



Council for Trade in Services

REPORT OF THE MEETING HELD ON 21 MARCH 2019

NOTE BY THE SECRETARIAT¹

The Council for Trade in Services held a meeting on 21 March 2019 chaired by Ambassador Suescum (Panama). The agenda was contained in document WTO/AIR/CTS/18.

The Chairman indicated that, under Other Business, he would make a statement on the state of his consultations on the appointment of Chairpersons to the subsidiary bodies of the Council for 2019, and the Secretariat would report briefly on its technical assistance activities in 2019 and on its discussions with the UN Statistical Division concerning the accessibility of the CPC Provisional. In light of the fact that the incoming Chairperson would need to leave at 12h45, he encouraged delegations to be efficient in their use of time.

The representative of the European Union said that he wished to add an item of Other Business, to inform delegations about the EU-25 Consolidated Schedule of Commitments.

The representative of the United States requested that, to honour the Chairman's call for more efficiency, item G of the agenda concerning "Information sharing on the US-Lao PDR cooperation on digital trade issues" be moved under agenda item C relating to the "Work Programme on Electronic Commerce".

The agenda was adopted as modified.

1 ITEM A: NOTIFICATIONS PURSUANT TO ARTICLES III:3, V:7 AND VII:4 OF THE GATS

1.1. With regard to the notifications made pursuant to GATS Article III:3 (Transparency), the Chairman drew the Council's attention to the communications received from Switzerland (S/C/N/922), Japan (S/C/N/930), and New Zealand (S/C/N/931 to 945).

1.2. The representative of Canada thanked delegations for their notifications. She had a follow-up question to New Zealand on its notification concerning privacy measures, contained in document S/C/N/944. She enquired how New Zealand's Privacy Commissioner would assess whether a transfer of personal information that had been routed through New Zealand was intended to avoid the privacy laws of the originating country.

1.3. The representative of New Zealand thanked Canada for the question. He replied that the Privacy Commissioner had the power, under Section 114b of the Act, to prohibit the transfer of personal information from New Zealand to another State if it was satisfied that the personal information would be transferred to a jurisdiction where it would not be subject to a law providing comparable safeguards to those in New Zealand's Act. In exercising its discretion, the Privacy Commissioner was required to consider whether or not the proposed transfer of personal information affected or was likely to affect an individual, the desirability of facilitating the free flow of information between New Zealand and other States, and any existing or developing of international guidelines relevant to cross-border data flows.

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.

1.4. The Chairman suggested that the Council take note of the notifications and the statements made.

1.5. It was so agreed.

1.6. Concerning the notifications made pursuant to Article V:7 (Economic Integration), the Chairman drew the Council's attention to the communications received from Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Viet Nam (S/C/N/920); the European Union and Japan (S/C/N/921); Hong Kong, China and Georgia (S/C/N/923); and the United States and the Republic of Korea (S/C/N/621/Add.1).

1.7. He suggested that the Council take note of the notifications made and that the agreements notified be referred to the Committee on Regional Trade Agreements for consideration.

1.8. It was so agreed.

1.9. The Chairman also drew delegations' attention to the fact that, at its meeting scheduled for 1 and 2 April, the CRTA would be considering five regional trade agreements that covered trade in services. The agreements in question were: the 'Closer Economic Partnership Arrangement between Hong Kong, China and Macao, China'; the 'Free Trade Agreement between Chile and Thailand'; the 'Free Trade Agreement between China and Georgia'; the 'Free Trade Agreement between Georgia and the EFTA States'; and the 'Accession of Ecuador to the Trade Agreement between the European Union and Colombia and Peru'. He hoped that the information he had provided would be useful to delegations in organising their time.

1.10. Turning to the notifications made under Article VII:4 (Recognition), the Chairman drew the Council's attention to the communications received from India (S/C/N/924 to 929).

1.11. The representative of India stated that her delegation was pleased to notify six agreements pursuant to Article VII:4 of the GATS, as contained in documents S/C/N/924 to S/C/N/929. Five of those notifications related to recognition agreements finalised by the Institute of Chartered Accountants of India (ICAI) with its counterparts in South Africa, Ireland, Canada, England and Wales, as well as Australia and New Zealand. The sixth notification, contained in document S/C/N/929, related to mutual recognition agreements between the Indian Nursing Council and the Singapore Nursing Board.

1.12. Regarding the notification contained in document S/C/N/928, concerning an MoU between ICAI and the Institute of Chartered Accountants in Australia and New Zealand, she noted that the notification currently specified a duration of 5 years. However, India wished to inform the Council that the duration of the MoU, which was still awaiting Cabinet approval in India, was under consideration and was not 5 years. India thanked Australia for having brought the point to its notice.

1.13. The representative of Canada thanked India for consulting her delegation in preparing the notification concerning Canada. Her delegation wished to take the opportunity to provide an update on the Chartered Professional Accountants (CPA) of Canada, which had been created in 2013 to unite Canada's three legacy accounting professions (CA, CGA, CMA) under the new CPA designation. As a result, all the existing MoUs originally negotiated by the legacy accounting bodies had to be renegotiated. While the process was still ongoing, Canada intended to notify new agreements as appropriate.

1.14. The Chairman suggested that the Council take note of the notifications and the statements made.

1.15. It was so agreed.

1.16. The Chairman indicated that the agenda included also consideration of the Note by the Secretariat titled "Overview of notifications made under relevant GATS provisions", which Members had agreed would be updated annually. The Note had been circulated as document JOB(09)/10/Rev.9.

1.17. A representative of the Secretariat indicated that the Note provided a statistical account of the notifications made by Members under relevant GATS provisions, updated to incorporate notifications submitted between January and December 2018. For ease of reference, the Note listed GATS notification requirements applicable to Members, irrespective of whether any notifications had been submitted under those Articles in 2018.

1.18. As indicated in the Note, during 2018, ten notifications had been submitted pursuant to Article III:3 on transparency; six economic integration agreements had been notified under Article V:7; and seven notifications had been made pursuant to Article VII:4. Three observations could be made based on the current update of the Note. First, the number of Article III:3 notifications received in 2018 was amongst the lowest ever recorded. Second, fewer economic integration agreements had been notified by Members in 2018 compared to 2017, a continuation of the trend noted in the previous update. Third, 2018 had witnessed a significant increase in notifications submitted pursuant to Article VII:4 on recognition.

1.19. All delegations who took the floor thanked the Secretariat for the Note.

1.20. The representative of South Africa said that the Note provided a useful overview of notifications made under relevant GATS provisions. Transparency in the WTO had frequently been argued by some Members to constitute a fundamental element of WTO Agreements and a properly functioning WTO system, and thus of Members' obligations. Advances in technology had expanded and deepened the linkages between manufacturing and services, which further underlined the importance of services notifications. Hence, she noted with interest that those Members currently the champions of enhanced transparency and strengthened notification requirements in the WTO were chronically low in their level of compliance with existing notification requirements, notably under GATS Article III:3.

1.21. The Note reflected services notifications over some twenty-three years and revealed that developing countries, and especially least developed countries, notably from Africa, had submitted more notifications under the GATS than most developed countries. While the opposite was being argued in the Council for Trade in Goods, her delegation viewed that as an important anomaly that warranted further investigation. She stressed that her delegation was raising that issue with the objective of engaging in an exercise that made systemic improvements to the functioning of WTO bodies in the interests of all Members, and not what many Members perceived as selective improvements. South Africa was not a proponent for additional transparency obligations but wished to ensure that, if emphasis was being given to compliance in accordance with existing obligations, this exercise take place in all areas.

1.22. In light of recent events, such as the significant push to negotiate multilateral rules on e-commerce and digital trade, investment facilitation and MSMEs, which were inextricably linked to services-related sectors and important areas for trade policy-making, South Africa considered that notifications in those areas, as they pertained to measures which "significantly affect trade in services" were particularly relevant. Therefore, her delegation would be interested in engaging in the Council in an assessment of compliance with existing notification obligations, notably on the substantive reasons for Members' non-compliance. In her delegation's view, that would be a valuable and constructive exercise. To kick start the process, South Africa proposed that an addendum to the Secretariat Note be compiled, listing the types of measures that Members had already notified under GATS Article III.3.

1.23. The representative of Australia wished to applaud those Members which had submitted the notifications mentioned under that agenda item, both those that had notified measures that had recently entered into force and those that had sought to bring their notifications up to date.

1.24. The Note by the Secretariat was a useful resource that enabled Members to understand trends in the number of notifications since the entry into force of the GATS. For example, it was interesting to note that in 2017, 19 notifications had been made under Article III:3 compared to 10 notifications in 2018. It was also notable to compare those figures to the number of measures listed in the Director General's overview on trade related developments for the period mid-October 2017 to mid-October 2018. That overview included 132 entries for new measures, which concerned 59 WTO Members and two Observers. The report noted that the majority of measures mentioned were trade facilitating. One of the reasons for the discrepancy could be that the Director General's overview

covered measures that fell outside the scope of measures covered by Members' schedules of specific commitments.

1.25. Looking over time, significant spikes in the number of notifications appeared to be where one or two Members had made notifications. For example, in 2009, there were 13 notifications by China, 9 by New Zealand and Switzerland separately, and a spike in 2005 given to 32 notifications by Albania. Members might have different views on what those numbers meant, and Australia did not intend to analyse those numbers at that juncture. Instead, she wished to share some questions that had arisen for her delegation while looking at the notification process in considering its own notification practice.

1.26. First, what were examples of best practice in notifications: for instance, were there particularly good examples that clearly described how a measure differed from past practice? Second, how could capitals and the private sector be better involved in the notification process? Third, did capitals have sufficient time to analyse notifications in order to be able to ask questions on new measures? Fourth, should some notifications, e.g. on MRAs, be done jointly? That might not always be possible or preferable, but should Members strive towards this as best practice? Fifth, notifications under some other WTO Agreements were made through a central portal; could this concept be useful for service trade measures for making it easier for Members to find and analyse notifications?

1.27. Those were just some questions that Australia had started considering through its own experience and looked forward to discussing those issues with interested Members bilaterally and in various configurations.

1.28. The representative of Senegal, speaking on behalf of the LDC Group, took note of the routine Note prepared by the Secretariat. While routine, the Note was receiving special attention during a period of challenges from proposals that questioned developing countries' track record with notification obligations. Proposals with punitive measures in mind had been introduced for the agreement of Members. LDCs were concerned about the way those proposals were devoid of any real consideration for the abject lack of capacity in most LDCs, which did not count with the resources in Capital on a sustainable basis. Many times, there was just one person handling several areas and trained staff changed frequently to meet the needs of Ministries. Most Ministries focused on dire policy and overarching development and livelihood priorities, notably the alleviation of poverty. As evidenced by the Secretariat Note, only a few LDCs were identified as having submitted notifications. However, interestingly, some of the LDCs mentioned in the Note had submitted more notifications than some developed Members. That said, any examination of problems with notification obligations had to be addressed from the perspective of initiatives from the WTO and developed Members to provide sustained assistance and resources in Capitals.

1.29. The representative of China said that the Secretariat Note was very informative and timely. He thanked South Africa, Australia and Senegal for their statements, which were very thought-provoking. It was apparent that Members needed to have more discussion on that very important issue. The notification obligation was a fundamental obligation of WTO Members. China noted with concern that the number of notifications made under Article III:3 of the GATS was decreasing. His delegation stood ready to work together with other Members to improve the notification efforts under the GATS in the future.

1.30. The representative of Malawi, speaking on behalf of the ACP Group, commended the statements made by the LDC Group and the African Group, which also comprised members of the ACP Group. The ACP Group took note of the Note prepared by the Secretariat. The Group supported the WTO monitoring and transparency functions and its members were committed to fulfilling their WTO obligations. The issue of notifications was a staple in WTO Committee processes and, therefore, the Group had read with interest the findings in the Secretariat Note. In other fora where the issue had been discussed, the Group had heard assertions that developing countries and LDCs in the various WTO bodies had lower rates of compliance with notification requirements as compared to developed Members. That was oftentimes owing to lack of capacity, in terms of time and human resources, as well as lack of adequate statistical data and information. The ACP Group took note of the chronically low number of notifications submitted under the GATS Article III:3 by developed countries and was interested in engaging in a discussion which sought to explain why such figures were below par. The ACP Group stood ready to continue discussions on the matter.

1.31. The representative of Canada commended all Members for submitting notifications to the Council. The information provided in the Secretariat Note had allowed her delegation to reflect on its own notification practices and the trends and performance of the system. Canada recognized that the notification function was one of the key pillars of the regular work of the Council and supported the WTO core principles of transparency and predictability. Exploring ways to maintain and improve effective transparency procedures and mechanisms that could provide greater benefits to policy-makers and stakeholders in the areas of services was of interest to Canada. Her delegation shared the views that some elements of the notifications process could benefit from further discussions to help Members with their submissions. As highlighted by Australia, her delegation also saw value in exchanging views on how Members could facilitate the submission process, the access to information for Members and stakeholders, and improve dialogue on the measures and instruments notified. Learning more about best practices would also be useful. Canada was keen to pursue such discussions with interested Members.

1.32. The representative of Switzerland thanked those Members that had submitted notifications. The Secretariat Note was a very useful tool to follow notification practices under the GATS. It clearly showed that notification levels were diverse over time and among the different notification obligations under the GATS. Her delegation welcomed any measures aimed at improving notification procedures and providing support to Members in their efforts to submit notifications. The questions posed by Australia and others were very relevant to that process. Switzerland stood ready to discuss this issue with delegations bilaterally and in different formats.

1.33. The representative of Mexico thanked Australia and Canada for their statements regarding the notification process under the GATS. In her delegations' view, the questions posed by Australia were very relevant. Her delegation stood ready to discuss the matter with delegations in different formats, as had been proposed. She hoped that concrete proposals to help improve the notification process in the Council would result from such discussions, including, for example, the possibility of adopting processes and best practices, as was the experience in other WTO bodies.

1.34. The representative of the United States said that one transparency provision under the GATS was not listed in the Secretariat Note, namely the one contained in section 5c of the Annex on Telecommunications, which stipulated that any new or amended measures of Members significantly affecting the use of public telecommunications transport networks relating to the access to information contained in data bases, and the movement of information within and across borders, had to be notified and be subject to consultation. That was another transparency provision that had not been used.

1.35. The United States was obviously very supportive of transparency generally. Part of the challenge found in services was the standard laid down in GATS Article III:3, which referred to measures that "significantly affect trade in services", and which was tied to "trade in services", not measures that might affect services in general. That standard needed to be thought through as it constituted a fairly subjective standard, as opposed to transparency standards that might apply in other contexts, like in the goods area. As a way of reflecting on the subjectivity of that standard, he noted that there had been notifications to the Council about measures at the local level regarding smoking in public establishments, which was clearly not what was intended by the provision at issue. Very good suggestions had been made and the United States was willing to engage further to improve the process of notifications under the GATS.

1.36. The representative of the European Union also wished to thank those Members which had submitted notifications to the Council at that juncture. His delegation looked forward to the renewed interest on services notifications. There were challenges in terms of interpretation and implementation of Article III:3 of the GATS, which had been the subject of conversations in the past and Members should continue to find ways of improving notifications. The European Union stood ready to continue discussions on that matter.

1.37. Regarding the request by South Africa, a representative of the Secretariat indicated that a note on the typology of measures notified had already been produced in 2013, in document S/C/W/351, although it had not been updated since.

1.38. The Chairman suggested that the Council take note of the statements made. He exhorted delegations which had shown interest in that matter to discuss among themselves and be in touch with each other.

1.39. It was so agreed.

2 ITEM B: OPERATIONALIZATION OF THE LDC SERVICES WAIVER

2.1. The Chairman recalled that, at the previous Council meeting, Members had reverted to the suggestions the LDC Group had put forward in its communication entitled "Possible Elements for a Review of the Operation of Notified Preferences", contained in document JOB/SERV/284. Members had agreed that, as proposed by the LDC Group, the Council would hold a dedicated meeting, at a date to be determined, at which Members would exchange information as part of the mandate in the Nairobi Decision that the Council "initiate a process to review the operation of notified preferences, on the basis of information provided by Members". Several delegations had stressed the need for the information exchange to be broad, covering the full scope of services trade opportunities available to LDC service suppliers, flexible, and based on an equal and commensurate engagement to information-sharing on the part of all Members, including the LDCs.

2.2. It had been decided that he would contact relevant delegations to further discuss the format, date, content and overall organization of the dedicated meeting. Accordingly, he had held various meetings with the LDC Group coordinator for the Waiver, to seek the Group's views. He understood that the LDC Group had been busy developing its thinking on the dedicated meeting and that it had begun reaching out to notifying Members.

2.3. The representative of Senegal, speaking on behalf of the LDC Group, thanked Members for agreeing to the Group's proposal for a dedicated session to review the operation of the LDC services Waiver notifications and the objectives of the Waiver itself.

2.4. LDCs hoped that the review could take place in the autumn of that year. In that regard, the Group was in the process of elaborating a structure for the session and had engaged in a number of informal bilateral discussions with Members keen to make the review a success. Those discussions had not been exhausted and the Group hoped to reach out to more Members in the following few weeks. He thanked those Members who had reached out to the Group to consider ways that they could contribute. That gave the Group the reassurance of the commitment of those Members to the success of the Waiver.

2.5. As the Group had stated since the beginning, its expectation was that the review process would principally provide for information-sharing on how Members were building awareness of the benefits of their preferences in LDCs and how they were going about increasing LDC access to those preferences, as well as how their capacity-building and assistance programmes supported use of the preferences.

2.6. Again, LDCs were open to Members providing any information available they deemed useful to share. Once the Group had concluded its informal bilateral consultations with Members, it would welcome consultations led by the Chairman with delegations to come to agreement on the structure of the review session.

2.7. The review would help LDCs exchange information with their partners having notified preferences, and for the entire Membership to take stock of the implementation of the Decisions taken by Ministers in that regard. LDCs would like for Members to harvest from the exercise ideas on how to ensure awareness of the benefits for all LDCs to report to Capitals, but also for notifying Members to sensitize their consumers interested in acquiring the services from LDC qualified service suppliers.

2.8. He also recalled the Group's remarks in December 2018 that the dedicated session did not replace the standing item on the operationalization of the LDC Waiver on the CTS agenda. The Group looked forward to continuing cooperation with Members on that issue, which was of utmost importance to LDCs.

2.9. The representative of the United States thanked the LDC Group for its efforts in that area and looked forward to continuing consultations with them to make the dedicated meeting a success. His delegation had suggested that the ITC present a publication it had produced a couple of years earlier, titled "Making the Most of the LDC Services Waiver", to refresh memories on what the main suggestions and recommendations, contained in Chapter 2, were. These highlighted the steps that LDCs should take and the various programmes that were available to them, and he thought that having the ITC give a presentation on those aspects would be useful in thinking about how to go about the dedicated meeting. His delegation looked forward to that event being a success.

2.10. The representative of India reiterated that her delegation attached utmost importance to the meaningful implementation of the preferences granted under the Waiver by all preference-granting Members, with the ultimate objective of increasing LDCs' share in global export of services. India fully supported information-sharing sessions in the Council, including the organisation of a dedicated workshop that brought together all relevant stakeholders. Her delegation also supported the LDC request for all possible assistance from the Secretariat in that regard.

2.11. She recalled that, as a part of the preferences granted, India had notified that at least 25 per cent of all technical assistance and capacity building opportunities offered by the Indian Ministry of External Affairs (MEA) would be solely earmarked for LDCs. As her delegation had indicated at the previous meeting, that preference had been utilised effectively by LDCs. In the previous three years, since the preference had been notified, approximately 50 per cent of more than 10,000 training slots of the MEA's ITEC programme had been utilised by LDC Members.

2.12. As Members were aware, India was the only WTO Member which had notified that it was waiving visa fees for all LDC applicants applying for Business and Employment visas during the full duration of the Waiver. To obtain information on utilization of that preference, her delegation had contacted all the Indian Missions in LDCs; up to that point, her delegation had received information from Indian Missions in 44 LDCs. As per information received, during the previous three years (i.e. 2016, 2017 and 2018), a total of 48,602 LDC applicants had availed themselves of the waiver of visa fees for Indian Employment and Business Visas.

2.13. Her delegation would encourage other Members to also provide updates on the steps they had taken regarding the implementation of preferences under the LDC Waiver and their utilisation by LDC beneficiaries.

2.14. The representative of South Africa thanked the LDC Group for their efforts in that area, but expressed her delegation's disappointment that South Africa was never consulted on that matter by the Group. As the only African country that had notified preferences pursuant to the Waiver Decision, South Africa supported the integration of LDCs into the multilateral trading system, and encouraged Members who had not yet notified, to do so as soon as possible.

2.15. With respect to the review of the operation of notified preferences, she flagged, at that stage, that her delegation would face some difficulties with respect to collating all the information necessary for the review. That might limit the extent of her delegation's participation in the dedicated meeting. South Africa did not have a central repository for its technical assistance and capacity-building programmes in services because those were demand-driven and done in consultation with beneficiary country institutions and regulators. Those programmes were often conducted autonomously by South Africa's regulators, relevant line-function departments and institutions, without necessarily including the participation of the Department of Trade and Industry.

2.16. From past experience, South Africa's cooperation with relevant international organisations such as UNCTAD were also demand-driven. For example, with respect to trade in services, her own Ministry had hosted study tours and workshops for Lesotho and Uganda in the development of their UNCTAD Services Policy Reviews. South Africa's regulators across the wide spectrum of service sectors also offered similar capacity-building initiatives to African LDC Members. Her delegation would endeavour to collect the requisite information for the review.

2.17. Without prejudging the outcome of the review, she suggested that it might be useful to look at the WTO's Institute for Training and Technical Cooperation to see whether there had been requests by LDC Members for enhancing trade capacity and addressing trade policy issues in services. Her delegation also thought that it might be useful to explore some options for LDC regional courses or

e-learning courses on the LDC Services Waiver. The latter option had the advantage of reaching a wider audience, at any time, and any place. One possibility was for the notifying Members to offer the substantive material for the course, which would allow users and service providers from LDC Members to engage directly with the schedules and notified preferences.

2.18. The representative of China thanked the LDC Group for their statement and the proposal regarding the review of the Waiver preferences. China attached great importance and continued to contribute to the implementation of the LDC Waiver, and applauded other Members' efforts in that regard, in particular India's. His delegation believed that those efforts would help LDCs fully explore their trade potential in the service sector. Bearing that in mind, China supported any constructive idea on the design of a review mechanism that would help assess the effectiveness of the Waiver preferences and contribute to the better implementation of Waiver.

2.19. The representative of Norway said that his delegation welcomed the LDC Group's initiative and the Group's efforts to plan for the dedicated meeting. Norway stood ready to participate positively.

2.20. The representative of Canada thanked the LDC Group for their proposal and for their constructive engagement. Her delegation welcomed the update provided and looked forward to continuing the consultations and working with other Members to have a successful dedicated meeting.

2.21. The representative of Senegal, speaking on behalf of the LDC Group, said that the Group had taken note of the statements made and wished to assure all Members that the Group was continuing with its consultative process and was ready to engage in consultations with any Member which was willing to contribute. He also said that the Group would consult with South Africa. With regard to the suggestions regarding the use of the WTO's ITTC, those ideas could be explored to see how to make best use of all available resources to ensure that the dedicated meeting was a success. The Group would continue to consult and hoped to arrive at an agreement on the structure of the dedicated meeting at the next Council meeting.

2.22. A representative of the International Trade Centre (ITC) said that it was a pleasure to take part in the meeting and share with Members the ITC's initiatives on services trade and in particular those related to the LDC services Waiver.

2.23. The ITC was the joint agency of the World Trade Organization and the United Nations. Its mission was to enhance inclusive and sustainable economic growth and development in developing countries through improving the international competitiveness of their SMEs. ITC offered a wide range of technical assistance on services trade. It worked together with governments to improve policies, build trade negotiation capacity and develop export strategies. It also worked with trade and investment support institutions to enhance their ability to better promote services exports, and most importantly, with service-exporting SMEs to improve their supply capacities and to connect them with international clients.

2.24. The key service sectors covered by ITC interventions included tourism, ICT and IT/BPO services, e-commerce, creative industries and digital exports. From the ITC's experiences, those were the sectors where developing countries were already exporting or had the greatest export potential.

2.25. It was encouraging to see that, with the right technical assistance interventions, SMEs in developing and least developed countries were able to compete effectively in the international market. Through the ITC's interventions, IT companies in Uganda and Senegal were now selling software and IT services to European customers. Freelancers in Gambia and Jordan were trained to use online platforms to provide design and programming services to global clients. Tour operators in Myanmar and Liberia were receiving more international tourists as a result of an improved business and policy environment. Filming and education institutions from South America were negotiating deals with Chinese counterparts on co-production and language training programmes. Women and youth entrepreneurs from around the world were connected through the ITC's "SheTrades" platform to get better access to global markets and trade finance.

2.26. As he would not have time to cover all aspects of the ITC's intervention on services trade, interested Members could find more information on the ITC website and the ITC would certainly be happy to discuss in greater detail with individual Members specific interventions and requests.

2.27. On the LDC services Waiver in particular, the ITC had a number of initiatives aimed specifically at helping LDCs negotiate and make use of the Waiver mechanism. The ITC had organized a series of five workshops in 2015 specifically for LDC services delegates to build capacity for the Waiver negotiation. Those workshops had helped delegates improve awareness of the challenges associated with negotiating services, share experiences, including with LDC private sector representatives, and pass on best practices.

2.28. The ITC had also produced a publication titled "Making the Most of the LDC Services Waiver", which outlined the actions that could be undertaken by LDCs to connect their service suppliers to value chains. Those included collection and analysis of services trade data, organizing awareness-raising workshops and public-private dialogues, establishing interagency services coordinating mechanisms, building private sector coalition of services industries, facilitating SME services exports through trade promotion activities and participation in international services trade fairs, among others.

2.29. The ITC was currently working together with the WTO Secretariat to integrate the notifications under the Waiver into the WTO's I-TIP database, so that users could easily identify measures pertaining to specific sectors and notifying Members. The ITC was also exploring joint technical assistance initiatives in the context of the Waiver, focused on specific LDC countries and sectors.

2.30. A lot had been done, but it was not enough. LDC's share in global services trade remained less than 1%, and that was far from reaching the Sustainable Development Goal of doubling LDC's share of global exports by 2020. Rapid advancement of digital technologies opened the door for more opportunities in services trade, including for companies from developing and least developed countries. A recent study by the McKinsey Global Institute showed that cross-border services were growing more than 60 percent faster than trade in goods. Services trade would be playing an increasingly important role for economic growth and diversification.

2.31. The ITC stood ready to continue providing tailored technical assistance for developing countries and LDCs to build services export capacity. It looked forward to working together with Members and the Secretariat to design, implement and deliver projects that had real and substantive impacts on increasing services exports from developing countries and LDCs.

2.32. The Chairman noted that the LDC Group was consulting and would continue to do so and engage with more delegations. As the suggestion had been made to hold the dedicated meeting in the autumn, and in view of the WTO's inactivity during the summer months, he stressed that time was of the essence. He would therefore recommend to the incoming Chairman to continue consulting and to pay particular attention to that issue, on the basis on Members' initiatives. He then suggested that the Council take note of the statements made and indicated that the Council would revert to that item at its next meeting.

2.33. It was so agreed.

3 ITEM C: WORK PROGRAMME ON ELECTRONIC COMMERCE

3.1. The Chairman recalled that agenda item G was now subsumed under that agenda item.

3.2. The representative of the United States wished to provide an update on a year-long initiative between the governments of the United States and of Lao PDR and their respective private sectors on digital economy issues. He believed that their experience in cooperation, as both technical assistance and commercial partners, as well as the exploration of substantive policy issues related to digitally enhanced development could be of interest to the Council. Many of the lessons learnt over the course of the year-long initiative might be useful to others considering similar policy questions and he hoped that other Members that had similar lessons to share would consider doing so at future Council meetings or as part of the LDC dedicated meeting related to the Waiver.

3.3. The US Embassy, in partnership with the Government of Lao PDR, had organized and implemented three Lao Digital Forums throughout 2018, held in January, June and December. The Forums brought together Lao Government agencies and a wide range of Lao, global, and regional private sector voices to discuss digital economy issues. The Forum grew from 80 participants at its first session in January to over 150 participants at the December session.

3.4. The Forum brought together Lao policymakers from a range of Ministries, American and regional companies, and Lao entrepreneurs to discuss opportunities and challenges from their different perspectives in order to assess critical questions, such as how the digital economy could facilitate the development of MSMEs, and what policy environment the private sector viewed as necessary for success; how governments could welcome the contributions of innovative financial technologies while at the same time ensuring the goals of macroeconomic and financial sector stability; and what were the appropriate guiding principles to follow to support e-commerce development in Lao PDR.

3.5. The key lessons learnt from the initiative included, first, recognition of the importance of bringing together different Ministries within the Government to begin to discuss digital issues/e-commerce from all sides. Participants recognized that robust interagency coordination was a challenge that had to be overcome to enable each Ministry to express its goals and its regulatory priorities and be in a position to evaluate options and formulate policy direction. As in many countries, officials from Ministries that oversaw Science and Technology, Post and Telecommunications, the Central Bank, and Trade and Commerce might not have dedicated interagency discussions on digital issues. The Minister of Commerce and Industry reiterated at the Forum the importance of internal coordination and the necessity of such interaction.

3.6. A second key lesson was a recognition of the importance of the strength and competitiveness of fundamental pillars of the digital economy, including telecommunications and the financial sector. With a young and dynamic population willing to embrace new technologies, and private sector driven innovation, the initial barriers to digital growth might actually be telecommunications policies that increased the cost of internet access, pricing out many consumer and economic benefits, or financial sectors that lacked the regulatory frameworks needed to encourage digital advancements while ensuring market stability.

3.7. The Forum also highlighted the growing connection policymakers were drawing between digital developments and trade in physical goods, particularly in the area of blockchain and other technologies that could enhance traceability and transparency in key export sectors for Lao PDR, such as coffee, tea and other agriculture products.

3.8. The Forum also provided an excellent example of a truly demand-driven initiative which creatively leveraged both public and private sector funds and interest to achieve a meaningful policy dialogue to address an existing gap. The US experience in working to implement the year-long initiative demonstrated that there were untapped resources within Lao PDR and the region which were relatively easily unlocked thanks to an active group of Lao entrepreneurs.

3.9. In conclusion, his delegation was sharing that brief update because it believed that many Members might be confronting similar challenges in their own countries, or perhaps there might be some suggestions or recommendations from others who had undertaken similar efforts domestically and had perhaps established some lessons learnt or best practices for themselves that they might consider sharing more broadly within the Council.

3.10. The representative of Lao PDR expressed Lao's appreciation to the United States, both for technical assistance and fruitful partnership in the area of the digital economy. That effort was fully in line with the main relevant objectives set by the Laotian government, which aimed at enabling its domestic producers and service providers to engage in a bigger market and at facilitating access to more quality products and services for domestic consumers.

3.11. Indeed, many issues were explored, and numerous lessons learnt, during that year-long initiative, encompassing the three Lao Digital Forum meetings attended by an interested and growing number of participants. The initiative had been warmly welcomed by both the Lao public and private sector. His delegation believed that the cooperation could indeed become a point of reference for others and that it should be continued in all the three focus areas addressed through the Digital

Forums held throughout 2018, namely Digital Economy and MSMEs, Financial Technologies, and Supporting E-Commerce. Such follow-up efforts, which should continue to be demand-driven, could be of important assistance in spreading information in respect of available digital solutions, maintaining a meaningful dialogue between multiple stakeholders and coordinating ongoing public and private sector efforts in advancement towards a digital economy.

3.12. That was even more timely in light of the launch of the work on electronic commerce at the WTO, in which Lao PDR wanted to take an active part, although it often felt lagging behind not only in proficiency, but also necessary resources as compared to other Members that had already accumulated experience in that area.

3.13. His delegation would welcome other Members' feedback on the cooperation initiative as outlined by the United States. In addition, Lao PDR also wished to request additional constant support from development partners for technical assistance in that area.

3.14. The representative of China said that the WTO Work Programme on Electronic Commerce mandated Members to share information on trade-related aspects of e-commerce at relevant WTO bodies, including the CTS. Therefore, he was very glad to see the United States and Lao PDR sharing information on US-Lao PDR cooperation on digital trade issues and hoped to see more, similar sharing from other Members in the future, especially on the efforts in helping developing Members and LDCs bridge the digital gap.

3.15. He wished to take the opportunity at that meeting to introduce provisions regarding consumer protection and the liability of e-commerce platforms in China's Electronic Commerce Law, which had come into effect at the beginning of that year.

3.16. Regarding consumer protection, a sound consumer protection system was essential for the healthy and sustainable development of e-commerce. China's E-commerce Law built on the existing legislations on consumer protection, and provided tailored stipulations for related activities, which included the following.

3.17. First, e-commerce operators had to fully, faithfully and accurately disclose in a timely manner the information on their goods or services to safeguard consumers' right to be informed and to choose. E-commerce operators were prohibited from conducting false or misleading commercial promotion by fabricating transactions or user comments or by any other means, to defraud or mislead consumers.

3.18. Second, when providing search results on goods or services for consumers based on their interest and preference, consumption habits, or any other characteristics, e-commerce operators had to simultaneously provide the consumers with the option of not targeting their personal characteristics, and respect and equally protect their lawful rights and interests.

3.19. Third, where e-commerce operators intended to perform tie-in sale of goods or services, they had to alert consumers in a prominent way and were prohibited from setting the said tie-in sale as a default option.

3.20. Fourth, where e-commerce operators collected or used the personal information of their users, they had to comply with the provisions on the protection of personal information in the relevant laws and administrative regulations.

3.21. Fifth, e-commerce operators had to expressly specify the ways and procedures for searching, correcting and deleting user information and user deregistration, and were prohibited from setting unreasonable conditions for such search, correction, deletion or deregistration.

3.22. Turning to the liability of e-commerce platforms, that was an important issue in the e-commerce legislation of various Members. A few Members stipulated that platforms were exempted from "non-IP contents created by third parties". China had seriously considered that issue during the drafting of the E-commerce Law. Many experts were of the view that e-commerce platforms were not purely information intermediaries, but were integrating other functions, such as releasing advertisements, assessing credits and providing financial services, etc. In that context, the "Safe

Harbour" Principle could not always apply to information intermediaries. It was necessary to determine their liability under different circumstances.

3.23. Bearing that in mind, and taking into account the opinions of various stakeholders, China's E-commerce Law assigned different liabilities for e-commerce platforms under different situations, as followed. First, e-commerce platform operators bore civil liability, as goods sellers or service providers, for the goods or services marked with "self-operated business", in accordance with Law.

3.24. Second, where an e-commerce platform operator knew or should have known that an on-platform business operator sold such goods or provided such services as not meeting the requirements for guaranteeing personal and property safety or infringing upon the lawful rights and interests of consumers, and failed to take necessary measures, the e-commerce platform operator had to bear joint and several liability with the on-platform business operator in question.

3.25. Third, where e-commerce platform operators failed to verify the qualifications or licenses of on-platform business operators that sold goods or provided services which affected the life and health of consumers or failed to fulfil the obligation of guaranteeing consumer safety, and as a result damages were caused to consumers, the e-commerce platform operators had to assume corresponding liability in accordance with the Law.

3.26. Fourth, where an e-commerce platform operator knew or should have known that an on-platform business operator infringed upon an intellectual property right, it had to take necessary measures such as deleting, blocking, disconnecting links or terminating transactions and services, or, failing that, it had to assume joint and several liability with the infringer.

3.27. China was of the view that enforcement of the relevant provisions could contribute to the achievement of various public policy objectives, such as consumer protection and IP protection. He encouraged Members to make suggestions in that regard or share relevant experiences of their domestic legislation in future discussions.

3.28. The representative of Australia said that her delegation was pleased to contribute to the discussions under the e-commerce Work Programme to share domestic experiences on addressing the opportunities and challenges of e-commerce. At that meeting, she would share information about Australia's digital economy strategy, Australia's Tech Future released in December 2018.

3.29. Australia's Tech Future set out ways to address the opportunities and the challenges offered by technological change by focusing on four key areas: first, developing digital skills and ensuring inclusiveness; second, ensuring that Government better delivered digital services; third, building infrastructure and providing secure access to high-quality data, and, fourth, maintaining cyber security and reviewing Australia's regulatory systems.

3.30. Under each of those elements, the strategy set outcomes, identified opportunities and areas that needed further focus, and outlined corresponding Government plans of action.

3.31. The strategy set out a number of industry examples, which demonstrated the benefits of digital technologies. One key industry in Australia in which digital technologies had been transformative was agriculture. Australian farmers were increasingly adopting new technologies to drive productivity gains and sustainable solutions. For example, Australian agricultural start-up SmartShepherd had developed an innovative electronic tag that allowed farmers to record and monitor stock behaviour and make more informed decisions. Other services industries that were taking advantage of emerging digital technologies included manufacturing, mining, tourism, education, transport, emergency services and health industries.

3.32. In order to ensure the benefits of the digital economy were maximised for all, Australia's Tech Future outlined a number of strategies. She would mention three. First, digital inclusion had the potential to support and improve the quality of life for some of the most disadvantaged and excluded in the community. Some strategies to ensure digital inclusion in Australia included a 'telehealth' initiative to allow Australians in rural areas to access health professionals via video consultations, and a 'Be Connected' programme which helped older Australians by improving their digital confidence, skills and online safety.

3.33. Second, improving access to, and use of, data while maintaining strong data safeguards was key to unlocking opportunities, including for MSMEs. Some initiatives included legislative reforms to help streamline the public release of data, while maintaining appropriate privacy and security settings, and building trust, including development of an ethics framework, around the use of data focusing on Artificial Intelligence (AI) and machine learning.

3.34. Third, the strategy also had a focus on delivering digital Government services that were secure, fast and easy to use, including through the use of artificial intelligence.

3.35. A key aspect of Australia's strategy was also ensuring that the international settings benefitted businesses and consumers. Australia's top digital economy priorities in international engagement in 2019 included exploring, through collaboration and ongoing dialogue, how AI could maximise global economic growth and wellbeing, focusing on digital inclusion for marginalised and underrepresented groups and supporting the development of digital trade rules and application of international standards that supported the uptake of digitalisation and digital trade. Her delegation would be happy to outline in more detail the programmes Australia was undertaking with other Members in future discussions, including challenges addressed and lessons learnt.

3.36. Australia had considered a number of stakeholder views in developing Australia's Tech Future strategy. Continued partnership with industry, both domestic and international businesses, community and academia would be important in successfully implementing the strategy and would ensure that it was flexible and responsive to new challenges and opportunities as they arose. In order to ensure the Government's strategy remained fit for purpose, in implementing the strategy Australia would monitor how it was tracking against its stated objectives and outcomes, to identify where to further focus efforts and track its performance relative to other countries in key areas where global metrics existed.

3.37. In conclusion, her delegation saw huge value in Members cooperating and learning from each other. She hoped that information shared on its strategy might be useful for other Members in considering their own approaches on the digital economy and would like to hear from others on their experiences in that key policy area.

3.38. The representative of Senegal, speaking on behalf of the LDC Group, welcomed the information provided under that agenda item with regard to its member Lao PDR. The Group believed that information of that kind, concerning cooperation with LDCs on digital trade issues, was useful to exchange with Members of the Council.

3.39. The LDC Group wished to reiterate its support for continued work under the Work Programme. The Group was preparing its own internal workshop on e-commerce and LDC participation, as well as challenges. As far as work in the CTS was concerned, the Group would suggest that any ongoing work include specific analysis and examination of the performance and situation of LDCs. The Group welcomed discussion of any relevant work on the impact of the Moratorium on LDCs.

3.40. The representative of Malawi, speaking on behalf of the ACP Group, said that work under the current mandate of the 1998 Work Programme had not been exhausted and there was much more that needed to be done under the Work Programme's development dimension if WTO Members had to remain faithful to the multilateral mandate agreed by their Ministers at MC11. Despite rapid technological developments, ACP members remained challenged; many were without access to basic ICT infrastructure, especially in rural communities, and lacked human and financial resources. In addition, many ACPs were yet to develop the necessary strategies and reforms to promote e-commerce and remained excluded from accessing any of the benefits which could be delivered through electronic commerce. He noted that technical assistance and capacity building to assist developing countries and LDCs to develop such internal structures were still woefully insufficient. Many ACP countries, owing to size and ownership of services in their markets, were not large enough to demand or influence the type of services supplied, but, instead, were takers of those services, many of which were necessary if they were to make effective use of e-commerce as an enabler for trade and development. Therefore, they commended those Members which had shared information or experiences under the Work Programme, as that had contributed to some extent to bridging the knowledge gap on Members' policies and regulatory regimes.

3.41. The ACP Group supported the proposal to include UNCTAD's research paper titled "Growing Trade in Electronic Transmissions: Implications for the South" at the upcoming General Council workshop on the Moratorium on custom duties on electronic transmissions. The Group considered it important to fully examine and appreciate the implications that the Moratorium was having, and could continue to have, on developing countries and LDCs. As they sought to digest various important elements of the paper, in the Group and individual ACP Capitals, they hoped that the wider Membership would see the necessity and merit of discussing that paper as well.

3.42. The ACP Group remained committed to the work under the 1998 Work Programme, as renewed by Ministers at MC11, and looked forward to a continued discussion, particularly on its development component, in various WTO Committees.

3.43. The representative of South Africa, speaking on behalf of the African Group, reaffirmed the African Group's previous statements on the Work Programme on Electronic commerce. The reinvigoration of work under the Work Programme would have a dual benefit for the Group: it would serve as a platform for information-sharing and experiences in the multilateral process, and would also assist in their understanding and articulation for regional and continental efforts underway in that area.

3.44. In the past, the African Group had called on Members to continue to examine e-commerce issues in a comprehensive manner in the WTO within the existing non-negotiating framework. The majority of Members in the African Group were of the view that it was premature to consider negotiating rules on e-commerce. The African Group had emphasised the need for Members, especially those who had become global digital leaders, to share their policy insights and specific government measures employed to support the development of e-commerce in their countries. She thanked those Members which had been forthcoming with information. She noted, however, that there had been very little substantive debate under that agenda item in 2018, despite Ministerial guidance to continue work.

3.45. Africa, a continent with 55 countries, 44 of which were WTO Members, did not have adequate legislation in the e-commerce landscape. Based on UNCTAD's Global Cyberlaw Tracker, of all the African countries, 56% had legislation on electronic transactions, 37% on consumer protection, 43% on privacy and data protection and 52% on cybercrime. Further, the number of jurisdictions with competition regimes in Africa had rapidly expanded, from 13 in 2000 to more than 30 in 2017, reflecting the growing role of competition policy on the African development agenda. However, despite that positive expansion of legislation and institutional development, the capacity to enforce it was limited.

3.46. The African Group had emphasised in previous interventions that e-commerce and the digital space was highly asymmetrical and market share was highly concentrated. The world's top four companies by capitalization were digital-based: Apple, Google, Microsoft and Amazon. Companies in Africa and Latin America, however, accounted for less than 2 percent of total market share.

3.47. With that context in mind, the African Group was interested in learning more about recent developments in the e-commerce space. These included: the introduction of a 'digital services' tax in the OECD to address taxation concerns of technology and digital giants, as well as the introduction of similar taxes by some Members; the wave of consumer privacy laws and regulations such as the EU's GDPR and ePrivacy regulation, Canada's Personal Information Protection and Electronic Documents Act, the Australian Privacy Act and Japan's Personal Information Protection Commission; the anti-competitive practices of technology firms and digital platforms that might be causing market distortions, restrictive trade practices and tax avoidance; the challenges facing vendors, innovators, producers and consumers in the e-commerce space in developing countries; and regional efforts amongst Members, including development-related issues such as digital infrastructure, payment instruments, and policies associated with innovation, research and development, including data flows and data localisation regimes.

3.48. In accordance with the African Union's "Agenda 2063: The Africa We Want", the African Group saw considerable potential in establishing strong links between industrial policy, ICT-related infrastructure and skills development that supported the digital economy.

3.49. There was no consensus that the GATS was technologically neutral. Hence, the aforementioned elements for discussion under the Work Programme could serve as a useful mechanism to bridge the divergences and have an honest appraisal about the various complexities associated with services market access, the classification of new services, and mode 1 and 2 delivery, in the e-commerce space. In that regard, the Group saw complementarities with the work in the Council and the Committee on Specific Commitments.

3.50. The African Group had taken note of the General Council Chair's announcement of a one-day workshop in April bringing relevant stakeholders together, the objective of which was to provide the terms of reference for future study of the Moratorium which the WTO would undertake with other International Organisations. Unfortunately, since the Group was not given advance notice on that announcement, the Group had not been in a position to react at the last General Council meeting.

3.51. After consultations, the Group wished to place on record its support for the initiative and asked that the Chair convey to the Chair of the General Council the African Group's request to include on the agenda the introduction of UNCTAD's Research Paper No. 29 on "Growing Trade in Electronic Transmissions: Implications for the South" as part of that workshop. She would share a copy of this study to the Secretariat for circulation to Members.

3.52. Finally, the African Group reiterated the importance of the WTO collaborating with other International Organisations, notably on the coordinating and policy role they played in the e-commerce space, i.e. ITU and UNCTAD.

3.53. With regard to the information shared on the US-Lao PDR Cooperation on Digital Trade Issues, she said that South Africa took note of the information shared on the US-Lao PDR cooperation on Digital Forums. She had a few questions and comments on that matter, and stressed that it was purely for information purposes, in order to get a deeper understanding of that process from Lao PDR's perspective. Specifically, she asked how, prior to the collaboration and cooperation with the United States, digital issues were being considered in Lao by different Ministries; whether the programme provided any new significant assistance to overcome, for example, the digital divide in Lao noting that, as that conversation was better suited for the CTD, it might be relevant to raise it in the context of that new agenda item; and what was the extent of the legislative cover of digital trade in Lao PDR and whether Lao PDR had a cyber or e-commerce policy in place.

3.54. She thought that responses to those questions might be useful for the entire Membership, because South Africa had also recognized the multitude of roles that different Ministries, regulators and agencies played in digital transformation. From South Africa's own experience, it was extremely important for developing and least-developed countries to develop appropriate national and regional e-commerce strategies and policy responses to the digital transformation agenda, especially at a time when most developing and least-developed countries were developing their own digital industrial policies and domestic regulations.

3.55. The representative of India appreciated the interventions made by Members sharing their experiences in the realm of the digital economy and e-commerce. India welcomed the MC11 Decision reaffirming the 1998 Work Programme on Electronic Commerce, which had a non-negotiating and exploratory mandate.

3.56. India had always maintained that while e-commerce had created new and exciting trade and investment opportunities, it also posed several new infrastructure and regulatory challenges which needed to be addressed, including the need for bridging the digital divide.

3.57. However, some Members were keen to have rules on ecommerce. In that regard, India's considered view was that the gains from e-commerce should not be confused with the likely benefits of rulemaking in e-commerce. Her delegation believed that negotiations on rules and disciplines in e-commerce would be highly premature at that stage, especially given the highly asymmetrical nature of the existing global e-commerce space. UNCTAD's recently released 2018 Trade and Development Report was a very timely warning to developing countries on how they could lose out to digital monopolies unless they took charge of their trade and investment policies in the digital era.

3.58. Her delegation also wanted to reiterate its serious concerns on having parallel discussions on e-commerce under the Joint Initiative with clear objectives of rulemaking. The latter clearly run

contrary to the exploratory mandate of the 1998 multilateral Work Programme, which had been reaffirmed by all Members at MC11. India would continue to pursue the multilaterally-mandated Work Programme at the WTO.

3.59. She also wished to inform Members that the Government of India, in consultation with stakeholders, was working on its National E-Commerce Policy, to be finalised soon. That Policy would inform India's international engagement on that important subject. The draft e-commerce policy was already in public domain for stakeholder consultations.

3.60. The representative of Côte d'Ivoire thanked the United States for sharing its experience with regard to technical assistance related to e-commerce. His delegation was of the view that the initiative undertaken by the WTO in the context of the TFA negotiations, that consisted in carrying out a 'needs assessment' for Members, and LDCs and developing countries in particular, be repeated in the context of the work on electronic commerce. It was evident that LDCs and many developing countries faced significant information and infrastructure deficits which prevented them from fully engaging in e-commerce. A needs assessment initiative would also help better orient the technical assistance necessary to enable all Members to participate in the discussions.

3.61. The representative of Lao PDR thanked all Members who had shown interest in the information shared on the Lao-US Cooperation on Digital Trade Issues, and especially South Africa for the questions it had posed. He replied that Lao PDR's e-commerce Law was under development and the draft would be passed by the National Assembly hopefully that year. He would revert with further details at the following meeting of the Council.

3.62. The Chairman said that there had been a suggestion to convey to the Chair of the General Council the African's Group request that UNCTAD's Research Paper No. 29 be included in the April workshop on the Moratorium. He would ask the incoming Chairman to transmit the request.

3.63. The representative of the European Union asked for clarification on what would be conveyed with regard to the UNCTAD document, noting that the request had come from the African Group and it had not come from the collective will of the Council. The Council had not agreed in any way to the inclusion of the UNCTAD document, which, moreover, his delegation was not familiar with.

3.64. The representative of United States wondered why the African Group's request needed to be conveyed by the Chairman of the CTS and why the African Group could not just convey it directly, given that not all Members had agreed to that request. If there was an open invitation for Members to convey information through the Chairman, then other Members also needed to have the opportunity to look at the document and make their own recommendations as to whether the message should be conveyed. Not all Members had reviewed the UNCTAD document and not all Members agreed that that recommendation should be made.

3.65. The Chairman clarified that he would convey the information indicating clearly that it was a request by the African Group only, not a recommendation or an agreement by the Council.

3.66. In response to the United States, the representative of South Africa said that the Chair of the CTS was required to report to the Chair of the General Council as per the Work Programme Decision. She had clearly explained that the African Group had not been consulted on the workshop of 29 April on the e-commerce Moratorium, hence the Group was raising the issue in the Council so that the requests from the African and ACP Groups for the UNCTAD paper to be included in the workshop could be communicated to the General Council Chair.

3.67. The Chairman suggested that the Council take note of the statements made and said that the Council would revert to this item at its next meeting.

3.68. It was so agreed.

4 ITEM D: UPDATE OF THE SECRETARIAT BACKGROUND NOTE ON MODE 4 – REQUESTED BY INDIA

4.1. The Chairman recalled that, at the previous meeting, the delegation of India had reiterated its request that the Secretariat Background Note on mode 4, contained in document S/C/W/301, be

updated. India's request had generated some discussion, including on the scope of the proposed update. Moreover, the proposal by India had prompted additional suggestions for possible Secretariat work, namely the updating of the other two modal papers, on modes 1&2 and on mode 3, and the preparation of a note that considered all the modes together, with an emphasis specifically on their interrelationship.

4.2. The Council had agreed that he would have further contacts with relevant delegations, to see if an agreement on the issue could be arrived at. He had accordingly held some discussions with the delegations concerned, and those delegations had also been in contact with each other.

4.3. The representative of India said that her delegation's position was very transparent and accommodative. The Secretariat should update all its Background Notes, on modes 1 and 2, mode 3 and mode 4. Besides, the Secretariat, as requested by one delegation, should also prepare an additional Note on inter-modal linkages. In fact, at the previous meeting, one delegation had made a very valid point that Members were still living in a world where commitments and limitations were scheduled in a modal way and that technically it would be difficult to think out of the mode-specific approach.

4.4. Following the Council meeting in December 2018, her delegation had met bilaterally with those delegations which had expressed views on India's request at that meeting. She understood that, while most delegations supported the updating of all modal Notes by the Secretariat as well as the production of one new Note on inter-modal linkages, one delegation continued to have concerns. Her delegation wanted to keep Members informed of where things stood, and also wished to take the opportunity to express its sincere thanks to the Chairman and the Secretariat for their best efforts in trying to resolve that issue.

4.5. The representative of Senegal, speaking on behalf of the LDC Group, expressed the Group's support for the request submitted by India to update the Secretariat background Note on mode 4. In updating the Note, the LDC Group would urge the Secretariat to include specific information on the priorities of LDC suppliers, including mode 4 measures identified by the LDC Group in its quest to operationalize the LDC services Waiver and notifications with mode 4 entries, as well as limitations.

4.6. The representative of the Bolivarian Republic of Venezuela also supported India's request for the Secretariat Note on mode 4 to be updated.

4.7. The representative of European Union noted that although his delegation had not intervened at the previous CTS meeting it had intervened before on that issue and would have welcomed being part of the conversations between meetings. He was not sure if the plan was to reach a decision at that meeting, but he had a couple of questions on India's proposal. First, he wished to clarify if India's proposal now was that all the modal Notes should be updated, a proposal his delegation could live with, and that, in addition, India was endorsing the US proposal for a new Note on inter-modal linkages. Second, listening to the LDC Group's specific suggestions for the update of the mode 4 Note, he was not sure how different that would be from the mode 4 Secretariat Note that Members were familiar with. Answers to those questions would be necessary before a decision could be arrived at.

4.8. The representative of United States said that his delegation had appreciated the conversations with the Secretariat and the delegation of India on that issue, although the United States was still perplexed as to what the updated Note would achieve. His delegation had suggested something more forward-looking and was a little disheartened that the interests were so backward-looking. The 1998 Note produced by the Secretariat on mode 4 had not changed much when it was first updated in 2009. His delegation had looked at what elements of the 2009 Note could be brought up-to-date and had not seen much that could be updated. If the idea was to put a 2019 date on the 2009 paper, there was no interest on the part of his delegation.

4.9. The United States had therefore tried to suggest something new which would capture the interest of other Members and contribute to the Council's discussions, namely a Note that would look at the interlinkages between all the modes of supply. India's response had been that it could agree to such a Note, as long as a stand-alone Note on mode 4, with a new date on an old paper, was also produced. His delegation could maybe agree to having a Note on mode 4 if the flaws of the 1998 and 2009 Notes were removed, as some heavily caveated paragraphs in those Notes admitted

that several elements were not relevant to mode 4. The United States was not the only delegation to point out when Secretariat papers had flaws, as India had recently done in the General Council with regard to a different Secretariat paper. As such, it was clearly possible for Members to state that old papers stood but no longer reflected where Members were at that point in time. While his delegation was not suggesting "deleting" the 2009 Note, it could not agree to putting a new date on it and pretend that it was endorsing it. His delegation had put forward some constructive ideas; if those could not be agreed to, the Council was at an impasse.

4.10. Responding to the question by the European Union, the representative of India confirmed that its suggestion was for the Secretariat to update all its Background Notes, on modes 1 and 2, mode 3 and mode 4. Besides, as requested by one delegation, the Secretariat could also prepare an additional Note on inter-modal linkages.

4.11. The Chairman suggested that the Council take note of the statements made.

4.12. It was so agreed.

5 ITEM E: CYBERSECURITY MEASURES OF CHINA – REQUESTED BY JAPAN

5.1. The Chairman said that that item had been added to the agenda of the Council at the request of the delegation of Japan.

5.2. The representative of Japan thanked China for responding to bilateral requests for consultations. His delegation had requested that the item be added to the Council's agenda in order to express its concerns on the following points with regard to China's Cybersecurity Law and related proposed measures, namely: the obligation of data localization in China; the obligation to conduct a security assessment on cross-border data transfers; and ambiguous definitions of legal terms such as "network operators", "critical data" and "critical information infrastructure."

5.3. Japan continued to bring the matter before the Council because the potential effects extended across all service sectors, had a bearing on the rights of many other Members, and therefore could disrupt business operations of foreign enterprises in China. For example, Japan had a strong concern about China's proposed measures of requiring the localization of data in China, as these could impose an additional burden on foreign enterprises and restrict cross-border data transfers, which were necessary for day-to-day business operations.

5.4. Japan requested that China ensure that the drafting measures did not unfairly hinder the level-playing field of the business environment in China and were fully consistent with China's international trade obligations.

5.5. At the previous Council meeting, China had responded that it was still improving and detailing relevant standards to define terms such as "critical data" and "critical information infrastructure". Japan believed that those were very important elements which could define the scope of the regulation. Thus, his delegation wished to request once again that China carefully draft relevant definitions to ensure that the measures at issue were not used arbitrarily by the authorities and negatively impacted the business operations of foreign enterprises in China.

5.6. Lastly, Japan expected that China would provide reasonable advance notice and opportunities for all stakeholders to comment on the new draft implementing measures.

5.7. The representative of United States expressed his delegation's support for Japan's intervention and shared Japan's concerns regarding China's cybersecurity measures, including with respect to their restrictions on cross-border transfers of information and data localization requirements.

5.8. As Members were aware, the United States had submitted several communications on that subject since 2017, contained in documents S/C/W/374, S/C/W/376 and S/C/W/378. His delegation would not reiterate all of those points at that meeting but noted that the United States and several other Members had expressed concerns regarding the trade-restrictive nature of those measures. In particular, his delegation continued to have concerns about China's proposed restrictions on "important data," which would, in many cases, prohibit cross-border transfers of information that were routine in the ordinary course of business. The United States also remained concerned about

China's data localization requirement for companies supplying services over the Internet in a broad range of "critical information infrastructure" sectors.

5.9. His delegation continued to urge China to revise the relevant sections of the Cybersecurity Law and its draft implementing measures, to provide reasonable advance notice and opportunity for Members and stakeholders to comment on draft revisions, and to incorporate those suggestions in its revised measures.

5.10. The representative of Chinese Taipei thanked Japan for bringing the issue again to Members' attention and echoed the statement by the United States in that regard. In her delegation's view, Members' measures on international transfer of information would affect cross-border business operations and MSME's equal opportunities for market access. Her delegation still had concerns in that regard and would be happy to continue discussing the issue at future meetings.

5.11. The representative of China noted that, in recent years, certain Members had continued raising their concerns on the cybersecurity regulations adopted by China. China had provided comprehensive feedbacks to their questions at previous meetings. Cybersecurity was a global challenge, and there was no one-size-fits-all solution for each individual Member. China kept exploring ways to address those challenges, and in that process would continue to welcome and consider constructive suggestions from different stakeholders.

5.12. China was still in the process of drafting the implementing measures of the Cybersecurity Law, and his delegation had provided explanations on relevant legislations and measures at the previous five CTS meetings. His delegation was disappointed to see Japan raising the subject again at that meeting, although those issues had been addressed in China's previous statements.

5.13. Japan had raised three concerns in its statement. First, about the requirement for data localization in China. Second, about the requirement to conduct a security assessment on cross-border data transfers. Third, on definitions of legal terms such as "network operators", "critical data" and "critical information infrastructure". Most of those questions had been responded to at the Council meeting of December 2018. Yet, his delegation was willing to respond to them again at that meeting.

5.14. Regarding the "data localization requirements" and "security assessment", relevant requirements were designed to guarantee the lawful, orderly and free flow of information, and were in line with existing WTO rules. According to the Cybersecurity Law, critical information infrastructure operators were allowed to transfer personal information and important data after a security assessment, in case it was truly necessary to transfer relevant information outside China.

5.15. Regarding the so-called "ambiguous definitions of legal terms", the Cybersecurity Law of China provided quite clear definitions of relevant terms. For instance, Article 31 of the Law defined "critical information infrastructure" as followed: "public communication and information services, power, traffic, water resources, finance, public service, e-government, and other critical information infrastructure which—if destroyed, suffering a loss of function, or experiencing leakage of data—might seriously endanger national security, national welfare, the people's livelihood, or the public interest".

5.16. By way of comparison, the Second Action Plan on Information Security Measures for Critical Infrastructures of Japan defined "critical infrastructure" as followed: "'critical infrastructure' as follows is the basis of people's social lives and economic activities formed by businesses that provide services which are extremely difficult to be substituted by others if its function is suspended, deteriorated or become unavailable, it could have significant impacts on people's social lives and economic activities".

5.17. His delegation was not convinced about what made the Chinese definition more "ambiguous" than the Japanese one. He hoped that Japan could provide more clarification on its definitions of relevant terms in the coming meetings.

5.18. The representative of New Zealand welcomed China's remarks at the previous meeting and at that meeting and its efforts to welcome suggestions from interested parties with a view to ensuring that its regulations were drafted in a way that was clear and non-discriminatory. His delegation

appreciated the update that China was still in the process of drafting the implementing measures of the Cybersecurity Law. New Zealand welcomed further information about how China intended to proceed with implementation of the Law and clarity around the timelines of the subsequent regulations.

5.19. The Chairman suggested that the Council take note of the statements made.

5.20. It was so agreed.

6 ITEM F: CYBERSECURITY MEASURES OF VIET NAM – REQUESTED BY JAPAN AND THE UNITED STATES

6.1. The Chairman said that the item had been added to the agenda of the Council at the request of the delegations of Japan and the United States.

6.2. The representative of Japan said that, as his delegation placed great emphasis on that issue, Japan and the United States had once again registered the issue on the Council's agenda. In addition to the exchange at the Council, Japan was grateful that Viet Nam was engaging in bilateral dialogues, which had proven fruitful in many ways. In addition to raising questions at the Council meeting, his delegation hoped to find solutions that would be acceptable to both sides through close communication between Geneva and each Capital.

6.3. Like other Members, Japan had submitted comments to the Government of Viet Nam on the draft decree relating to the Law on Cybersecurity. Japan requested that the Vietnamese government appropriately incorporate Japan's inputs and requests when drafting the related laws and regulations.

6.4. Japan appreciated Viet Nam's efforts to narrow the scope of the obligation of data localization and establishment of a local presence in Viet Nam. On the other hand, there still remained some ambiguous articles which could potentially undermine the operations of foreign enterprises. In that regard, at the bilateral meeting, the Vietnamese government had explained that it was addressing Japan's concerns by carefully reviewing the draft decree so as not to cause misunderstandings because of vague terminology and provisions, and also for that his delegation wished to express its appreciation for Viet Nam's constructive consideration.

6.5. Lastly, Japan expected that Viet Nam would continue to ensure transparency and take into consideration the inputs of all stakeholders before finalizing the laws and regulations.

6.6. The representative of United States said that, as noted at the Council meeting in December, the United States appreciated the opportunity to comment on Viet Nam's draft decree implementing the Cybersecurity Law. While the draft decree had narrowed the scope of the Law's data localization and local presence provisions, it still raised concerns about potential impacts on foreign service suppliers.

6.7. As Viet Nam revised the draft decree, the United States urged Viet Nam to carefully consider Members' comments and to continue to narrow the draft's scope in order to ensure that the Law was implemented in the least trade-restrictive manner possible.

6.8. His delegation looked forward to seeing the revised draft and urged Viet Nam to provide reasonable advance notice and opportunity for Members and stakeholders to comment on draft revisions. The United States also urged Viet Nam to seriously consider and incorporate Members' comments on any revised draft. His delegation would welcome any further updates from Viet Nam at that meeting.

6.9. The representative of Canada reiterated her delegation's concerns on Viet Nam's cybersecurity measures as expressed at previous Council meetings and echoed the comments made by other Members in the Council. At the December meeting of the Council, Viet Nam had indicated that there would be a supplementary period of consultations and her delegation encouraged Viet Nam to provide an update on recent developments on that issue.

6.10. The representative of Australia said that her delegation's statement built on the statements Australia had delivered on that agenda item and related agenda items at previous meetings.

Australia would continue to make statements on Members' cybersecurity measures as new developments arose.

6.11. She thanked Viet Nam for engaging with Members on their cybersecurity measures. Australia shared other Members' concerns with a number of concepts in Viet Nam's Cyber Security Law. In that regard, Australia had provided feedback on Viet Nam's draft decree implementing the new Law. Her delegation understood that Viet Nam was currently preparing a second draft of the decree implementing the new Law, and strongly encouraged Viet Nam to provide a period for public consultation. Australia looked forward to continuing to work with Viet Nam on the implementation of the Cybersecurity Law and thanked Viet Nam for its engagement on that matter.

6.12. In line with his delegation's previous interventions in the Council, the representative of New Zealand continued to have a strong interest in the revision of the draft decree and urged Viet Nam to continue to engage with stakeholders so that they may effectively input into the consultation process before final regulations were implemented. New Zealand reiterated the importance of those regulations remaining consistent with Viet Nam's GATS commitments and of ensuring that the requirements, including regarding local storage of data and limitations on cross-border transfer of data, not unduly act as a barrier to foreign service suppliers, putting business at a potential commercial disadvantage.

6.13. The representative of Viet Nam said that, at the previous Council meeting in December 2018, his delegation had explained that the draft decree implementing certain articles of the Cybersecurity Law narrowed down the scope of some specific obligations to only national security issues, in order to avoid affecting normal business operations to the greatest extent possible. He reiterated that Viet Nam's legislative drafting process of the Cybersecurity Law in general, and of the implementing decrees in particular, was transparent and democratic, whereby all interested stakeholders, whether private or public, domestic or foreign, were welcome to provide comments within a certain time-frame prescribed by law. He stressed that his delegation remained ready to engage with interested Members to provide further explanations if requested.

6.14. The Chairman suggested that the Council take note of the statements made.

6.15. It was so agreed.

7 ITEM H: OTHER BUSINESS

7.1. As indicated at the start of the meeting, the Chairman provided Members with a quick account of the state of his consultations on the appointment of Chairpersons to the subsidiary bodies of the Council for Trade in Services for 2019. As Members knew, following the announcement at the February meeting of the General Council and the communication sent to Members on 4 March, the previous week he had held a series of meetings with Group Coordinators as well as with other delegations wishing to make proposals in that regard. In accordance with the Guidelines for the Appointment of Officers to WTO Bodies of 2002, in order to ensure balance in the proposed slate of names for the Chairmanships of the subsidiary bodies, he had also been consulting with the Chairman of the Goods Council.

7.2. At that point, he was not yet in a position to suggest a slate of names for the Chairpersonships of the CTS subsidiary bodies. He was continuing with his consultations and hoped to be able to revert to Members with a proposed slate in the following weeks.

7.3. The representative of the European Union wished to draw the Membership's attention to the communication contained in document S/L/429 with respect to the EU-25 Consolidated Schedule of Commitments. In that communication, the European Union had informed Members that its consolidated schedule, contained in documents S/C/W/273, Corr.1 and Suppl.1, had entered into force on 15 March 2019. That put an end to a process that had started in 2004.

7.4. At that time, the European Union had launched a procedure to modify the EU schedule of specific commitments. That had proved to be necessary because the original EU schedule had been established in 1994 and therefore only covered the 12 Member States of the European Union at that time. To ensure that the 13 Member States that had joined the European Union in 1995 and 2004

aligned some of their commitments with those of other Member States, it had been necessary to modify their individual schedules and consolidate them with the existing EU schedule.

7.5. Subsequently, the European Union had negotiated and reached 17 bilateral compensation agreements with those Members which had claimed to be affected by the modifications. Following relevant WTO procedures, the consolidated EU schedule had been certified in November 2006. At that point in time, and in document S/L/286, it had been established that the consolidated EU schedule would enter into force on a date to be specified by the European Union, after the EU internal decision-making procedures for the conclusion of the bilateral compensation agreements had been completed.

7.6. Those procedures had recently been completed and the European Union had therefore been in a position to notify Members of the date of entry into force of its consolidated schedule.

7.7. A representative of the Secretariat noted that, with respect to the Secretariat's technical assistance activities on trade in services planned for 2019, the dates of 16-20 September had been confirmed for the Geneva-based Advanced Trade in Services Course. The Course was targeted at mid- to senior-level government officials directly involved in trade in services policy formulation and/or in the conduct of services negotiations.

7.8. The representative then recalled that the website of the United Nations Statistics Division (UNSD) no longer provided access to the Provisional Version of the Central Product Classification (CPC) or the correspondence tables between the Provisional CPC and later classifications. Upon New Zealand's request, the Secretariat had been in regular and repeated contact with UNSD on that issue. It had learnt that the problem appeared to stem from an IT migration issue at the UN. The UN Statistics Division had made some changes to its website last year, in order to improve the situation, but was still facing some technical difficulties. UNSD, however, fully understood the importance of making all versions of the CPC classification and correspondence tables available on its website.

7.9. While UNSD continued to work on fixing the problem, it had put in place a provisional solution that enabled users to download all the available PDF versions of CPC, as well as ISIC classifications. The weblink to access all those documents had been made available on the WTO Member's services webpage. The Secretariat would continue to engage with UNSD, to convey the urgency of the issue, and aimed to report back to the Council in the future.

7.10. The representative of New Zealand thanked the Secretariat for its efforts and for keeping Members updated on that issue. He was happy to learn that some progress was being made with UNSD. The issue was of great importance to all Members and he would welcome as soon as possible an indication of the timeframe for the definitive resolution of the problem.

7.11. The representative of Chile thanked the Secretariat and UNSD for their efforts in getting those essential instruments back online. The representative of China also wished to express its gratitude to the Secretariat for its efforts and to New Zealand for bringing the issue to Members' attention.

7.12. The Chairman said that the Council would take note of the statements made.

7.13. It was so agreed.

8 ITEM I: APPOINTMENT OF THE NEW CHAIRPERSON

8.1. Based on the consensus reached in the General Council, the Chairman was very happy to pass on the Chairmanship of the Council for Trade in Services to Ambassador Muylle of Belgium. He was confident that, with his experience, knowledge and wisdom, Ambassador Muylle would guide the future work of the Council capably and efficiently.

8.2. As the outgoing chairperson of the Council, he said that, during the previous year, he had enjoyed working with Members and had appreciated delegations' cooperative and constructive spirit in fulfilling the mandate of the Council. He then proposed that the Council elect Ambassador Muylle by acclamation as the new Chairperson.

8.3. It was so agreed.

8.4. The new Chairman, Ambassador Muylle, thanked Ambassador Suescum for his kind words, hard work and efforts during the previous year, which had clearly borne fruit and were certainly orienting and paving the way forward for the Council for Trade in Services over the following year. He also wished to thank all Members for their trust and confidence and hoped that he would live up to Members' expectations. He would do his best to chair the Council in the most efficient way possible and was confident that with Members' cooperation, and the Secretariat's assistance, Members would be able to make some good progress over the months that followed.

8.5. The representative of Senegal, speaking on behalf of the LDC group, thanked the outgoing Chairman for his efforts and congratulated Ambassador Muylle on his election.

8.6. The Chairman suggested that the Council take note of the statements made.

8.7. The meeting was adjourned.
