UK's trading partners. Finally, El Salvador expressed its wish to continue its discussion of this issue with UK in order to find balanced and beneficial solutions acceptable to all parties.

122. The representative of Honduras also recorded its delegation's interest in this matter.

123. The representative of Costa Rica also placed on record his delegation's interest in this issue and expressed Costa Rica's readiness to work with the UK throughout this entire process.

124. The representative of Argentina also placed on record its interest in this issue and reiterated Argentina's concern over the statistical data provided and methodology used during this procedure.

125. The representative of Colombia also placed on record its interest in this matter and noted, in particular, the importance of maintaining the same level of market access throughout the Brexit process. Colombia also stood ready to work with the UK on this issue.

126. The representative of Nicaragua stated Nicaragua's interest in this issue.

127. The representative of Ecuador recorded her delegation's interest in this matter. Ecuador had an interest to maintain its current market access and to ensure that the UK continued to comply with the commitments that it had undertaken as a member of the EU also after Brexit. Finally, Ecuador stood ready to discuss this issue with the UK.

128. The representative of the European Union recalled that, in view of the United Kingdom's upcoming exit from the European Union, the UK had submitted a draft schedule of concessions and commitments under Article II of the GATT 1994 for certification, pursuant to paragraph 3 of the Decision on Procedures for Modification and Rectification of Schedules of Tariff Concessions of 26 March 1980, the so-called "1980 Procedures" (BISD 27S/25). The draft schedule was contained in document G/MA/TAR/RS/570. The EU could not respond to a question on the UK's proposed goods schedule, which would apply only when the EU schedule stopped applying to the UK, as had been set out in document G/MA/TAR/RS/570. The EU invited the Russian Federation to follow the practice elaborated under the 1980 procedures for its consideration of the UK draft schedule. The EU understood that the Russian Federation had already engaged in bilateral conversations with the United Kingdom regarding the UK goods schedule and invited other Members to do the same.

129. The Committee took note of the statements made.

13. INDIA - CUSTOMS DUTIES ON TELECOMMUNICATION AND OTHER PRODUCTS – STATEMENTS BY CANADA, CHINA, THE EUROPEAN UNION, JAPAN, NORWAY, CHINESE TAIPEI, AND THE UNITED STATES (G/MA/W/120, G/MA/W/128)

130. The Chairperson recalled that this agenda item had been included at the request of Canada, China, the European Union, Japan, Norway, Chinese Taipei, and the United States. Some of these Members submitted questions to India, circulated in document G/MA/W/120, and to which India had replied in document G/MA/W/128.

131. The representative of the United States considered it unfortunate that her delegation had yet again to raise the issue of India's tariff increases on telecommunications and ICT products. However, she noted that, rather than responding to concerns that had been raised by the US and numerous other Members, India had undertaken additional concerning actions. Two weeks ago, India had submitted a proposed rectification and modification of its WTO Schedule XII, in document G/MA/TAR/RS/572, to unbind several concessions relating to subheadings in Chapters 84 and 85. After careful review, the United States believed that the proposed modifications would adversely affect the scope of concessions in respect of the goods concerned and, as such, these could not be considered rectifications. Thus, in the US' view, the proposed modifications were not within the terms of paragraph 2 of the 1980 Procedures. The United States had formally registered its objection to India's proposed rectification on 3 October 2018. Additionally, the United States had serious systemic concerns with India's proposed rectification: the very work of this Committee was based on the foundation that, with each set of HS nomenclature changes, Members undertook the necessary technical work and multilateral review to ensure that each Members' tariff concessions remained unchanged. This rectification suggested otherwise and could have a very significant impact on the very nature and meaning of WTO binding tariff commitments. The United States further indicated that India's proposed rectification included many products in which India had WTO binding commitments to provide duty-free access as per Schedule XII, as had been the subject of discussion in previous meetings of the Committee as well as of the CTG. The United States noted that, as had been raised by numerous other Members numerous times in this Committee and at the CTG, there were obvious discrepancies between India's WTO bound commitments to provide duty-free access to certain products, and the non-zero import duties that India was actually charging imported products at the border. The United States found it deeply troubling that India would suggest that these discrepancies could somehow be justified through a proposed schedule rectification.

132. The representative of Japan, together with the other co-sponsors, expressed concern over the issues relating to India's customs duties on ICT products. Japan had raised this issue many times, including at the last meeting, at the ITA Committee, and at the CTG. It was regrettable that the situation had not yet improved. Japan touched upon two points. First, Japan understood that, under India's WTO bound schedule, mobile phones (HS8517.12) and their parts (HS8517.70) were classified as zero duty goods at the six-digit level. However, as a result of a series of duty increases made by India's customs notifications and finance bill, mobile phones had been subjected to 20% customs duties and mobile phone parts had been subjected to 15% customs duties. Japan recognized that the series of duty increases made by India clearly violated India's binding

commitment and therefore had serious commercial and systemic concerns about this situation. Japan urged India immediately to withdraw the tariff raises on the ICT products in question. Pursuant to India's suggestion, Japan and India had been holding technical meetings; nevertheless, Japan had still not yet received any official response from India regarding the questionnaire on legal issues sent in April 2018. In this regard, Japan requested India to provide an official response. Second, Japan's understanding was that India had provided the proposal "rectification and modification of schedule (G/MA/TAR/RS/572)" on 25 September 2018. She stated that Japan could not accept India's unilateral action to rectify its binding commitment and reported that Japan was actively considering submitting an official objection. Japan believed that the intended scope of India's request for rectification was unclear and contained changes based on an uncertain basis. Hence, Japan requested India to provide to Members a more detailed explanation.

133. The representative of China noted that India had increased its applied rates on mobile phones and related parts since last year, and that some increases had exceeded India's bound rates in the WTO. China considered that this was inconsistent with the ITA and Article II of the GATT, Schedules of Concessions. China also noted that India had recently circulated a communication requesting the rectification of its HS2007 Schedule on certain ITA products. China was of the view that these products were within the scope of the ITA-1, and that India's measures were inconsistent with its commitment under the ITA and in its WTO Schedule. China urged India promptly to withdraw the customs duties on the products in question and to abide by its WTO bound rates.

134. The representative of the European Union noted that India's excessive applied tariffs on certain ICT products had been on the agenda of the Market Access Committee, the ITA Committee, and the CTG for several years now. The EU further noted that, since 2014, India had progressively increased its customs duties on ICT products, most recently in the context of the Union budget for year 2018-2019. In the EU's view, India's increased duty rates affected imports of products such as mobile phones, mobile phone components, and accessories such as static converters, base stations, or certain printers. The EU stated that these import duties constituted *prima facie* violations of India's WTO commitments to the extent that the tariff lines in question were subject to duty-free commitments in India's GATT Schedule of Concessions. The EU recalled that on several occasions, in a bilateral meeting (28 July 2018), at WTO meetings (the latest being the CTG meeting of 3 July 2018), and via several official letters, including Commissioner Malmström's letter of May 2018, the EU had raised the issue of basic customs duties on products which the EU considered to have been bound at zero in India's GATT schedule, and which were covered by the ITA-1, to which India was a party. The EU once more called upon India to reconsider these duty impositions or increases, which in the case of ICT products contradicted India's WTO commitments. The EU noted that the ICT products were also the subject of India's draft rectification of its Schedule of Concessions, communicated to WTO Members on 25 September 2018. The EU stated that, after careful assessment, it believed that the proposed changes in India's Schedule would alter the scope of India's concessions on the goods concerned and that the tariff lines in the draft rectification corresponded to India's commitments in the framework of ITA-1, the modification of its Schedule in 1996, and the successive evolution to the HS2002 and HS 2007 nomenclatures. Consequently, the EU considered that this draft rectification did not represent a change of purely formal character but, rather, that it would alter the scope of India's ITA-1 and GATT 1994 commitments. Finally, the EU had already objected in writing to the certification of India's draft rectification as it was not within the terms of paragraph 2 of the Decision of 1980 on the Procedures for Modification and Rectification of Schedules of Tariff Concessions.

135. The representative of Canada expressed Canada's continued disappointment that, despite the concerns already raised by WTO Members in this Committee, as well as at the CTG and the ITA Committee, India had maintained tariffs on ICT products above its bound commitments. Canada noted that the application of tariffs above India's bound rates on a broader range of ICT products remained inconsistent with India's WTO commitments and ran contrary to the objectives of multilateral tariff liberalization. Canada continued to have both systemic and commercial concerns with India's decision to introduce tariffs on ICT products in excess of its WTO bound commitments. India's attempt to address this situation by unbinding its commitments through a notification of rectification and modification of schedules of tariff concessions had only exacerbated Canada's concerns. Canada concluded by noting that it did not accept: (i) India's justification for applying tariffs above its bound commitments and (ii) India seeking to modify its bound commitments. Canada called upon India once again to immediately rescind its tariff increases and to refrain from pursuing any further tariff increases above its WTO commitments.

136. The representative of Chinese Taipei shared the concerns that had been expressed by other Members regarding the recent proposed rectification and modification of Schedule XII by India (document G/MA/TAR/RS/572). Chinese Taipei recalled that, according to document JOB/MA/108, the methodological note by the Secretariat on the HS2007 transposition referred to heading 8486. For example, subheading 848610 in HS2007 shall include many ITA items under HS2002, such as 842119 and 845610, with zero tariff rate. However, in Appendix 2 of India's proposal, the bound rate of duty for certain ICT products at issue had been changed to unbound. It noted that the unbound rates for 848610 and its tariff subheadings, including 848620, 848630, 848640 and 848690, in Appendix 2 were not correct. Therefore, Chinese Taipei submitted that these changes could not be considered rectifications of a purely formal character, as in the WTO Procedures for Modification and Rectification of Schedules of Tariff Concessions (document L/4296), as they would affect the scope of India's concessions. Finally, Chinese Taipei noted that its Capital was preparing an official letter of objection.

137. The representative of the Republic of Korea also expressed concern over the lack of progress on this issue. Korea requested India to pay more attention to the seriousness of this issue and to give duty-free access to any goods in line with India's previous commitment, including its commitments made in ITA-1 negotiations.

138. The representative of Norway recalled that his delegation had been one of the delegations that had asked for this item to be included on the agenda. Norway echoed the concerns of other proponents. This issue was important both from an economic and a systemic point of view. Finally, Norway considered that the latest development regarding India's notification had apparently only further aggravated the situation.

139. The representative of Thailand shared the concerns that had been raised by other delegations. Thailand reiterated that it had commercial interests in the products in question. Thailand urged India to align all its tariffs to its binding commitments. Thailand would continue to monitor this matter closely.

140. The representative of Australia echoed the concerns that had been raised by others regarding the modification of India's tariffs beyond its bound rates and recalled that this issue had been on the agenda of the CMA and ITA Committee for some time. There was a systemic interest in ensuring that WTO Members upheld their tariff commitments and the basic principles of the WTO Agreement. Australia called upon India to amend its tariff increases and to refrain from pursuing any further tariff increases above its WTO bound commitments.

141. The representative of Switzerland noted that his delegation shared the concerns of other Members regarding the duty treatment of certain telecommunications equipment in India. Switzerland recalled that this issue had been raised several occasions in this Committee as well as at the ITA and the CTG. The situation had not changed. On the contrary, Switzerland considered that the latest development seemed only to raise additional concerns. Thus, Switzerland called upon India to change the applied duties in question and to abide by its WTO commitments.

142. The representative of New Zealand echoed the concerns that had been raised by other Members and registered New Zealand's ongoing systemic interest in this issue.

143. The representative of India thanked delegations for their continued interest in India's customs duty regime on certain telecommunications and other products. India summarized that Members had intervened to raise concerns relative to: (i) the imposition of customs duties and its increase on non-ITA and alleged ITA-1 products, particularly in the budget 2018-2019 and thereafter; (ii) India's views on the WTO compatibility of the measure under ITA-1, including its commitment as available in the HS2007 Schedule notified to the WTO; (iii) China sought to know India's views on the transposition of cellular phones under HS96 versus HS2007; (iv) Chinese Taipei sought to know the India's views on the technicalities of transposition of HS heading 8486 and its subheadings; and (v) some Members had raised issues relating to India's rectification request of September 2018. Regarding the imposition of duties on non-ITA items, India informed Members that, despite the policy space available under its binding schedule, India had hardly resorted to increasing its customs duties on any product. On the contrary, India had been reducing its customs duties unilaterally over the years. India added that the recent increase in duties referred to by Members was within the bound rates committed to by India and within its rights under the WTO. Regarding the issue of duties

imposed on certain telecom products in 2014, 2017, and in 2018, which were being alleged as ITA-1 products by some Members, India would repeat a few earlier statements and subsequent developments, as preliminary observations. India was fully aware of its obligations and commitments under the ITA-1 and had been abiding by the same. India had signed the ITA-1 in the year 1997 and presented its schedule of commitments, which was subsequently certified in document WT/LET/181. India does not intend to commit what was there beyond the scope of its ITA-1 commitment inscribed in document WT/LET/181. India considered that it would be evident from document G/MA/TAR/RS/24, dated 2 April 1997, that India had made it very clear at the time of taking commitments under the ITA-1 that India reserved the right to make technical changes to the schedule and to correct any errors, omissions or inaccuracies. India noted that there had been extensive discussions and stakeholder consultations amongst its relevant agencies on the coverage of these products and its ITA commitments. India considered that the items, on which duties were raised, were not part of the ITA-1 signed by India. India had been seeking inputs from the concerned delegations on their perception thereof on these aspects relative to the coverage of these products under ITA-1 as well as the customs duties imposed by other Members on such products. India received specific technical comments from only one Member in this regard, and another Member, on the day of the meeting, had also mentioned some of the technical issues it had relative to India's rectification request. Regarding the general concerns raised by Members about the measure that had been taken by India *vis-a-vis* its ITA-1 commitments, India had earlier provided written responses followed by replies in various meetings of this Committee, the CTG, and the ITA. India had stated in earlier interventions that Members had the right to revisit any errors or mistakes committed in assigning bound tariffs while transposing its HS Schedule, so India had placed the necessary rectification request before the Committee. Accordingly, India had filed its rectification request for the purpose of correcting certain errors contained in its HS2007 Schedule, which was in accordance with the "Procedures for Modification and Rectification of Schedules of Tariff Concessions" contained in the Decision of 26 March 1980 under the category of "Other Rectifications". This rectification request could be seen in document G/MA/TAR/RS/572 dated 25 September 2018. In this regard, India had made it clear in the detailed explanatory note attached to the rectification request that, while transposing the tariff lines and the description of the products recommended by WCO for HS2002 to HS2007 transposition, India had inadvertently included the tariff subheading given in the table at Appendix under the zero bound duty commitments. While it was important to keep in perspective both the technological progression as well as HS transposition of telecom and IT products, India encouraged Members to go through its rectification request. In case, if a Member had any other views on the technical aspects of these products, as well as their classification, it could discuss any such views with his delegation. India further requested the Members that had raised new issues to provide their inputs in writing so that these could be forwarded to Capital for examination and consideration.

144. The Committee took note of the statements made.

14. INDIA – QUANTITATIVE RESTRICTIONS ON CERTAIN PULSES – STATEMENTS BY AUSTRALIA, CANADA, THE EUROPEAN UNION, AND THE UNITED STATES

145. The Chairperson noted that this agenda item had been included at the request of Australia, Canada, the European Union, and the United States.

146. The representative of Australia stated that his delegation remained seriously concerned about restrictions placed on imports of pulses to India, and in particular the QRs that had now been in place on various pulse varieties for well over 12 months. Australia noted that India's *ad hoc* measures had been implemented with no forewarning, applied retrospectively, had had a serious impact, and had generated uncertainty in the global pulses market, contrary to India's previous assertions that its measures had not affected global markets or had a negative impact on exports of other WTO Members – including developing countries. Australia further noted that Australian and developing country farmers had been negatively impacted; and that India had been Australia's largest market for pulses in 2016-2017 (valued at \$1.4 billion), but that exports had now virtually ceased. Australia had, since August 2017, made repeated representations in New Delhi and Geneva on these trade restrictions, including at Prime Ministerial level – most recently during the 25-26 September Committee on Agriculture (CoA), and in particular on India's QR on peas. Australia had expressed its disappointment to learn that India's QR on peas had been extended for a second time on 28 September 2018, under Notification No. 15/2015-2020, until the end of December 2018, noting that this extension had occurred just two days after the meeting of the CoA, during which India had been unable to provide any information on whether the QRs would be extended and if any

extension would include any additional volume of peas. This meant that there would be an effective import ban in place for six months (July to December 2018). Australia had raised concerns in every relevant WTO Committee over the previous 12 months, in particular to seek an explanation for the legal basis of India's QRs. Australia stated that India had failed to provide an explanation by stating that it "will be answered in the relevant committee", which Australia believed was not acceptable, particularly when such drastic measures had disrupted the trade of numerous WTO Members, including developing countries. Given that the CMA was responsible for overseeing the "Decision on Notification Procedures for QRs", Australia considered that this was "the relevant committee" and requested India to provide answers in this Committee. Australia noted that India's import licensing notification stated that import restrictions were "maintained only on grounds of protection of human health or safety; animal or plant life or health; security and the environment" and asked India to explicitly state which of the four grounds outlined in India's import licensing notification was the basis for maintaining quantitative restrictions on a range of pulses. If India had been relying on GATT Article XX, Australia further asked which paragraph in Article XX of the GATT India was relying on for its quantitative restrictions. Australia urged India to provide an explanation for the WTO basis of its QRs. Australia asked India to explain how the measures were "temporary" given their multiple extensions and their application for over 12 months. It also asked India to confirm the status of its QRs and expected Members to take their obligations seriously. Finally, Australia would continue to closely monitor developments and India's responses to its questions.

147. The representative of Canada noted that, as a significant supplier of pulses to India, Canada had been most negatively affected by India's recent measures to limit the import of pulses, which were an important source of protein for a large number of Indian consumers. Canada was disappointed that India had introduced quantitative restrictions on the import of dried peas on 25 April 2018 and that it had then extended those QRs on 28 September 2018. He noted that, to date, India had not provided information on the GATT or WTO basis for this quantitative restriction. During the June meeting of the WTO Committee on Agriculture, India had indicated that the notification of this quantitative restriction on dried peas had recently been submitted to the Committee for Import Licensing and the CMA. Canada added that India's last quantitative restriction notification, in document G/MA/QR/N/IND/2, circulated on 21 June 2018, had specified that it covered all quantitative restrictions in force. However, this QR notification had made no reference to the quantitative restriction on dried peas. Therefore, the GATT or WTO basis for this import restriction remained unclear. Canada noted its extreme disappointment that India had decided to continue this restriction and asked again for India's views on its GATT or WTO legal basis.

148. The representative of the European Union invited India to clarify the legal basis for having introduced quantitative restrictions on certain pulses, including mung beans. Moreover, the EU expressed its concern over the increase in import duties for dried peas, a measure taken as part of India's policy on pulses. It was the EU's understanding that the duties on dried peas were within India's bound rates, but that the way in which they had been suddenly introduced had been extremely harmful to pulse producers globally, whether in developing or developed countries. Such sudden measures led to enormous price fluctuations and reduced stability on the pulses market, which in turn had affected production levels. The EU submitted that such measures were not in the long-term interests of pulse producers and urged India to reconsider its restrictive trade measures on pulses.

149. The representative of the United States said that her delegation was deeply concerned over India's quantitative restrictions on imports of select varieties of pulses. Despite several Members raising concerns with India in previous Committee meetings over the past year, India had continued to maintain quantitative restrictions on certain types of pulses and, to date, had been unable to explain how such measures could be consistent with India's WTO commitments. The United States looked forward to receiving India's written responses, especially with regard to the consistency of these measures with India's WTO commitments.

150. The representative of Ukraine reiterated the concerns that had been raised by Australia, Canada, the EU, and the United States. Ukraine noted its interest in the transparency and predictability of Members' trade policies from the systemic point of view.

151. The representative of the Russian Federation reiterated her delegation's concern over the policy that had been applied by India regarding imports of yellow peas. The Russian Federation noted that India had increased its import tariffs on this product by up to 50% in November 2017, had introduced a quantitative restriction on imports of yellow peas in April 2018, and had issued a

notification in late September 2018 saying that the import of peas classified under Exim Code 07131000 would be restricted until 31 December 2018. The Russian Federation recalled that it had raised this concern at different fora already. In the Russian Federation's view, a quantitative restriction was not a trade policy instrument that could be applied by WTO Members without proper justification. Russia requested India to bring these measures into conformity with the WTO's rules.

152. The representative of India thanked delegations for expressing their views on this matter. India informed the Members that it had notified its measures to the Committee on Import Licensing and the CMA on 20 and 21 June 2018, respectively. Certain issues had been raised by Members in the September 2018 meeting of the Committee on Agriculture and India had provided its responses to those queries. India was the largest producer and consumer of pulses. As had been previously stated, the decision for imposing a quota was based on the domestic demand and supply situation of pulses in the country. The measure was aimed at alleviating the distress caused to small and marginal farmers by the influx of cheap imported pulses and the consequent impact on their food and livelihood security. The objective of Indian agricultural policy was to balance the interests of consumers and producers. The wholesale price index (WPI) for pulses in the country had come down from 205.2 (in December 2016) to 134.2 (in December 2017) and further declined to 120.8 (in April 2018), showing a sharp decline during that period. The latest estimates for the WPI were: 119.8, 117.5, 120.8, and 124.5, for May, June, July, and August 2018, respectively. This reflected the fact that the current prices of pulses in domestic markets were below the prices of the corresponding period of the previous year, indicating that the measures taken had been in the overall interests of both consumers and producers, as intended. Therefore, the government had imposed quantitative restrictions on pulses such as Tur (pigeon pea), Moong (beans of species of *Vigna radiata*) and Urad (beans of the species of *Vigna mungo*) and dry peas in order to protect small and marginal farmers. Based on the prevailing domestic situation, the relevant authority in India had extended the quantitative restrictions on imports of peas until 31 December 2018 vide DGFT Notification No. 37 dated 28 September 2018, as mentioned by Australia. These measures were temporary and the extension or removal of these QRs were based on domestic demand and supply. India was constantly reviewing these measures. With regard to the query raised by Members on the relevant specific WTO provisions under which India imposed these temporary measures, India added that the matter was under examination in Capital and that India would revert to the Committee in due course. Finally, India would address any further query in the appropriate Committee.

153. The Committee took note of the statements made.

15. KINGDOM OF BAHRAIN, KINGDOM OF SAUDI ARABIA, AND THE UNITED ARAB EMIRATES – SELECTIVE TAX ON CERTAIN IMPORTED PRODUCTS – STATEMENTS BY THE EUROPEAN UNION, SWITZERLAND, AND THE UNITED STATES (G/MA/W/140)

154. The Chairperson recalled that this agenda item had been included at the request of the European Union, Switzerland, and the United States.

155. The representative of the European Union recalled that this issue had been raised in the CMA on 26 April 2018 and at the CTG on 3-4 July 2018. She recalled the EU's statement regarding the principle of non-discrimination obligation under Article III:2 of the GATT, as it seemed that the decision taken by the Cooperation Council for the Arab States of the Gulf (GCC) countries, including the Kingdom of Saudi Arabia, on the level of tax imposed on energy drinks and sweetened soft drinks, had not been based on any scientific evidence. She noted that caffeine and taurine, whose presence in energy drinks was used as an argument for a higher tax, were also present in other products not subjected to the tax, or which were subject to a much lower rate of tax. Therefore, the EU suggested that the GCC countries review the basis for the imposition of this tax, and recalled that a Note Verbale had been sent to each of the GCC countries in June 2018, to which the EU expected to receive a formal and written response.

156. The representative of Switzerland recalled that, over the course of the previous year, Saudi Arabia, Bahrain, and the United Arab Emirates had implemented a selective tax on energy drinks and carbonated soft drinks. Even before the introduction of the tax, Switzerland had tried to obtain more detailed information on it. On 27 September 2018, Switzerland had submitted follow-up questions to Saudi Arabia, Bahrain, and the UAE on how they had implemented the selective tax on energy drinks and carbonated soft drinks. The decision that had been taken by GCC countries on the level of the tax was not based on scientific evidence because caffeine and taurine were also

present in other products but their use in energy drinks had been used as an argument for a higher tax. Those other products had not been subjected to a tax or had been subjected to a much lower rate of tax. Since this issue had been raised, there had been several meetings with the GCC Members. Unfortunately, the concerns remained, and Switzerland still considered that the selective tax was not in conformity with the non-discrimination obligation of Article III:2 of the GATT. Switzerland noted that the GCC Ministers of Finance would meet in November and encouraged these Members, particularly those that had already implemented the selective tax, to review the basis for the imposition of this tax and to follow instead the World Health Organization's recommendations in this regard. Finally, Switzerland was looking forward to receiving the answers to its written questions and would gladly meet with the delegations of the Members concerned.

157. The representative of the United States echoed the concerns that had been raised by the EU and Switzerland and stated that her delegation continued to encourage Saudi Arabia, the UAE, and Bahrain, to repeal – and other GCC Member States not to implement – the tax on carbonated beverages, and instead to develop evidence-based measures that targeted improving public health outcomes. The United States supported efforts by these Members to prevent and control non-communicable diseases. However, the measure that had been currently implemented by Saudi Arabia, the UAE, and Bahrain appeared overly broad in some respects, and arbitrary in others. As an example, the measure included diet beverages, but not other non-carbonated sweetened beverages. The United States expressed its hope that these Members would consider repealing these measures and that other GCC Members would not implement the tax in favour of other measures that would have better results than those of regressive taxes.

158. The representative of Qatar noted that Qatar did not apply the selective tax and that there was no specific time-frame for adoption of the measures. Qatar took its WTO commitments seriously and would continue to follow this issue with interest.

159. The representative of Japan shared the concerns that had been raised and requested Bahrain, Saudi Arabia, and the UAE to explain their tariff classification on energy drinks and carbonated drinks.

160. The representative of Bahrain delivered a statement on behalf of the Kingdom of Saudi Arabia, the United Arab Emirates, and the Kingdom of Bahrain. He thanked the EU, Switzerland, and the United States for their interest in the GCC Common Agreement on Excise Tax. Bahrain reiterated that the excise tax measures were compliant with the WTO requirements governing internal taxes as these taxes were applied to both domestic and imported products similarly and were not intended to afford any preferential treatment to protect the local industry. Some delegations had requested more detailed information about the technical aspects of these measures and their method of application, and Bahrain thanked those Members that had submitted their questions in advance and in writing and encouraged others to do the same. The enquires would be submitted to the relevant authorities and agencies in Capitals and would be responded to as soon as possible. Finally, Bahrain encouraged any other concerned delegations to contact them bilaterally.

161. The representative of Saudi Arabia re-emphasized the commitment of the GCC Members to respect their WTO commitments. He noted that Saudi Arabia was also taking the issue seriously and that a delegation from Capital was available to have any meeting bilaterally on the technical level for all interested parties.

162. The Committee took note of the statements made.

16. CHINA- CUSTOMS DUTIES ON CERTAIN INTEGRATED CIRCUITS– STATEMENTS BY THE EUROPEAN UNION, JAPAN, AND CHINESE TAIPEI

163. The Chairperson recalled that this agenda item had been included at the request of the European Union, Japan, and Chinese Taipei.

164. The representative of the European Union noted that this issue had been on the agenda for long time and had been discussed in different committees, which demonstrated that WTO Members were still yet to develop a proper understanding of how duties on certain multi-component semiconductors (MCOs) increased in China upon changes to the HS nomenclature. The EU thanked China for its engagement both bilaterally and in other contexts such as the General Algebraic

Modeling System (GAMS) setting, and was looking forward to discussing this further to receive additional clarity. China had shared with other Members an overview of its tariffs on MCOs following the transposition towards tariff heading 8542 under HS2017 – and, more recently, had also provided some brief additional elements about the division of MCOs into different categories and the respective allocation of the different duty rates. The EU reported that its experts were now analysing this information and would welcome more detail in this respect. Finally, the EU intended to continue to engage with China on this issue in all appropriate fora.

165. The representative of Japan thanked China for its detailed explanation of its classification of Insulated Gate Bipolar Transistors (IGBT) throughout the Q&As for China's trade policy review. Japan expressed its continued concern over China's classification of the IGBT-IPM (Intelligent Power Module). Japan's understanding was that, in accordance with the WCO's Classification Opinions, this was classified as a Power Module under HS8542.39, but that China had treated the IGBT-IPM differently by classifying it under HS8504.40 at import clearance and then by imposing a customs duty rate of 5% after transposition to HS2017. Japan requested China to provide a detailed explanation of this practice and noted China's remark at the last CTG that the all the MCO products in question would reach zero duty in July 2021. Japan concluded that it would continue to monitor this issue closely.

166. The representative of Chinese Taipei thanked China for its bilateral engagement on this issue and for sharing information on its calculation of tariff transposition. She stated that Chinese Taipei's concern nevertheless remained. The results of the HS2017 transposition should follow the principal of tariff rate neutrality, meaning that the value of the tariff concession for the ten MCO products, which were effectively duty-free tariffs, should not be impaired as a result of a change in HS nomenclature. Chinese Taipei noted that China had recently announced tariff cuts on imports of industrial machinery, construction materials, and other goods, with a view to further lowering costs for manufacturers and consumers, but unfortunately the MCO items were not among the 1585 types of goods when these tariff cuts would come into effect on 1 November 2018. Finally, Chinese Taipei urged China immediately to eliminate the tariffs on the MCO products at issue so as to resolve Members' concerns.

167. The representative of the Republic of Korea shared the concerns that had been expressed by previous speakers and referred to Korea's previous statement while reiterating their interest in this issue.

168. The representative of the United States expressed support for the statements made and questions raised by the EU, Japan, and Chinese Taipei. She reiterated the United States' concerns with regard to a change in China's applied duty rates for semiconductor products, concerns that had been previously raised in this Committee as well as in the ITA Committee and at the CTG.

169. The representative of China thanked delegations for their continued interest in this issue and recalled that China had made comments on this issue at previous meetings of this Committee, the CTG, and the ITA Committee. China had conducted several bilateral consultations with interested Members to clarify this technical question. In this transposition of MCO products, China had used the method suggested by the WTO documents, which was fully consistent with the WTO rules on HS2017 transposition. China had seriously undertaken its tariff reduction commitments under the ITA expansion. Since 1 July 2018, the duty rates on MCO products had been further reduced to 2.1%, 1.9%, and 5%, respectively. China would continue to fulfil its tariff reduction commitments under the ITA expansion, and confirmed that all its duties on MCO products would be eliminated in July 2021. Regarding the new technical questions raised by some Members, China would forward these to Capital for consideration. Finally, China remained ready to discuss any further technical questions on MCO products bilaterally.

170. The Committee took note of the statements made.

17. OMAN - MFN CUSTOMS DUTIES ON CIGARETTES - STATEMENTS BY THE EUROPEAN UNION AND SWITZERLAND

171. The Chairperson recalled that this item had been included on the agenda at the request of the European Union and Switzerland.

172. The representative of the European Union reiterated the EU's concerns over Oman's applied import tariffs on tobacco and tobacco products. At the meeting of the Committee on 27 April 2018, the EU had explained why Oman's tariff increase on cigarettes, following a decision taken at GCC level, had not been in line with its WTO commitments. The EU was of the view that, by having doubled the minimum specific duty on cigarettes, Oman was in breach of its bound tariff of 150%. The EU was aware that Oman had reduced the specific minimum duty from 20 to 15 Omani Rial (OR) per 1,000 cigarettes in December 2017. While the EU appreciated this move, which it considered to be in the right direction, it was nevertheless of the view that a specific duty of 15 OR Oman still exceeded Oman's bound tariff commitment. Thus, the EU reiterated its request to Oman to further reduce the specific minimum duty in order to bring itself into conformity with its WTO obligations. Finally, the representative noted that the EU would also be grateful for an official written reply to its Note Verbale on this issue of June 2018.

173. The representative of Switzerland regretted that Switzerland had to raise once again the issue of the MFN applied duties on cigarettes being higher than Oman's bound rate. He noted that the MFN applied rate was set at 100% or a minimum specific rate of 15 OR per 1'000 cigarettes, whichever was higher. Switzerland noted that this 15 OR was a reduction from the previous level. However, since the Committee's meeting of 26 April 2018, Switzerland had had several bilateral contacts with Oman, including a meeting in Muscat with the Omani customs in June 2018, and it had not been possible to solve the issue. As Switzerland had explained to the Committee the details of the issue during its April meeting, the representative would not repeat them; instead, he simply requested Oman to abide by its 150% bound rate, which would mean not to levy at the border a duty that was higher than 150%. The representative noted that, even if the MFN applied duty was expressed in specific terms, it was not complicated to verify whether the effectively levied specific duty was higher than 150%, which was the bound rate. Thus, Switzerland strongly encouraged Oman to quickly bring its MFN applied duty into compliance with its WTO commitments in order to solve this issue. Finally, Switzerland was aware that GCC Members were implementing the tax and requested to know when Oman intended to implement the selective tax on tobacco products and energy drinks and carbonated soft drinks, as this could be in the last quarter of 2018 or the first quarter of 2019. It noted that the same issues regarding the discriminatory nature of the selective tax on those beverages would also apply to Oman when it implemented the selective tax in its current form.

174. The representative of the United States indicated that her delegation would continue to monitor the situation. She hoped that any changes in the process for calculating and collecting tariffs for these agricultural products would be consistent with Oman's WTO bound tariff rates.

175. The representative of Oman thanked delegations for their ongoing interest in this matter. He further thanked Switzerland for sending a delegation to Oman to discuss this matter bilaterally with relevant authorities in Muscat, which had been based on Oman's suggestion expressed at the previous meeting. He noted that a meeting had been convened on 24 June 2018 between the Swiss Delegation and the technical experts from the Ministry of Commerce and Industry, the Ministry of Finance, and the Customs Authorities. The meeting had allowed for a productive discussion and clarifications had been provided and solutions had been proposed. At the meeting, Omani officials provided abundant information to the Swiss representative and it was agreed that the Swiss representative would go back with the information obtained and provide it to tobacco companies for their comments. He noted that Oman's Capital-based officials had reiterated their readiness to provide any further clarifications and, if necessary, to fly to Geneva to attend meetings. Since the meeting, Oman had not heard back from the Swiss delegation until Friday, 21 September, a week before the Airgram to convene the meeting had been circulated, informing them that the item would be placed on the Committee's meeting agenda. This had been a surprise because Oman had expected further bilateral engagement and discussions beyond those already held in Oman. From a meeting held with the Swiss delegation immediately prior to the Committee's current meeting, where Oman enquired why they had not heard back from Switzerland regarding this matter during the previous three months, they understood that the Swiss representatives were themselves still waiting to hear back from the industry, which to date had not provided any comments on the consultations that had been held in Oman. The short notice prior to the current meeting had also meant that Oman had not been able to arrange for Capital-based officials to attend it. Therefore, they would appreciate to follow-up on the discussions held in Oman bilaterally, and reiterated Oman's readiness to bring Capital-based officials to Geneva, or Swiss officials to Oman, for further consultations, with sufficient advance notice. Finally, he encouraged any interested Member to discuss this issue with Oman bilaterally. With regard to the final point made by the Swiss delegation regarding the GCC tax on

beverages, he stated that Oman would appreciate it if Switzerland would provide the delegation with its questions in written form, to which Oman would respond as soon as possible.

176. The Committee took note of the statements made.

18. ELECTION OF THE VICE-CHAIRPERSON

177. The Chairperson noted that Rule 12 of the Rules of Procedure of this Committee allowed it to elect a Vice-Chairperson, and that the long-standing practice had been to elect a Vice-Chairperson during the autumn meeting. The Chairperson proposed, based on her consultations, to elect Diego Nunes Oger Fonseca (Brazil) as Vice-Chair of this Committee by acclamation.

178. The Vice-Chair thanked the Members for their support and the Chair for inviting him to serve as Vice-Chairperson. He stated that he looked forward to working with all Members of the Committee.

179. The Committee so agreed.

19. OTHER BUSINESS

180. The representative of the European Union stated that her delegation regretted that the Russian Federation had adopted, on 17 July 2018, Decree No. 836, introducing temporary quantitative restrictions on the export of birch logs from the Russian Federation outside of the Eurasian Economic Union. The measure deviated from the prohibition of quantitative restrictions in Article XI of the GATT and, contrary to the spirit of the WTO, prevented an optimal allocation of wood resources based on decisions by market players. Furthermore, the EU noted its serious doubts about the WTO compatibility of the temporary export quota and requested the Russian Federation to explain it, in particular taking into account precedents such as the alleged temporary export ban on raw hides and skin that had been renewed for periods of six months up to a total of four-and-a-half years. The EU further requested the Russian Federation to confirm that the temporary measure on certain birch logs would not be extended. In addition, the EU requested the Russian Federation to ensure that its customs services avoided confusion between the category of high quality "birch logs", subject to export quotas, and other birch logs, such as pulpwood, in order to avoid any unintended effects of the export quotas on other categories of birch logs traded between the EU and Russia. With regard to the system that had been put in place to allocate the quotas for export of birch logs subject to the restriction, the EU stated that the measure allocated quotas to Russian exporters, rather than to export destinations and noted that in recent years the EU had been importing a limited, stable amount of birch logs from the Russian Federation (some 240 000 cubic meters). Thus, the EU concluded that this stable trade should not be interrupted as a consequence of the export quota system and the market power it conferred on the holders of export licences in Russia. In conclusion, the EU requested the Russian Federation to reconsider the system so as to avoid disturbing stable trade flows.

181. The representative of the Russian Federation noted that the Russian Federation would provide its comments and responses to the European Union on a bilateral basis at a later time, and that this item had not been included on the meeting's agenda.

182. The meeting was adjourned.
