



Committee on Trade and Development 107th Session

NOTE ON THE MEETING OF 21 NOVEMBER 2018

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## **A. ADOPTION OF THE AGENDA**

1. The Chairman said that the draft agenda for the 107<sup>th</sup> Session of the Committee on Trade and Development (CTD) was contained in document WTO/AIR/COMTD/15/Rev.1, circulated on 9 November 2018. He indicated that he wished to make an intervention under "Other Business" to clarify the procedures to request, and maintain, an item on the CTD agenda.

2. The agenda was adopted as amended.

## **B. OBSERVERS**

3. The Chairman recalled that, at the last meeting, he had indicated his intention to work with Members to see what could be done to update and reinvigorate the agenda of the CTD's Regular Session. One of the issues that he had thought could be worked on in this regard related to observers. He recalled that he had pointed out at the last meeting that the Committee had been inviting a number of international organizations as ad hoc observers on a meeting-by-meeting basis for many years – in several cases since 1999. He had asked whether Members could consider granting permanent observer status to these organizations, so that the Committee would not have to revisit the item relating to *ad hoc* observers at each meeting. He had also noted at the last meeting that the requests by some organizations for permanent observer status had been pending for many years. He had therefore invited Members to once again consider their positions *vis-à-vis* each one of these requests. In addition, he had indicated his intention to write to the organizations in question to ask them whether there was still interest on their side to be granted observer status in the CTD.

4. He went on to say that, since the last meeting, he had had the opportunity to discuss issues relating to observers with some delegations. In the course of the discussions, he had noted some apprehension to revisit these issues, in particular since positions had not changed. As a consequence, he had not pursued the matter any further, and considered that it was no longer pertinent to write to the organizations with pending observer status. He explained that his intention in raising these issues relating to observers had simply been to explore whether this could be one of the areas where the CTD's agenda could be updated. However, if some Members were not keen to revisit these issues at the present time, he suggested that the Committee go back to the practice that it had been following for many years. In particular, the Committee would continue to invite a number of organizations on an *ad hoc* meeting-by-meeting basis, and it would revert at each meeting to the pending requests for permanent observer status to see if there were any changes in Members' positions.

5. The Committee took note of the Chairman's intervention.

(I) Request for attendance of ad hoc observers

6. The Chairman recalled that, at previous sessions of the CTD, Members had agreed to invite a number of intergovernmental organizations on an *ad hoc* meeting-by-meeting basis. These were the Arab Maghreb Union, the Economic Community of Central African States, the Economic Community of West African States, the Economic Cooperation Organization, the Inter-Arab Investment Guarantee Corporation, the Islamic Development Bank, the African Union, the Organization of the Islamic Conference, the South Centre, the Pacific Islands Forum, the United Nations Environment Programme, the West African Economic and Monetary Union, and the World Intellectual Property Organization. These organizations had been invited to the present meeting. He proposed that the same organizations be invited to the next formal meeting of the CTD.

7. It was so agreed.

(II) Further consideration of requests for observer status by the League of Arab States, the Organisation of Petroleum Exporting Countries (OPEC), the Gulf Organization for Industrial Consulting, the Organisation Internationale de la Francophonie, the Common Fund for Commodities, the Organization of Arab Petroleum Exporting Countries (OAPEC) and the Groupe de la Banque Africaine de Développement

8. The Chairman said that the positions of delegations had been previously expressed. He indicated that, if there were no changes in positions to extend observer status to any of the applicants, the Committee would take note and revert to the requests at the next meeting.

9. It was so agreed.

**C. REPORT OF THE 52<sup>ND</sup> SESSION OF THE JOINT ADVISORY GROUP ON THE INTERNATIONAL TRADE CENTRE UNCTAD/WTO (ITC/AG(VII)/272)**

10. The Chairman said that the report of the 52<sup>nd</sup> Session of the Joint Advisory Group (JAG) on the International Trade Centre UNCTAD/WTO (ITC), held on 10 July 2018, was contained in ITC document ITC/AG(VII)/272. He welcomed Ambassador Alvaro Cedeño Molinari of Costa Rica, the Chairman of the 52<sup>nd</sup> Session of the JAG, and Ms. Zeynep Ozgen, Senior Donor Relations and Governance Officer at the ITC. He invited the Chairman of the JAG to introduce the report.

11. The Chairman of the JAG provided an overview of the discussions that had taken place at the JAG meeting. He noted, *inter alia*, that the ITC's role within the Geneva trade hub was recognized by both the WTO Director-General and the Secretary General of the United Nations Conference on Trade and Development (UNCTAD). The ITC's Annual Report for 2017, which was presented to the JAG, demonstrated that the organization continued to deliver on its targets. The key results included the generation of US\$650 million of additional exports and investments – amounting to US\$14 of exports and investments for each dollar invested in ITC; the fact that 86% of country-specific interventions were delivered in least developed countries (LDCs), Sub-Saharan Africa, landlocked developing countries, small island developing states, small and vulnerable economies (SVEs), and post-conflict and fragile states; and the fact that the organization had reached its target of connecting 1 million women entrepreneurs to international markets three years ahead of schedule, thereby leading to a new objective of connecting 3 million women by 2021. At the meeting, the Executive Director of the ITC had framed the ITC's work as tangible proof of the value of multilateralism and solidarity on trade, rendering it more tangible, transparent and inclusive. It was explained that the ITC transformed funders' contributions into market-based opportunities for micro, small and medium-sized enterprises (MSMEs), and for people at the base of the pyramid. The Executive Director had additionally explained how the ITC was accelerating forward – with \$100 million in new extra-budgetary funding commitments, and through the growing size and longer duration of the ITC's projects, thereby allowing for improved and sustainable results on the ground. With its multiple partners, the organization was expanding its work on new market intelligence tools, women's economic empowerment, youth entrepreneurship, reinforcing South-South links for trade and investment, and continuously fostering innovation.

12. He continued by noting that the JAG meeting had placed a spotlight on youth entrepreneurship for private sector development, growth and job creation. In that regard, he briefly outlined the content of presentations that were made by two entrepreneurs based in Libya and Ghana. He then

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went on to say that delegations at the JAG meeting had expressed appreciation for the ITC's continued emphasis on promoting inclusive and sustainable trade and economic growth, and had recognized how this contributed to the achievement of the Sustainable Development Goals (SDGs). Support was expressed for key areas of the ITC's work, including trade facilitation, addressing non-tariff measures (NTMs), strengthening trade and investment support institutions, and integrating MSMEs into global value chains. There was additionally a recognition of the ITC's effective advocacy and thought leadership on women's economic empowerment, through the SheTrades initiative and the piloting of the Buenos Aires Declaration on Women and Trade. Many delegations called for a further scaling up of the SheTrades initiative, and there was also a call for the ITC to explore the development of a SheTrades certification to incentivize and reward good practice. Delegations welcomed the ITC's focus on its priority countries, and encouraged the organization to continue placing importance on bolstering youth entrepreneurship, particularly in fragile contexts. With regard to small and medium-sized enterprises (SMEs), the 2017 SME Competitiveness Outlook's focus on regional trade was considered timely and useful. The ITC's analytical work was seen as having positioned the organization as a thought leader for policymakers in developed and developing countries. Support was also expressed for a number of other initiatives, including the SME Trade Helpdesk, the Export Potential Map and e-Ping. The JAG was additionally presented with the 2018 Annual Evaluation Synthesis Report, the recommendations of which were supported by delegations. Areas for improvement included sustainability, impact and objective setting. Delegations recommended the collection of better data, and called for a continued focus on improving results, impact and cost-effectiveness, while ensuring scale. With regard to funding, the increase in financial commitments was noted, as was the ITC's efforts to diversify its funding base. The ITC's funders were called upon to ensure continued and increased un-earmarked funding. Delegations had expressed their willingness to strengthen their cooperation with the ITC, and had encouraged the organization to be fully involved in the reform of the United Nations (UN) Development System.

13. The representative of Guatemala noted that a part of the ITC's funding came from the UN, where budget cuts were being made. She called on the beneficiaries of the ITC's work to support the organization during the budgetary discussions that would take place soon at the UN, so as to ensure that the ITC was given the funding it needed.

14. The representative of Nigeria expressed appreciation for the ITC's work, and urged funders to continue to support the organization. He emphasized the crucial role of the ITC in the context of the Geneva trade hub, and welcomed the attention the ITC was giving to priority countries such as LDCs, SVEs, and post-conflict and fragile states. Appreciation was also expressed for the SheTrades initiative, as well as for the ITC's efforts in assisting countries to implement the WTO's Trade Facilitation Agreement. His delegation looked forward to a continued partnership with the ITC.

15. The representative of the United States expressed her delegation's support for the ITC's efforts to help improve the competitiveness of SMEs in developing countries, and its work to help SMEs access world markets for trade and investment. Research by the United States International Trade Commission showed that SMEs that engaged in international trade grew faster, added jobs faster, and paid higher wages than SMEs that served only domestic markets.

16. The representative of the European Union appreciated her delegation's partnership with the ITC, and congratulated the organization for its performance. She noted the increasing focus on assistance to LDCs, as well as the continued work on women's economic empowerment and market intelligence tools for MSMEs.

17. The representative of Australia said that his delegation followed closely and supported the work being carried out by the ITC and its partners.

18. The representative of Colombia expressed her delegation's support for the work of the ITC, and also indicated support for the intervention by Guatemala on the importance of sustaining the funding for ITC activities.

19. The representative of the Republic of Moldova appreciated the usefulness of the ITC's work, and highlighted in particular the organization's analytical work, including in the context of the SME Competitiveness Outlook.

20. The representative of the ITC thanked both funders and beneficiary countries for their support and collaboration. The ITC looked forward to further collaboration in 2019 and beyond.

21. The Committee took note of the report of the 52<sup>nd</sup> Session of the JAG and forwarded it to the General Council for adoption.

**D. TRADE AND DEVELOPMENT – WORK IN THE COMMITTEE ON THE BASIS OF THE CHAIRMAN'S CONCLUDING STATEMENT FROM THE EIGHTH MINISTERIAL CONFERENCE (WT/MIN(11)/11)**

22. The Chairman said that, at the Eighth WTO Ministerial Conference (MC8), Ministers had reaffirmed the positive link between trade and development and called for focused work in the CTD. Ministers had called on Members to fully operationalize the mandate of the CTD as a focal point for development work. Before turning to the two submissions for consideration at the present meeting, he indicated that he wished to say a few words about the updated Secretariat document on the implementation of special and differential treatment (S&D) provisions in the WTO Agreements and Decisions, which had been circulated on 12 October 2018 in document WT/COMTD/W/239. As he had explained at the last meeting, this document had been prepared on the basis of the proposal from Ecuador, contained in document WT/COMTD/W/204/Rev.1, that the Committee had agreed to at its 97<sup>th</sup> Session in November 2015. According to the proposal, the purpose of the Secretariat report was to serve as a reference document for Members, for use as they deemed necessary. In addition, it was stated in the proposal that, should a Member propose that any particular element in the report be used as the basis for the inclusion of an agenda item at a meeting of the CTD, that Member would need to explain, in its request, the scope and purpose of the proposed discussion. In this light, he invited any Member wishing to discuss any particular element of the report in the Committee to submit a written request along the lines agreed to, so that an appropriate agenda item could be included in a future CTD meeting.

- Committee on Trade and Development Mandate: Focal Point for Consideration and Coordination of Work on Development in the WTO – Proposal from Barbados, Belize, China, Cuba, Ecuador, India, and the African Group (WT/COMTD/W/208)
- Operationalization of the CTD's Mandate: a Proposal to Deliver Outcomes based on the MC8 Mandate – Proposal from China, Cuba, Ecuador, India and the African Group (WT/COMTD/W/192)<sup>1</sup>

23. The Chairman said that the first submission reflected under this agenda item – by Barbados, Belize, China, Cuba, Ecuador, India and the African Group, and circulated in document WT/COMTD/W/208 – contained a proposal for the CTD to report on the development-related work taking place in other WTO bodies. The second submission – by China, Cuba, Ecuador, India and the African Group, and circulated in document WT/COMTD/W/192 – contained three proposals. One of the proposals was for the CTD to make a recommendation for parties to regional trade agreements (RTAs) to submit their notification and information requirements jointly. A second proposal was for the CTD to report on development-related activities raised in other WTO bodies, and a third was for the Secretariat to continue to update the report on the implementation of S&D provisions in the WTO Agreements and Decisions. He informed the Committee that, on 19 October 2018, he had held an informal consultation with the proponents of documents WT/COMTD/W/208 and WT/COMTD/W/192. At the consultation, the proponents had indicated that they wished to continue to pursue these proposals in the Committee. He had encouraged them to engage proactively with other Members, so that some progress could be made. He invited the Committee to take the two sub-items together.

24. The representative of Ecuador welcomed the updated Secretariat report on the implementation of S&D provisions in the WTO Agreements and Decisions. She requested that the Secretariat present the report at the next meeting, after which Members could have a discussion on the basis of the report. A written request would be sent by her delegation for the inclusion of a pertinent item on the agenda of the next meeting.

25. The representative of India said that his intervention related to both documents WT/COMTD/W/208 and WT/COMTD/W/192. He noted that these documents, when taken together,

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<sup>1</sup> The discussion concerning documents WT/COMTD/W/208 and WT/COMTD/W/192 is presented together in this Note, as the Chairman invited the Committee to take the two sub-items together.

contained three proposals. The first proposal, which was for the Secretariat to continue to update its report on the implementation of S&D provisions in the WTO Agreements and Decisions, was agreed to at the 87<sup>th</sup> Session. Accordingly, the Secretariat had prepared an update in June 2013, and subsequent updates were prepared in 2016 and 2018. The proponents expected that the Secretariat would continue to update this document in the future. Turning to the second proposal, which was for the CTD to report on the development-related work taking place in other WTO bodies, he said that the proposal was in line with the terms of reference (TORs) of the CTD, as well as with the MC8 mandate. In 1996, prior to MC8, the CTD had agreed to review the implementation of provisions in favour of developing countries on the basis of contributions from Members, and from the WTO bodies responsible for monitoring the implementation of Uruguay Round commitments. To assist in this exercise, the Chairman had invited the Chairpersons of other WTO bodies to submit information on how provisions in favor of developing countries had been dealt with in their respective Committees. On the basis of these responses, the Secretariat had prepared background documentation, presenting the replies received in an analytical format. He went on to say that the proponents urged the Committee to restart that practice, and act as a focal point for development work. As for the third proposal – which was for the CTD to make a recommendation for parties to RTAs to submit their notification and information requirements jointly – he said that this would help ensure a timely consideration of RTAs, and the full realization of the responsibilities assigned to the CTD.

26. The representative of the United States believed that six years were sufficient for the proposals to have been fully considered by other Members. The proponents themselves had failed to take any initiative to advance their ideas for several years. They needed to address the concerns raised by other Members – by either revising their proposals, or by dropping the proposals altogether. Either way, the sub-items concerning these proposals needed to be removed from the CTD's agenda until the proponents had something new to say. Her delegation had repeatedly stated that there was no consensus for these items to remain on the agenda as standing items, as if there was unfinished business to address. She also pointed out that, at several meetings, the Chairman had had to actively solicit acknowledgment of the item from the proponents. While the proponents were free to add these items to the agenda of a future meeting, the United States did not agree to these as standing items. Her delegation saw no basis from the CTD's rules of procedure that would justify these items remaining on the agenda without required action by the proponents. With respect specifically to the proposal for the CTD to make a recommendation for parties to RTAs to submit their notification and information requirements jointly, the United States had repeatedly stated that the proposal suggested a diminishing of Members' substantive rights and obligations under the General Agreement on Tariffs and Trade (GATT), the General Agreement on Trade in Services (GATS), and the Enabling Clause. Her delegation saw no prospect for consensus in either the CTD or the Committee on Regional Trade Agreements (CRTA). The only outcome from the proposal would be to provide one Member with the right to prevent others from complying with their notification obligations, which would be prejudicial in the face of any dispute settlement proceedings regarding a particular RTA. The proponents had failed to make their case.

27. The representative of South Africa recalled that paragraph 1 of the CTD's TORs, contained in document WT/L/46, stated that the Committee should serve as a focal point for consideration and coordination of work on development in the WTO. The proposals in documents WT/COMTD/W/192 and WT/COMTD/W/208 proposed ways to operationalize the CTD's mandate in three areas. Her delegation wished to address two of these areas. She went on to highlight the link between paragraph 3 of the TORs, and the proposal in document WT/COMTD/W/192 for the Secretariat to continue to update its paper on the implementation of S&D provisions in the WTO Agreements and Decisions. In this regard, she welcomed the updated Secretariat report, and supported the request by Ecuador that the Secretariat present the report at the next meeting. She then turned to the proposal for the CTD to report on the development-related work of other WTO bodies, which she indicated was contained in document WT/COMTD/W/192, and was supplemented by the proposal in document WT/COMTD/W/208. As per the proposal, she believed that the CTD needed to send a recommendation to the General Council to amend document WT/L/105 on the procedures for an annual overview of WTO activities and for reporting under the WTO. Finally, she requested that the items concerning these proposals be maintained on the CTD's agenda for the next meeting, and indicated her delegation's willingness to participate in any informal consultations to further discuss these issues.

28. The representative of Nigeria expressed support for the intervention by South Africa. He believed that the mandated role of the CTD as a focal point for consideration and coordination of

work on development in the WTO was consistent with the MC8 guidelines. He also indicated that the procedural and substantive issues raised needed to be addressed on the basis of their respective merits. In closing, he expressed the wish of his delegation to participate in any informal consultations on this matter, and called on Members to be open-minded in considering the issues. He indicated that the items concerning documents WT/COMTD/W/208 and WT/COMTD/W/192 should remain on the agenda.

29. The representative of Barbados expressed support for the proposal contained in document WT/COMTD/W/208, as well as for the interventions by India, South Africa and Nigeria. He said that the efficient functioning of the CTD was vital for the development interests of SVEs like Barbados, as well as for the broader sphere of developing countries at the WTO. The proposal in document WT/COMTD/W/208 aimed to streamline and centralize the reporting procedures on development-related activities, and provide the CTD with the ability to enrich the recommendations it made to the General Council on development-related activities. It would also allow the Committee to function efficiently and adequately in fulfilling its mandate as a focal point for development. If the Committee was unable to agree to the proposal at the present meeting, his delegation wished for the item be maintained on the agenda for the next meeting.

30. The representative of the European Union said that her delegation's understanding of the MC8 mandate was that the CTD should further explore the positive link between trade and development. This needed to be based on constructive exchanges on clearly identified topics, in line with the instruction from MC8 to carry out focused work. The proposals submitted in the context of the MC8 mandate that had previously been agreed to by the Committee responded to the requirement of being focused. However, the European Union considered that the remaining proposals contained in document WT/COMTD/W/192, supplemented by the proposal in document WT/COMTD/W/208, did not respond to the requirements set out in the MC8 mandate. Furthermore, she was not aware of any recent efforts by the proponents to undertake consultations with other Members. Concerning specifically the proposal for the CTD to report on the development work of other WTO bodies, her delegation was of the view that this would give the CTD an oversight function for all aspects of the WTO's work. It went against the mandate to act as a focal point on development issues and carry out focused work. The objective was not to revisit the CTD's mandate, but to operationalize it. Turning to the proposal for the CTD to make a recommendation for parties to RTAs to submit their notification and information requirements jointly, she indicated that this should be part of the wider discussion on the implementation of paragraph 28 of the Nairobi Declaration. Some discussions in this regard had taken place in the CRTA, and the European Union stood ready to continue constructive discussions with a view to clarifying issues relating to notifications.

31. The representative of China supported the interventions by other proponents, and requested that the items concerning documents WT/COMTD/W/208 and WT/COMTD/W/192 be maintained on the agenda. He thanked the Chairman for his informal consultations with the proponents, and expressed his delegation's willingness to participate in any future informal consultations. He also welcomed the updated Secretariat report on the implementation of S&D provisions in the WTO Agreements and Decisions, which he believed provided Members with a good basis to review and evaluate S&D provisions. In this regard, he supported the request by Ecuador for the Secretariat to present the report at the next meeting.

32. The representative of the Plurinational State of Bolivia expressed his delegation's support for the proposals contained in documents WT/COMTD/W/208 and WT/COMTD/W/192.

33. The Chairman encouraged further engagement among Members in order to try and make progress on these proposals. He believed that there was an interest to discuss the issues, although it was up to the proponents to present their case. He indicated his willingness to facilitate informal discussions, if delegations so wished.

34. The Committee took note of all interventions.

## E. NOTIFICATIONS UNDER THE ENABLING CLAUSE

- Implementation of the Transparency Mechanism for Regional Trade Agreements – Status Report on the Committee's Work

35. The Chairman said that he wished to take the opportunity to touch upon the issue of document symbols for notifications of RTAs to the CTD. He recalled that, at the 105<sup>th</sup> Session in April 2018, his predecessor in the Chair had made some points on this matter under the present agenda item. In particular, his predecessor had addressed a number of concerns raised at an earlier meeting – the 104<sup>th</sup> Session held in November 2017 – regarding the implementation of the Transparency Mechanism for RTAs (RTA TM) in the CTD. On the issue of notification symbols, his predecessor had correctly observed that, while CRTA document symbols allowed a tracking of all subsequent documentation relating to an RTA from the time of notification, this was not the case in the CTD. In fact, RTA notifications in the CTD were circulated according to the document series which had been applied since 1995. A unique number was assigned for subsequent documentation relating to a notified RTA – for example, a factual presentation, or a questions and replies document – and there was therefore no link between an RTA notification symbol, and the symbol for any subsequent documentation relating to that RTA. As this was raised as a concern, his predecessor had looked into the matter, and after discussions with the Secretariat, had informed the Committee that it would be possible for a unique number to be henceforth reflected on the notification document itself. The Chairman went on to say that, in his view, this would allow the CTD to have a document structure for RTAs very similar to the CRTA document structure. He observed that no objections had been expressed by Members when his predecessor had made these points at the 105<sup>th</sup> Session, and in addition no objections were expressed when these concerns were first raised at the 104<sup>th</sup> Session. While it therefore appeared that delegations were agreeable to moving forward with the new structure for RTA notifications and subsequent documents, he explained that he was raising this issue at the present meeting in order to ensure that all Members were clear on the matter, and so that the Secretariat would have guidance on how to circulate RTA notifications going forward. He inquired whether any Member wished to take the floor.

36. No Member took the floor.

- (I) Notifications received pursuant to Enabling Clause (Paragraph 4(a))

37. The Chairman said that he wished to inform the Committee that, in the context of the Latin American Integration Association (LAIA), a communication was received from the Permanent Mission of Uruguay on 1 November 2018. According to the cover letter, the communication referred to the instruments concluded under the Enabling Clause during the period 1980 to 2016, sent by the LAIA General Secretariat. He had had the opportunity to take a brief look at the communication, which contained several notifications of individual agreements of the LAIA members. An initial count suggested 223 individual notifications. It appeared that these had been submitted as notifications of changes to the 1980 Treaty of Montevideo (TM80). Furthermore, on 20 November 2018, another communication had been received from the delegation of Uruguay. According to the cover letter, this second communication, also sent by the LAIA Secretariat, referred to instruments concluded by the LAIA member countries in the framework of the TM80, and under the Enabling Clause, during the period 1 January 2017 to December 2017. An initial count suggested 35 individual notifications, which also appeared to have been submitted as notifications of changes to the TM80. He said that he would be looking over these notifications with the WTO Secretariat, and would be in touch with the notifying Members for any clarification that was required. The notifications would be circulated as soon as possible.

38. The representative of Uruguay indicated that, on 1 November 2018, a number of notifications under the Enabling Clause had been submitted, concerning instruments concluded under the TM80 between 1980 and 2016. On 20 November 2018, additional information concerning this submission had been provided, and the instruments concluded under the TM80 during the period 1 January 2017 to December 2017 had also been submitted.

39. The Chairman said that he would be looking through the documents with the Secretariat, including those received most recently.

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- Notification of Regional Trade Agreement – Submitted by Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay (WT/COMTD/N/53) – Request from the United States

40. The Chairman said that the notification by Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay – contained in document WT/COMTD/N/53 – appeared once again on the agenda, at the request of the United States.

41. The representative of the United States said that his delegation had retained this sub-item for the purpose of continuing discussions on the notification. He also observed that, since the last meeting, a communication had been received from Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay, containing replies to the questions from the United States on the notification. He indicated that he would make his comments when these replies were considered.

42. The Committee took note of the interventions.

- (II) Communication from Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay in reply to the document WT/COMTD/W/232 (WT/COMTD/W/238)

43. The Chairman invited the delegations that had made the submission to take the floor.

44. The representative of Argentina said that the communication from Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay contained responses to the questions raised by the United States on the notification circulated in document WT/COMTD/N/53. He expressed appreciation to the United States for its interest in issues relating to LAIA, and indicated the commitment of his delegation to transparency in notifications. He also indicated his support for the earlier intervention by Uruguay.

45. The representative of the United States thanked the delegations of Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay for their responses to the written questions from the United States, and for their continued engagement in efforts to clarify his delegation's understanding of the network of LAIA agreements and their relationship to WTO rules and obligations. As his delegation had mentioned previously, many of the issues discussed in the CTD were also relevant for the CRTA. The implementation of the RTA TM was spread across two Committees, and Members had to remain mindful that their interpretations, and the implementation of the RTA TM, needed to be consistent across the two bodies.

46. He drew Members' attention to the response provided to question 1.1 in document WT/COMTD/W/238, which he believed had significant systemic relevance for the Committee. The question from the United States had sought to clarify what instrument, or instruments, were intended to be notified in document WT/COMTD/N/53. In their response, the submitting Members had clarified that their intent was to notify a modification to an existing RTA. These Members also asserted that the initial notification of the TM80 covered the last 38 years' worth of separate legal instruments negotiated and concluded among the LAIA members – even those that were not party to the original TM80. The response articulated three separate categories of agreements between the parties. It firstly made reference to the TM80, and clearly set out that the Treaty itself only included provisions that described how future bilateral and regional agreements might be carried out, and not the actual terms or conditions of those agreements. The response also referenced what LAIA called "Partial Scope Agreements", which were subsequently negotiated between bilateral and regional partners. It was in these so-called Partial Scope Agreements that the terms and conditions of preferential tariff treatment were set out and put into effect. Third, the response referenced modifications made in 2016 to the Partial Scope Agreements. The response concluded with the assertion that the only agreement subject to notification as an RTA was the TM80, and that both the Partial Scope Agreements and the subsequent changes to those agreements should all be considered modifications to the TM80.

47. He went on to say that his delegation had noted on many previous occasions that the TM80 did not itself establish any specific tariff preferences for any specific good. Accordingly, the existence of this political framework did not absolve LAIA members of notifying the agreements concluded pursuant to the TM80 which established the specific preferential tariff treatment that LAIA members provided to each other. He indicated that he wished to illustrate this point by referring to the

notification of the agreement AAP.CE.2.77 between Brazil and Uruguay, as contained in document WT/COMTD/N/53. The TM80 did not provide for any specific tariff treatment for any goods traded between Brazil and Uruguay, and there were no annexes or schedules associated with the Treaty that provided for tariff reduction or elimination between these two parties. However, the agreement signed between Brazil and Uruguay, referred to as AAP.CE.2, set out the initial establishment of preferential tariff treatment in detailed annexes, providing for tariff reductions between the two parties. This agreement was then modified a further 77 times. The parties to this agreement asserted in document WT/COMTD/W/238 that they had fulfilled their transparency obligations to other WTO Members by notifying a purely political statement on the front end, and a minor modification to existing tariff treatment 35 years later, on the back end. In this light, his delegation wished to once again assert that the Partial Scope Agreements triggered the notification and transparency called for under GATT Article XXIV, the Enabling Clause and the RTA TM. These agreements needed to be properly notified – individually and clearly – and be subjected to the transparency review called for under the RTA TM. The United States could not accept the premise that these agreements be considered subsequent modifications to an existing agreement, when LAIA claimed that the underlying agreement was the TM80. In addition, regardless of the political framework under which these Partial Scope Agreements were conceived of and negotiated, it was the actual substance of those agreements – and the preferential access that they established between the parties – that resulted in the WTO notification and transparency obligations.

48. His delegation believed that several LAIA members also shared this view. In fact, some LAIA members had previously submitted notifications of Partial Scope Agreements. These included notifications under GATT Article XXIV of agreements ACE 33 between Colombia and Mexico, ACE 38 between Chile and Peru, ACE 41 between Chile and Mexico, ACE 60 between Mexico and Uruguay, and ACE 67 between Mexico and Peru, as well as the MERCOSUR notification of ACE 18 in the GATT "L" series. He noted that transparency for changes or modifications to existing agreements was consistent with the provisions set out in the RTA TM, which was drafted and agreed to by Members, with the understanding that there was a logical sequence to follow. In particular, the initial terms of preferential access in RTAs were to be notified pursuant to the provisions set out in GATT Article XXIV, GATS Article V and the Enabling Clause, and were to be reviewed under the terms of paragraphs 3 to 13 of the RTA TM. The procedures set out in paragraph 14 were only then to be followed to ensure that all Members were notified of changes affecting the implementation of each agreement. In the case of document WT/COMTD/N/53, however, references were made to changes to agreements that had themselves never been notified. Although the transparency on the modifications was appreciated, it did not negate Member's responsibilities with respect to the underlying agreements.

49. In order to further facilitate Members' understanding of the wide range of preferential agreements that existed among LAIA Members, but had not been notified or reviewed by any WTO Committee, his delegation requested that LAIA members engage constructively in the CTD to provide clarity to other Members on their regional integration efforts. A first step would be to provide responses to the questions submitted by the European Union in the CRTA in document WT/REG/W/124. Finally, he said that, while his delegation had not yet seen the new notifications by LAIA members that the Chairman had referred to earlier, he had taken note that these notifications had been submitted as modifications to the TM80. The points made by his delegation therefore applied to the new notifications as well. He believed that it would be important for Members to consider what constituted an agreement and what constituted a modification, and the kind of transparency that was required.

50. The representative of the European Union appreciated the continued engagement of LAIA members on this issue, and in particular their efforts in replying to the questions from the United States. She noted that these questions touched on key systemic issues that had also been raised in the European Union's questions submitted in the CRTA in document WT/REG/W/124. She agreed with the United States that the TM80 was only a political agreement, which did not contain any trade preferences. The subsequent LAIA agreements, which provided the actual tariff preferences, therefore needed to be notified individually. The European Union's questions aimed to identify the underlying LAIA agreements which were subject to notification, and also sought to identify those LAIA agreements that had some services elements. She explained that the services elements were not covered by the Enabling Clause, and needed to be notified under GATS Article V. Her delegation believed that further conversations were needed among Members to clarify paragraphs 14 to 17 of the RTA TM, and to determine what kind of transparency process was required for RTAs undergoing modifications. She indicated that a number of substantial RTAs were in the

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pipeline to potentially fall in this category. In closing, she encouraged the LAIA members to reply expeditiously to the European Union's questions, which she noted had been submitted in October 2017. She also observed that, since the venue for discussion represented a concern for LAIA members, her delegation was open to discuss these issues in the CTD, although not exclusively in the CTD. Her delegation could also envisage an *ad-hoc* dedicated session on this matter. Finally, the European Union had taken note of the new set of notifications submitted by LAIA members, and stood ready to engage on discussions on these notifications.

51. The Chairman indicated once again that he and the Secretariat would be looking over the recent notifications by LAIA members. The notifications would be on the agenda for the next meeting.

52. The Committee took note of all interventions.

(III) Status of the preparation of factual presentations - Report by the Chairman (WT/COMTD/W/240)

53. The Chairman said that his report on the status of the preparation of factual presentations was circulated in document WT/COMTD/W/240. It contained the same information as the report considered earlier in the day at the CTD's 9<sup>th</sup> Dedicated Session on RTAs. This was because the CTD Chairperson traditionally provided the same information on the status of preparation of factual presentations at the CTD Regular Session and at the Dedicated Session on RTAs. The report contained 16 separate entries relating to the status of preparation of factual presentations. In some cases, the Secretariat was still awaiting the submission of the full set of data, while in other cases, all comments on the draft factual presentations had not been received. He urged all the parties to these agreements to provide the data and information as soon as possible. He expressed his intention to continue to hold consultations with the parties to these RTAs, in the hope that this would help expedite the provision of the required data and information. Finally, he said that there remained one RTA notified under the Enabling Clause that had not been ratified by all the parties. This was the Pacific Island Countries Trade Agreement (PICTA). Following CRTA procedures, a factual presentation on PICTA would only be drafted after the agreement had been ratified by all the parties. The parties to PICTA were urged to inform the Secretariat as soon as all ratifications were completed.

54. The Committee took note of the Chairman's report.

- Gulf Cooperation Council (GCC) Notification of Customs Union – Communication from China, Egypt and India (WT/COMTD/W/175)

55. The Chairman said that this sub-item concerned the GCC Customs Union notification. The sub-item also referred to the communication from China, Egypt and India, which was circulated in document WT/COMTD/W/175. The sub-item was requested by India, on behalf of the proponents of the document.

56. The representative of India indicated that his intervention related to document WT/COMTD/W/175, as well as to issues relating to the notification of the Comprehensive Economic Partnership Agreement between India and Korea. He said that document WT/COMTD/W/175 raised systemic concerns relating to the legal and procedural implications of the dual notification of the GCC Customs Union under both the Enabling Clause and GATT Article XXIV. These concerns also applied to some other RTAs. The concerns impinged upon the mandate and the TORs of the CTD, as well as on the Enabling Clause, the RTA TM, and the rights and obligations of Members in a manner that extended to the realm of strengthening the multilateral trading system and its development dimension, as highlighted by the Seventh WTO Ministerial Conference. In this context, some Members had expressed the view that the systemic concerns raised in document WT/COMTD/W/175 were outside the scope of the CTD, and needed to be discussed in the Negotiating Group on Rules. In India's view, the CTD was the appropriate forum to consider questions arising from RTAs with a dual notification. In doing so, the CTD could consult with other WTO bodies, as per paragraph 3 of its TORs. Some of the issues to address included whether a Member could notify an RTA under a specific legal provision unilaterally – without the consent of the other parties to the RTA – and whether a notification could be made on behalf of all the parties to the RTA under another legal provision. The CTD also needed to discuss and address the implications arising from Members

retaining a notification under the Enabling Clause, but not conducting a factual consideration of the RTA in the CTD.

57. The representative of the United States appreciated the opportunity to once again clarify the position of his delegation. In this regard, he said that his delegation did not see the GCC issue as one of dual notification. A dual notification existed when individual parties to an RTA submitted notifications under different legal provisions. The India-Korea agreement – which would be addressed under the next sub-item – fell into this category, as Korea had notified the agreement under GATT Article XXIV, while India had notified it under the Enabling Clause. He agreed that Members should discuss practical ways forward when there were different views as to what the appropriate legal provision was. His delegation saw this as a question of venue, and believed that there were several non-prejudicial options that could easily address Members' concerns. He encouraged Members to pursue these options. However, the case of the GCC Customs Union was very different. There was no question of dual notification, since the GCC parties had acted in unison. They had notified the agreement under GATT Article XXIV in November 2006, and had subsequently changed their view and submitted a notification under the Enabling Clause in 2008. A discussion had taken place in the CTD in 2008, under "Other Business", and the United States and the European Union had submitted written questions regarding the appropriateness of notifying a customs union under the Enabling Clause. The GCC parties had responded to these questions, and in November 2009 had returned to their original position by submitting a notification of their customs union under GATT Article XXIV. This was the most current notification, which was the basis on which Members should proceed. He requested the GCC parties to break their long silence on this issue, and inform the Committee whether the notification contained in document WT/REG276/N/1/Rev.1 remained current. If the Committee was to have a discussion on this issue, it should be on the basis of whether or not a customs union was consistent with the provisions of the Enabling Clause. Attempts to distract with confusion over the dual notification issue would not help the Committee act as a focal point for the interpretation of the RTA TM, and would not help Members get past the blockage. He hoped that in future meetings Members could focus on the relevant questions, and not get distracted.

58. The representative of China supported the intervention by India and requested that the present sub-item be maintained on the agenda.

59. The representative of Nigeria believed that this was a systemic concern, on which some clarity was required. On the one hand, the present situation with respect to the GCC Customs Union could be viewed as one of dual notification. However, it could also be considered that the most recent notification had nullified the earlier one. Questions to discuss included how to reconcile this in terms of procedure, and how to interpret the notifications. He also noted that whatever decision was taken on this issue would set a precedent for any possible future notifications of RTAs under different legal provisions. He encouraged the GCC parties to participate in discussions, and indicated a need for further informal consultations to find a breakthrough.

60. The representative of the European Union thanked the United States for recalling the background of this issue. She said that the GCC Customs Unions differed from other dual notifications, and in fact was not a dual notification. Her delegation's view was that GATT Article XXIV was the appropriate legal basis for notifying customs unions. The European Union had therefore been encouraged to see the circulation of the factual presentation on the GCC Customs Union, as well as the Secretariat's general incidence calculation, for review at the June 2018 meeting of the CRTA. However, the matter had subsequently been withdrawn from that meeting. She asked for information from the GCC parties on when the transparency exercise could be taken forward.

61. The Committee took note of all interventions.

- Notification of the Comprehensive Economic Partnership Agreement between India and Korea (Goods)

62. The Chairman said that the sub-item concerning the notification of the Comprehensive Economic Partnership Agreement between India and Korea was requested by India.

63. The representative of Korea indicated that his delegation's position remained the same as had been outlined in past CTD meetings. He also informed the Committee that discussions were under way between Korea and India to solve the problem.

64. The representative of the United States appreciated that this item remained on the agenda, as it allowed his delegation to express its concern about the delay by one of the parties in providing data to the Secretariat. He requested that the Secretariat include the full title of the notification in question – including the date – on any future agendas, so as to allow Members to see the time that had elapsed since the notification was submitted. He commended the efforts by Korea for its timely submission of data, and encouraged India to submit its data without further delay. Finally, he noted that some Members had raised concerns regarding the venue for the mandated review of the India-Korea agreement pursuant to the RTA TM, given that the parties had notified the agreement under separate legal instruments. While it was important for Members to reach a consensus on a path forward for the review, his delegation did not believe that the question of venue should be a reason for Members to avoid fulfilling their obligations under the RTA TM.

65. The representative of the European Union said that it was important to clarify the legal and procedural questions arising from an RTA being notified by each party under different legal provisions. With respect specifically to the India-Korea agreement, she regretted that no progress had been made. The parties were invited to make additional efforts to find a solution.

66. The representative of Nigeria stressed the importance of clarifying the relevant legal and procedural questions. He also believed that it was important to determine how and where these issues could be addressed.

67. The representative of Colombia referred to the Chairman's earlier intervention concerning the proposed new document structure in the CTD for notifications of RTAs, and indicated that she wished to know more about the implications of these changes. She wondered whether further information could be provided at the present meeting, or whether the matter could be addressed at a future meeting.

68. The Chairman replied that it would be preferable to come back to issues relating to the new document structure for notifications at the next meeting, at which the Secretariat could provide further information.

69. The Committee took note of all interventions.

**F. TEMPLATE FOR NOTIFYING CHANGES TO AN EXISTING REGIONAL TRADE AGREEMENT – PROPOSAL BY THE COMMITTEE ON REGIONAL TRADE AGREEMENTS TO THE COUNCIL FOR TRADE IN GOODS, THE COUNCIL FOR TRADE IN SERVICES AND THE COMMITTEE ON TRADE AND DEVELOPMENT (WT/REG/28)**

70. The Chairman said that the present item concerned a template proposed by the CRTA for notifying changes to an existing RTA, which could be found in the Annex of document WT/REG/28. He believed that, in the case of the CTD, this notification template would apply to RTAs originally notified under the Enabling Clause. He also recalled that, at the last meeting, Members had had a preliminary consideration of this template. The Committee had not been in a position to adopt the template, as the delegation of Brazil had indicated that it would need more time to complete internal consultations on the matter. He said that the template was up for consideration once again at the present meeting, and asked whether the Committee was now in a position to adopt it.

71. The representative of Brazil recalled that his delegation had requested more time to complete internal consultations on the matter. These consultations had now been concluded, and his delegation was in a position to join the consensus and approve the template.

72. The Committee adopted the template. The Chairman indicated that it would be circulated in a CTD document as a template agreed to by the Committee.<sup>2</sup>

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<sup>2</sup> The template was circulated in document WT/COMTD/98.

## **G. NOTIFICATIONS UNDER THE TRANSPARENCY MECHANISM FOR PREFERENTIAL TRADE ARRANGEMENTS**

- Implementation of the Transparency Mechanism for Preferential Trade Arrangements – Status Report on the Committee's Work
  - Status of the preparation of factual presentations – Report by the Chairman (WT/COMTD/W/241)

73. The Chairman said that his report on the status of the preparation of factual presentations was circulated in document WT/COMTD/W/241. In summarizing the information contained in the report, he informed the Committee that, as had been mentioned in past meetings, there were five PTAs that had been notified since the establishment of the Transparency Mechanism for PTAs (PTA TM) for which the Secretariat had still not received the full set of data or information required for the preparation of the factual presentations. These were the PTAs being implemented by China, India, the Russian Federation, Chinese Taipei and Thailand. He added that, on 31 October 2018, he had held a series of informal consultations with several of the Members implementing the PTAs mentioned in the report, with a view to finding ways to expedite the provision of the required data and up-to-date information. He noted that some progress had been made since the last meeting, and expressed his hope that his consultations would allow the Secretariat to soon receive all it needed for the preparation of the factual presentations. He also indicated that he wished to take the opportunity to remind Members implementing PTAs of their notification obligations with respect to changes in the implementation of the PTA. In particular, such changes – including any legal changes – needed to be notified to the CTD.

74. The representative of the United States encouraged the concerned Members to provide the full set of data and information that would allow the Secretariat to complete the drafting of the outstanding factual presentations. She reiterated her delegation's concern that, for some PTAs, the Secretariat had been waiting for more than six years for the information and data. The lack of transparency contributed to the decreasing relevance of the WTO to some stakeholders. She urged Members to participate in this exercise.

75. The Committee took note of the Chairman's report, and of the interventions.

## **H. ANNUAL REVIEW OF STEPS TAKEN TO PROVIDE DUTY-FREE AND QUOTA-FREE MARKET ACCESS TO LEAST DEVELOPED COUNTRIES**

76. The Chairman said that the Bali Decision on duty-free and quota-free (DFQF) market access for LDCs, contained in documents WT/MIN(13)/44 and WT/L/919, instructed the CTD to continue to annually review the steps taken to provide DFQF market access to the LDCs, and report to the General Council for appropriate action. To aid in the review, the Secretariat was instructed to prepare, in close coordination with Members, a report on Members' DFQF market access for LDCs, at the tariff line level based on their notifications. He recalled that, in 2017, it had not been possible for the Secretariat to circulate a report on DFQF market access as mandated by the Bali Decision, due to divergent views expressed by some Members on the scope and coverage of the report. He informed the Committee that he had recently held informal consultations with the key delegations involved in this discussion in order to see if positions had changed. However, he had found that this was not the case. Therefore, under these circumstances, it was once again not possible for the Secretariat to prepare a report in 2018. While the situation was regrettable, he observed that the Committee still had an item on the agenda concerning the annual DFQF review, so as to allow a discussion to take place on the matter.

77. The representative of the Central African Republic, on behalf of the LDC Group, emphasized the importance of DFQF market access for the economic growth and development of LDCs. The Group continued to encourage Members to improve as far as possible the DFQF market access conditions for products exported from LDCs. The Group also requested Members to provide LDCs with the appropriate technical assistance in order to allow for a better utilization of the trade preferences that were granted.

78. The representative of the European Union expressed her delegation's commitment to the Hong Kong and Bali DFQF Decisions. She said that the European Union had been a pioneer in

providing DFQF market access to LDCs, and it remained the most important destination for LDCs' agricultural and manufactured products. She also observed that, as per the European Union's 2014 GSP regulations, the number of beneficiaries of the scheme had been reduced, thereby generating considerably more space for LDC exports. According to a recent report, increases had been recorded in both the absolute figures and in the relative shares of LDC exports. She welcomed the progress made in DFQF market access, and encouraged Members – including developing countries in a position to do so – to continue to support LDC exports.

79. The representative of the United States appreciated the efforts by the Chairman and his predecessor to try and find a solution that was acceptable to all Members. She said that her delegation could continue to accept the compromise that it had accepted in previous reports, which was to include in a table the United States' GSP programme, and supplement this with additional text in a footnote in order to clarify the United States' preference schemes. Consideration could also be given to the possibility of deleting the acronym GSP from the title of the table, and listing the three additional preferences programmes – namely, the African Growth and Opportunity Act (AGOA), the Caribbean Basin Trade Partnership Act (CBTPA), and the trade preferences for Nepal – in the body of the table, given that all these programmes were notified to the WTO and appeared in the Database on PTAs. However, the United States could not join consensus to approve a report that did not provide specific information on all of its preference programmes that had LDC beneficiaries, as doing so would be misleading and unfair. Her delegation was disappointed that other Members sought to block this compromise.

80. The representative of Nigeria supported the intervention by the Central African Republic. He noted that Members were confronted with the issue of implementing the Hong Kong and Bali DFQF Decisions, and that the current state of affairs did not allow the Secretariat to finalize its report. He also noted that, in the absence of the report, the Committee was not in a position to make appropriate recommendations.

81. The Committee took note of all interventions.

## **I. WORK PROGRAMME ON ELECTRONIC COMMERCE**

82. The Chairman said that, earlier in the year, Members' attention had been drawn to the Decision taken at the Eleventh WTO Ministerial Conference (MC11) concerning the WTO's Work Programme on E-Commerce which called for a continuation of the work under the Work Programme. He recalled that the CTD was one of the subsidiary bodies of the General Council mandated to undertake work under the Work Programme. However, at the present time, there were no specific proposals from Members to consider.

83. The representative of Nigeria said that his delegation did not have any specific proposals to make. However, he wished to recall that the CTD was one of the subsidiary bodies of the General Council mandated to undertake work under the Work Programme on Electronic Commerce. In this regard, he indicated his concern that there seemed to be no appetite for discussing e-commerce in the CTD. While he was aware of the consultations on e-commerce being held by the Chairman of the General Council, as well as the meetings being organized in the context of the Joint Statement on E-Commerce, he believed that Members also needed to ensure that the CTD was fulfilling its mandate under the Work Programme on E-Commerce. He wondered how the CTD Chairman intended to handle this, and also indicated his delegation's interest in discussing issues relating to e-commerce.

84. The representative of the United States said that her delegation placed a strong importance on digital trade, and in ensuring that the digital economy realized its promise as an engine of economic growth. Her delegation looked forward to continued engagement on digital trade issues in the CTD, as well as in other WTO bodies.

85. The representative of the European Union said that her delegation continued to attach great importance to progressing the work on e-commerce at the WTO. The European Union stood ready to participate in, and contribute positively to, various approaches that could allow Members to advance in determining multilateral trade policy responses to the challenges faced by developed countries and developing countries in the e-commerce area.

86. The Committee took note of the interventions.

87. The Chairman proposed that the agenda item concerning the Work Programme on E-Commerce be maintained on the agenda for the next meeting.

88. It was so agreed.

#### **J. DRAFT ANNUAL REPORT FOR 2018 (WT/COMTD/W/242)**

89. The Chairman recalled that a fax was sent to Members on 12 November 2018, indicating that the CTD's draft annual report had been circulated in document WT/COMTD/W/242. It was noted that the draft contained a number of square brackets relating to the items to be discussed at the CTD meetings held on 21 November 2018, which included the 9<sup>th</sup> Dedicated Session on RTAs, the 10<sup>th</sup> Dedicated Session on the Monitoring Mechanism on S&D, and the present 107<sup>th</sup> Regular Session. The square brackets would be removed as part of the process of adopting the report, and the discussion that had taken place at the three CTD meetings held on 21 November 2018 would be appropriately reflected in the report. Noting that Members had been requested to submit in writing any comments on the draft annual report by 15 November 2018, he informed the Committee that comments had been received from the delegations of El Salvador and the United States. The suggestion by El Salvador related to the section on the Dedicated Session on Small Economies. The suggestion was to add a sentence in paragraph 6.1 to indicate that a number of SVEs took the floor at the meeting of the Dedicated Session on Small Economies held on 1 November 2018. He believed that this was a reasonable suggestion, which could be accommodated. He also indicated that he had had the opportunity to see the comments by the United States, and inquired whether the representative of the United States wished to introduce them.

90. The representative of the United States said that the first comment from her delegation concerned paragraph 7.1 of the draft annual report. She referred to the third sentence of that paragraph, which read: "After a number of informal consultations, the 2018-2019 Aid for Trade Work Programme was endorsed by the General Council on 8 May with the theme "Supporting Economic Diversification and Empowerment for Inclusive, Sustainable Development through Aid for Trade" (WT/COMTD/AFT/W/75). She requested that the word "endorsed" in this paragraph be replaced by "noted", which was in line with the minutes of the General Council meeting. The second comment from her delegation related to paragraph 8.7 of the draft annual report. Drawing from the minutes of the 14 September 2018 meeting of the Sub-Committee on LDCs, she requested that the following sentence be added at the end of that paragraph: "Another Member commented on the accession process's important long-term contributions to sustainable development for Members at different stages of development, including for the LDCs, noting that countries joining the WTO became stronger and more resilient in view of the reforms they were undertaking as part of accession".

91. The representative of Nigeria said that the CTD's annual report needed to reflect the discussion that had taken place at the present meeting under the item concerning the Work Programme on E-Commerce.

92. The Chairman asked whether the representative of Nigeria had any specific text that he wished to suggest for inclusion in the annual report.

93. The representative of Nigeria indicated that, while he had no specific text to suggest, he wished that it be reflected in the annual report that interest had been expressed at the present meeting on the issue of e-commerce.

94. The Chairman explained that the square brackets appeared in the draft report because the discussion that had taken place at the present meeting, as well as at the two dedicated sessions of the CTD which were also held on 21 November 2018, would need to be reflected in the final report. This applied to the discussion on e-commerce as well. He observed that the normal practice was for the CTD to approve its report at the final meeting of the year. However, in light of the comments made, he suggested that these comments be included in a proposed final draft of the annual report. Members would be given a few days to review the final draft. This would ensure that all Members were in agreement with the report before it was circulated and forwarded to the General Council.

95. The representative of South Africa indicated that she wished to make a comment, on which she stood to be guided. She referred to the last sentence of paragraph 2.11 of the draft annual report, which read: "The updated paper was prepared in the context of the proposal from Ecuador for the Secretariat to periodically update its paper on this subject (WT/COMTD/W/204/Rev.1), which the Committee agreed to at its 97<sup>th</sup> Session". She suggested in this regard that the updated report by the Secretariat responded not only to the proposal by Ecuador, but also to one of the proposals contained in document WT/COMTD/W/192.

96. The representative of Nigeria referred to sections 2.5, 2.7 and 3 of the draft report, and asked whether the discussion that had taken place at the meetings held on 21 November would be reflected in the final report.

97. The Chairman replied that the draft report presented a picture of discussions that had taken place up to a certain time. The discussions that had taken place on 21 November would still need to be reflected in the final report. The comments by El Salvador and the United States, which he believed were reasonable, would also need to be incorporated. He indicated once again that a proposed final version of the draft the annual report would be prepared. Members would be given a few days to provide comments, if any, before the report was circulated and forwarded to the General Council.

98. It was so agreed.<sup>3</sup>

99. The Chairman said that he wished to make an observation regarding the reporting of the work of the Sub-Committee on LDCs. He noted that the Sub-Committee was established by the CTD through a decision taken on 5 July 1995, contained in document WT/COMTD/2, which laid out the TORs for the Sub-Committee. While he appreciated that the Sub-Committee was currently implementing the WTO Work Programme for the LDCs as contained in document WT/COMTD/LDC/11/Rev.1, it nevertheless remained a fact that the Sub-Committee was a subsidiary body of the CTD. In terms of reporting structure, the decision taken by the CTD in 1995 indicated that the Sub-Committee was to report to the CTD for consideration and appropriate action. It appeared that the practice for many years in this regard had been for the Sub-Committee's reporting to the CTD to take place through the CTD's annual report to the General Council. In particular, the annual report – which was put together by the Secretariat and then adopted by the CTD – traditionally had a dedicated section devoted to the work of the Sub-Committee. While he did not believe that there was a need to change this practice, he was nevertheless of the view that the CTD – and the CTD Chair as well – could additionally benefit from a periodic briefing from the Chair of the Sub-Committee. He pointed out that, of all the subsidiary bodies of the CTD, the Sub-Committee was the only one which had its own Chairperson. He believed that it would be interesting and valuable to hear, on a periodic basis, from the Chair of the Sub-Committee. This would allow the CTD to be in a better position to follow through on its own decision from 1995 for the Sub-Committee to report to the CTD for consideration and appropriate action. To start such a process, he proposed to invite the Chair of the Sub-Committee to the next CTD meeting, so as to allow the Committee to be briefed on the work of the Sub-Committee. He hoped that this was acceptable to Members.

100. The representative of Nigeria said that, while he was not objecting to the Chairman's proposal, he wished to have clarification on some points. He asked whether a briefing by the Sub-Committee Chair might re-open discussions that had taken place in the Sub-Committee, and how this would be handled without creating a duplication of work. He also wished to know whether the CTD would be having an oversight function over the Sub-Committee. He explained that his delegation wanted to be clear on the process of engagement, which Members needed to be comfortable with. It was important to ensure that the two separate tracks were maintained.

101. The Chairman said that the decision establishing the Sub-Committee stated that the Sub-Committee would report to the CTD for consideration and appropriate action. What he was proposing was in line with that decision. He also believed that a briefing by the Sub-Committee Chair would add value to what was already contained in the CTD's annual report. In response to the query by Nigeria as to whether such a briefing might re-open discussions, he shared his view that the situation would be similar to the presentation of the ITC JAG report that had taken place at the present meeting. In particular, after the presentation of the report, the floor had been opened for comments.

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<sup>3</sup> The CTD's Annual Report was subsequently circulated in document WT/COMTD/97.

Members could similarly have an exchange of views after a briefing by the Sub-Committee Chair, which he believed would be useful.

102. The representative of Nigeria asked whether the objective was for the CTD to validate the report of the Sub-Committee. He noted that the decision establishing the Sub-Committee stated that the Sub-Committee would report to the CTD for consideration and appropriate action. In this regard, he wished to know how to interpret "consideration" and "appropriate action". As an illustration, he observed that it was possible that delegations which may not have participated in meetings of the Sub-Committee could raise issues on the basis of the Sub-Committee Chair's briefing to the CTD. He wondered how the CTD Chairman would handle this. He also sought information on a number of additional points, including with regard to the difference between a written report and an oral briefing, whether the Sub-Committee Chair's briefing would be reflected in the CTD's annual report, and whether the briefing should more appropriately take place before or after the written inputs for the CTD's annual report were submitted. He indicated that he was raising these questions to ensure that the process proposed by the Chairman would be complementary to existing processes, and would not raise any additional issues.

103. The Chairman said that a key question related to what difference there was between the written report of the Sub-Committee's work – which was included in the CTD's annual report – and an oral briefing by the Sub-Committee Chair. He pointed out in this regard that Members could in any case make comments on either the draft report when presented to them, or the briefing. His view was that, in addition to the written report, Members would benefit from a briefing by the Sub-Committee Chair. With regard to the concern raised by Nigeria about the possible implications of exchanges among Members after the presentation by the Sub-Committee Chair, he once again pointed to the example of the CTD's consideration of the ITC JAG report at the present meeting, where he believed a useful exchange had taken place after the presentation of the report. He also pointed to the briefings which took place in the CTD Aid-for-Trade sessions, which he believed enriched the discussions among Members. This was not to say that discussions would necessarily take place after the briefing by the Sub-Committee Chair, as this would ultimately depend on Members.

104. The representative of the European Union said that it was the prerogative of the CTD Chair to invite the Sub-Committee Chair to report to the CTD, as this was in line with the Sub-Committee's TORs. She added that her delegation had in several instances stressed that LDCs' needs and challenges had to be discussed and addressed as a priority. Having the Sub-Committee Chair brief the CTD in person would be consistent with this priority. Her delegation therefore viewed the Chairman's proposal as valid.

105. The Chairman noted that the Committee agreed with his proposal.

106. The Committee took note of all interventions.

#### **K. DATE OF THE NEXT MEETING**

107. The Chairman said that the next meeting of the CTD Regular Session was tentatively scheduled to be held on Wednesday, 27 March 2019. An initial agenda would be circulated four weeks before the meeting, on 27 February 2019, as per the CTD's rules of procedure. After the circulation of this initial meeting notice, Members would still have the opportunity to request items on the agenda for the meeting. The agenda would close on 14 March 2019, and would be circulated on 15 March 2019.

#### **L. OTHER BUSINESS**

108. The Chairman said that, after the last meeting, some delegations had approached him to ask for clarification on the procedures to request, and maintain, an item on the CTD agenda. He therefore thought it would be useful to share with the Committee how he saw it. In the case of a new agenda item that a Member wished to request, he said that the rules of procedure were very clear. He pointed in particular to Rule 4 of the General Council's rules of procedure, as contained in document WT/L/161, and which the CTD also followed. The first sentence of Rule 4 stated that "Requests for items to be placed on the agenda of a forthcoming meeting shall be communicated to the Secretariat in writing, together with the accompanying documentation to be issued in connection with that item". It was therefore clear that a request for a new agenda item had to be communicated to the

Secretariat in writing. However, he did not wish to carry this requirement over to items that were already on the CTD agenda, and that a Member wished to maintain on the agenda for the next meeting. He observed that the practice in the CTD for many years had been to maintain an item on the agenda if any Member so requested during the meeting itself. This was a practice he wished to keep, as he did not believe that there was a logic in requiring a Member to submit a written request before each CTD meeting, in order to simply maintain an item that had already appeared on the agenda. That being said, he also stressed the importance for delegations to make it very clear in their interventions if they wished to maintain an existing item on the agenda for the next meeting. This would help avoid any misunderstandings, and the Chairperson and the Secretariat would then have the necessary information when putting together the agenda for the next meeting. He hoped that this clarified the matter, and indicated his willingness to hold further discussions on these issues, should any Member wish.

109. The representative of Nigeria sought confirmation that it was not necessary to have consensus for an existing item to be maintained on the agenda.

110. The Chairman replied that items appeared on the agenda at the request of Members. It was the prerogative of Members to request that an item be included, and maintained, on the agenda.

111. The representative of Nigeria indicated that his follow-up question related to what would happen in the absence of such requests.

112. The Chairman said that the present discussion was taking place under "Other Business", and it was not necessary for the Committee to take a decision. He indicated that it was important to clarify how to handle situations relating to agenda items under which no discussion had taken place. His view was that the Committee should not easily withdraw an item from the agenda. He explained that he would be hesitant to remove an item from the agenda if there was no discussion at a given meeting, in particular because some small delegations were not always able to attend all CTD meetings. Having said this, he noted that the immediate follow-up question would relate to how long to maintain an item on the agenda if there was no discussion taking place over a number of meetings. This was a question that Members could consider, although it did not appear to be an issue for the CTD at the present time.

113. The representative of Nigeria recognized that the present discussion was taking place under "Other Business", and a decision by the Committee was not required. He said that all issues did not have the same ranking, and it may not be necessary for all items to be maintained for an extended period of time on the agenda, regardless of whether or not there was discussion. A consideration on a case-by-case basis was perhaps called for. Taking the example of the item concerning the Work Programme on E-Commerce, he asked whether this item would disappear from the agenda in the absence of discussion in the CTD. He also noted the Chairman's observation about the need to possibly maintain some items on the agenda, in light of the capacity problems of small delegations. He therefore believed that it was important for Members to reflect further on how to balance the various elements, so as to ensure the efficiency and effectiveness of the Committee.

114. The Chairman indicated that he had noted the comments by Nigeria, and also observed that some items on the CTD agenda related to Ministerial mandates. He invited Members to reflect on these issues. He additionally indicated that, even if an item was removed from the agenda of a particular meeting, Members in any case had the right to request the item on the agenda for the next meeting.

115. The meeting was adjourned.

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