



Committee on Specific Commitments

REPORT OF THE MEETING HELD ON 1 JULY 2022

NOTE BY THE SECRETARIAT¹

The Committee on Specific Commitments (CSC) held a meeting on 1 July 2022 chaired by Mr. Thomas Nauta from the Netherlands (out-going Chair) and Mr. Jeremia Pratama from Indonesia (incoming Chair).

The agenda for the meeting, contained in document WTO/AIR/CSC/18, was adopted.

Before moving on to the substance of the meeting, the Chairperson drew Delegations' attention to the hybrid mode meeting format. He thanked all for their patience and efforts in following the arrangements and for their understanding on the requirements and limitations imposed by the situation.

The representative of Canada recalled that more than 125 days had passed since the beginning of Russia's illegal, unprovoked and unjustifiable invasion of Ukraine, which Canada strongly condemned. She reminded that this invasion continued to bring disruption, displacement, suffering and death to innocent people inside Ukraine sovereign borders. Canada stood with the brave people of Ukraine, as they continued to fight for their freedom. Canada had sincere thoughts for all the victims. The shock wave that this invasion had also sent to the global economy could not be underestimated. For Canada, there was no doubt that this destabilisation had had an impact on all economies, including developing, and least-developed countries. Canada would continue to hold the Russian leadership to account and call on it to abandon the path of war and return to good faith diplomacy. This was the best and only means for addressing what was an urgent humanitarian emergency, a growing threat to global food security, and the threat Russia alone had created to the very core of rule-based institutions.

The representative of the European Union resolutely condemned Russia's invasion of Ukraine, an independent and sovereign European country, now also a candidate country for the membership of the European Union. The European Union urged Russia to stop those horrific attacks immediately and unconditionally withdraw all its troops and military equipment from the entire territory of Ukraine within its internationally recognized borders. The European Union stood with Ukraine and would continue to provide support to Ukraine's people and military, as well as economy including through trade policy means.

The representative of Australia joined others in restating its condemnation of Russia's invasion of Ukraine in the strongest possible terms. The unprovoked, unjust and illegal invasion of Ukraine was completely incompatible with the values and work of this Organization; it had profound negative implications for the global economy and rules-based international order. Australia supported the continued collective action by the international community to impose barrage and economic sanctions and trade measures on Russia to inflict heavy costs on those responsible. Australia called on Russia to withdraw its troops and immediately commit to diplomatic solutions.

The representative of the United Kingdom also wanted to add its voice to the Members who had intervened and supported Ukraine in condemning Russia's actions. The UK and its international partners stood united in condemning Russia's reprehensible actions which were an egregious violation of international law. The UK called on Russia to urgently de-escalate and withdraw its

¹ This document has been prepared under the Secretariat's own responsibility and is without prejudice to the positions of Members or to their rights and obligations under the WTO.

troops. Russia must be held accountable and stop undermining democracy, global stability, and international law.

The representative of Norway joined others in condemning in the strongest possible terms the unprecedented military aggression of the Russian Federation against Ukraine. Norway expressed concern for the severe destruction and human suffering that illegal act of aggression was causing. By its unprovoked, unjustified, and premeditated military actions, the Russian Federation was grossly violating international law, the core principles on which the international rules-based order was built and the fundamental principles of the UN charter that had prevailed since the second World War. Norway reiterated that it stood in solidarity with Ukraine and the Ukrainian people.

The representative of Japan stated that Russia's aggression against Ukraine clearly infringed upon Ukraine's sovereignty and territorial integrity and was a great violation of the UN Charter which prohibited the use of wars. Japan condemned Russia's action in the strongest terms. Japan continued to stand by Ukraine and the Ukrainian people and with the international community, including the G7 to respond to the situation.

The representative of the Republic of Korea echoed the previous speakers. The Korean government also strongly condemned Russia's armed invasion into Ukraine as a violation of principles of the UN Charter. The use of force that caused innocent casualties could not be justified under any circumstances. Ukraine's sovereignty, territorial integrity and political independence had to be respected. In addition to the humanitarian disaster, Russia's invasion was disrupting the global trade system including trade in services. The way to end all of that was obviously the immediate stop of Russia's military action in Ukraine.

The representative of the United States recalled that they had already made their position clear in this body and in WT/GC/244 "The Joint Statement on Aggression by the Russian Federation against Ukraine with the Support of Belarus." The United States reiterated their support for Ukraine during this unimaginably difficult time and condemned Russia's premeditated and unprovoked attack on Ukraine. They paid tribute to the heroism of the Ukrainian people, their armed forces, and leaders.

The representative of the Russian Federation reiterated his delegation's position that this was not the right place to raise the Ukraine issue, which was out of the scope of the WTO and out of the mandate of the Committee. He reminded that the global economy was already suffering from the commodity shortages, accelerated inflation and faced the threat of a global economic crisis. And that was the result of the economic and financial policies of major developed economies and also of restrictive and discriminatory actions against Russia imposed by certain Members. Russia remained committed to the WTO principles of non-discrimination and transparency and respected the rights of other Members, but the consequences of the Ukrainian crisis should be discussed in other appropriate international organizations and diplomatic agencies.

1 ITEM A – APPOINTMENT OF THE CHAIRPERSON OF THE COMMITTEE

1.1. The outgoing Chair reminded that the Chairperson of the Council for Trade in Services had recently concluded his consultations on the slate of names for the Chairpersons of the subsidiary bodies. Accordingly, he proposed that the Committee elect Mr. Jeremia Pratama from Indonesia as its new Chairperson by acclamation.

1.2. The Committee then elected Mr. Pratama as its new Chairperson by acclamation. The meeting was thereafter chaired by Mr. Pratama.

1.3. Mr. Pratama stated that it was a huge honour to be appointed as the Chair of this important Committee and sincerely thanked the Members for their trust and hoped for their support to the work of this Committee. He thanked the previous Chair for his hard work and congratulated him for bringing the work of this Committee into success during his chairpersonship.

2 ITEM B - IMPLEMENTATION OF SPECIFIC COMMITMENTS

2.1. The Chair recalled that at the last meeting, the Committee had considered a new proposal (S/CSC/W/73) from the delegation of Türkiye on implementation issues related to specific commitments and Article II (MFN) on cross-border supply of road transport services under the GATS. The proposal mainly raised three questions for discussion: 1) the compatibility of imposing truck

quotas with full market access commitments in Mode 1 on road transport services; 2) the understanding of "Unbound" in market access and "None" in national treatment with respect to cross border supply of road transport; and 3) the MFN obligation with respect to all measures affecting international road transport including truck quotas, passage fees, customs measures.

2.2. Due to short notice, most interventions at the last meeting were preliminary. Several delegations had noted that they were still considering the proposal and would revert to it with more detailed comments at this meeting. He invited the delegation of Türkiye to provide further explanation about their proposal.

2.3. The representative of Türkiye made a presentation. He noted that road freight transport was one of the sub-sectors listed under category 11.F ("Road Transport Services") of W/120 and that the corresponding UN Provisional Central Product Classification (CPC Prov) code was 7123. Previously the Secretariat had prepared a Background Note on Road Freight Transport Services which was contained in document S/C/W/324, dated 29 October 2010. According to the information on the WTO website, as of the end of 2020, 49 Members (EU-25 counted as one) had undertaken specific commitments on road freight transport services while 38 Members had listed MFN exemptions for this subsector. Main problems affecting cross-border road freight transport operations included: quota-permit systems, i.e. numerical restrictions; high or discriminatory fees and fines; imposition of mandatory routes; discriminatory treatment against foreign trucks; and restrictions on the movement of drivers (e.g. visa restrictions, etc.). The Secretariat Background Note on Road Freight Transport Services (S/C/W/234) indicated: "Bilateral traffic-sharing agreements are the predominant mode of organization of international road transport. (para. 68) ... "The dominant international regime governing road transport may be compared, *mutatis mutandis*, with that applicable to air transport, except for the fact that the former is fully covered by the GATS whereas air transport is for the most part excluded. The road transport regime is made up of thousands of bilateral agreements which split the traffic between the two parties to the exclusion of all others" (para. 69) This Secretariat Note referred to the International Road Union (IRU)'s observation that "one of the effects of transit and third country quotas is that 'a pair of countries can decide on trade relations between another pair of countries through controlling their transit and third country traffic'" and that "this type of traffic distortion via 'stipulation for others' does not exist in other modes of transport, even in those in which market access is tightly regulated". (para. 95) The Secretariat Note (S/C/W/234) further noted: "The transport operators of the country of origin end up having to 'arbitrage', i.e. constantly choose, not only between transit routes but also countries of destination, depending on the level of prices, prices which tend to increase dramatically when bilateral or transit quota run out. Thus, services 'arbitraging' by the transport operators is not motivated exclusively by commercial factors, as it is, for example, in the vast majority of cases in maritime transport, but by multiple regulatory constraints. In this respect, the road transport sector appears to be subject to an even more restricted regulatory regime than air transport." (para. 89) Türkiye noted that several international institutions including the International Transport Forum (ITF), UN (e.g. UNECE, UNESCAP), Regional institutions (e.g. ANDEAN, BSEC, EU, NAFTA) had done some work on road freight transport services.

2.4. The representative of Türkiye noted that the main types of cross-border road freight transport operations (mode 1) included: transport between the territories of two economies (bilateral carriages, trucks of country A, either loaded or empty, entered country B to unload the freight to country B or load freight from country B); transport between a point in the territory of one country and a point in the territory of a third country (third country carriage, trucks of country A entered country B to carry the load of country B to country C); transit carriage (loaded trucks of country A transited through countries B and C to arrive in country D; and other combinations such as unladen (empty) entry, return carriage (for example, empty trucks of country A entered country B to take the load of country B and carried it to country A). These different types of operations involved different quota systems and required different documents, usually based on bilateral traffic-sharing agreements. Bilateral carriages, third country carriages and unladen entry carriages were covered by mode 1 under the GATS and therefore quotas or permits required for these operations were subject to GATS obligations on market access, national treatment and MFN. Transit carriages were subject to the obligation on the freedom of transit under the GATT. Discriminatory fees and other discriminatory treatment were also subject to the GATS obligations on national treatment and MFN. While modes 3 and 4 were relevant for road freight transport services as well, for example, measures concerning commercial presence of road transportation companies or mobility of truck drivers (e.g. visa procedures, etc.), they were not within the scope of the Turkish proposal.

2.5. The Turkish proposal raised a number of basic questions for discussion: 1) if there was no MFN exemption, could a Member implement different numerical restrictions and discriminatory fees and treatment compared to other countries, even if it did not undertake any specific commitments on market access and national treatment? 2) if there was an MFN exemption, with "None" on market access in the schedule, what would be the policy space in terms of numerical restrictions and discriminatory fees and treatment? 3) if there was an MFN exemption, with "Unbound" on market access and "None" on national treatment in the schedule, what would be the policy space in terms of numerical restrictions and discriminatory fees and treatment? Regarding the first question, Türkiye noted the Scheduling Guidelines which provided that "where an MFN exemption had been granted for a measure, a Member is free to deviate from its Article II obligations, but not from its Article XVI and Article XVII commitments."

2.6. Türkiye was of the view that promoting a multilateral mechanism for regulatory harmonization in cross-border road freight transport might be needed, rather than the prevalence of bilateral arrangements and negotiations which relied on quota-permit instruments. Discussions on issues related to GATS commitments could help promote such multilateral mechanisms and cooperation. Referring to GATS Article XXVI which encouraged cooperation with other international organizations, Türkiye believed that enhanced communication and cooperation with the ITF, IRU and relevant UN institutions would be beneficial. For example, these organizations could be invited to present their work on road freight transport. As a second step, Türkiye invited Members to explore the possibility of establishing an "Understanding of Commitments in Cross-Border Supply of Road Freight Transport" by the Committee. Türkiye also would like to have more focused discussions on "Freedom of Transit" in the context of GATS, GATT and the Trade Facilitation Agreement.

2.7. The representative of India thanked Türkiye for their presentation and proposal which was still being examined by experts in capital as it required some time. Once this was done, India would engage in more substantive discussions.

2.8. The representative of the United States thanked Türkiye for its proposal and for the interesting and insightful presentation which helped the US gain a better understanding of Türkiye's concerns in that sector and some unique aspects of it. The US would study it and discuss it in capital. While open-minded on how to address road transport, the US insisted that the work fell within the mandate of the Committee. As Türkiye had pointed out, some of the more sprawling elements fell outside the GATS. Even for those that did fall within GATS, the US feared that this Committee might not be the right forum, as it was not an appropriate body to interpret schedules or create new commitments. He recalled that the representative of Türkiye had said in the past they were open to the mandate proposals to address Members' concerns.

2.9. The representative of the European Union thanked Türkiye for its communication and for having provided further explanations about their interest in road transport as well as for highlighting the challenges for cross-border trade in road transport. The European Union insisted that any further questions and proposals for discussion should stay in the mandate of this Committee. The EU would generally find it difficult to engage in discussions on legal assessment of theoretical examples of compatibility with the GATS. Members' concerns about GATS compatibility of specific measures taken by other Members should be raised in the Council for Trade in Services. While the EU would continue to assess the Turkish proposal in light of further clarification, it would like any further discussions to be within the mandate of the Committee.

2.10. The representative of Australia thanked Türkiye for its presentation and for the details provided which were very useful to further understand the specific measures and barriers that they were looking at in that specific sector. Australia noted the importance of carrying out any work in line with the mandate of the Committee and echoed comments made by previous Members, who thought that it was not the appropriate forum to be interpreting Members GATS commitments. If there were issues on particular measures maintained by certain Members, there were other Committees where the issues would be more appropriately taken up.

2.11. The representative of China appreciated Türkiye's proposal on cross-border supply of road transport services and believed that the sector, and also the logistics sector as a whole, were very important services areas with significant implications for Members' participation in the global market. However, due to the complexity of the issue and limited time, China needed to hold further consultations with domestic authorities and might come back with more questions in the future.

2.12. The representative of Saudi Arabia thanked Türkiye for their presentation which had enriched delegations' knowledge about their proposal. Saudi Arabia was still assessing the proposal back in capital.

2.13. Regarding the proposal of Türkiye on cross-border supply for transport services, the representative of the Russian Federation called for caution because interpretations could have systematic implications for some other sectors under the GATS.

2.14. The Chair sought Members' views on Türkiye's suggestion that other relevant international organizations be invited to present their work on road transport.

2.15. The representative of Canada stated that Canada's competent authorities were still examining Türkiye's proposal to determine whether or not to engage on it. Canada shared similar views concerning the importance to engage on a work related to the Committee on Specific Commitments mandate. On the Chair's question, if Türkiye was proposing to have a webinar or a workshop on road transport services, Canada suggested that a detailed proposal be submitted and then Canada could analyse it and consult its capital appropriately.

2.16. Türkiye thanked all the delegations for their comments on its presentation. It understood that delegations needed some time to assess the presentation and the proposal in their capitals and looked forward to Members' further comments in the future.

2.17. Türkiye took note of the concerns raised by the US, Australia and the EU regarding the mandate of the Committee. Before submitting its proposal, Türkiye had examined the communications previously submitted by Members and noted similar submissions under the agenda item "Implementation of Specific Commitments". Türkiye's proposal was to initiate a discussion exactly about the implementation of specific commitments on a specific sector. It was thus in line with the mandate of the Committee. Türkiye understood that the concern raised was mainly with respect to the term "interpretation". She stressed that Türkiye had no intention to interpret specific commitments on behalf of a panel but wished to open a discussion to exchange views with Members on the understanding of commitments. Previously in this Committee there were communications regarding computer services which were about the understanding of the commitments in that specific sector. Türkiye therefore thought that its proposal was in line with the CSC mandate. Türkiye sought the Secretariat's comments on whether the Committee on Specific Commitments was the right platform to raise issues on the implementation of specific commitments.

2.18. Türkiye thanked all delegations again and expressed its readiness for bilateral engagements. With respect to the issue raised by Canada, Türkiye would prepare a proposal, maybe in corporation with Canada, should other organizations be invited.

2.19. The Chair took this opportunity to thank Türkiye and all Members for their views and observations on this matter. He encouraged Members to contribute to this substantive discussion at the next meeting.

2.20. He then moved to another subitem under this agenda item: implementation of conditional commitments.

2.21. He recalled that this was a transparency exercise following a proposal from the United States (S/CSC/W/69, dated 5 March 2020). The exercise had been conducted on a voluntary basis and facilitated by the Compilation of Conditional Commitments in GATS schedules prepared by the Secretariat. At previous meetings, several delegations had provided updates on the "conditions" included in their commitments, which were usually about domestic legislative actions or policy reviews associated with the entry into force, implementation or updating of commitments. These updates were incorporated in the revisions of the Compilation. The latest update (contained in document S/CSC/W/70/Rev.4) was about the conclusion of certification of Thailand's improvements of commitments on telecommunications pursuant to document S/L/84, as a result of Thailand's implementation of its conditional commitments.

2.22. The representative of the United States thanked all Members that had participated in this useful exercise. He also recognized the Secretariat's hard work in scouring the numerous schedules and making the relevant information easily available to Members. He however noted that the updates

from Members had waned in recent meetings. It would be better to either transform the exercise into an annual exercise or pursue it on a needed basis in the future if there was insufficient new substance to discuss. That said, he looked forward to hearing if there were other updates from Members.

2.23. The representative of India reiterated her delegation's position. While the compilation of conditional commitments by the Secretariat was useful for the purpose of transparency, any updates of a schedule should only be based on market access negotiations which went beyond the purview of the CSC. Therefore, India did not support taking this exercise any further.

2.24. The representative of China thanked the proponent and the WTO Secretariat for their good work and appreciated Members' pragmatism in updating relevant information on their specific commitments. Noting that implementing specific commitments was a basic obligation of all WTO Members, China was open to discussing related issues. At the same time, it was worth noting that the review and update of schedules should be limited to the implementation of Members' existing commitments without entailing further market opening obligations.

2.25. The representative of Canada thanked the US for initiating this useful transparency exercise and the Secretariat for preparing the compilation and the revisions. Canada also thanked all the Members who had participated in the exercise and provided updates on their own measures. It was on the transparency basis that Canada had been supporting this initiative and was open to having the same type of exercise on an annual basis or a needed basis. Canada thought the past meetings useful and did not agree with India's interpretation. A Member had the right to modify its schedule unilaterally.

2.26. The Chair suggested that the Committee take note of the statements made and revert to that agenda item at its next meeting.

2.27. It was so agreed.

3 ITEM C – SCHEDULING ISSUES

3.1. No intervention was made under this item.

3.2. The Chair suggested that the Committee revert to that agenda item at its next meeting.

3.3. It was so agreed.

4 ITEM D - CLASSIFICATION ISSUES

4.1. The Chair recalled that at the previous meeting, the Committee had been informed of the ongoing work by the UN Statistics Division and the WTO Secretariat to add the Services Sectoral Classification List (MTN.GNS/W/120) to the digital tool for the visualization of the correspondence between the CPC Provisional and CPC Version 2.1.

4.2. A representative of Secretariat noted that discussions remained ongoing with the UN Statistics Division, with the support of the Secretariat colleagues dealing with IT issues, to explore possibilities of appending the visualization tool with MTN.GNS/W/120. The Secretariat would continue informing the Committee of progress made on this investigation.

4.3. The Chair suggested that the Committee take note of the statements made and revert to this agenda item at its next meeting.

4.4. It was so agreed.

5 ITEM E – OTHER BUSINESS

5.1. No intervention was made under that item. The meeting was adjourned.
