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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	4 November 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the World Trade Organization's 12th Ministerial Conference

Delegations will find attached document COM(2021) 672 final.

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2021/0350 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the World Trade Organization's 12th Ministerial Conference

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the Council decision establishing the position to be taken on the Union's behalf in the 12th Ministerial Conference of the World Trade Organization in connection with the envisaged adoption of several decisions. This proposal covers the following areas:

1. Fisheries subsidies
2. Trade and health
3. Measures related to intellectual property, as provided for in the TRIPS Agreement, in the circumstances of the COVID-19 pandemic and other pandemics
4. Transparency improvements in agriculture
5. Domestic support in agriculture
6. Public stockholding for food security purposes
7. Export restrictions in agriculture, including the World Food Programme exemption from export restrictions
8. Export competition in agriculture
9. Market access in agriculture
10. Special safeguard mechanism (SSM) in agriculture
11. Review of the Understanding on Tariff Rate Quota Administration provisions of Agricultural Products (Bali TRQ Decision)
12. Cotton
13. Least Developed Countries (LDCs) and Special and Differential Treatment (SDT)
14. Notifications
15. Trade concerns

2. CONTEXT OF THE PROPOSAL

2.1. The Agreement Establishing the World Trade Organization ("WTO Agreement")

The Agreement Establishing the World Trade Organization ('the WTO Agreement') aims to achieve the objectives mentioned in the preamble to the Agreement. The agreement entered into force on 1 January 1995.

The European Union (EU) is a party to the Agreement.[1] All 27 EU Member States are also parties to the Agreement. The WTO may take decisions in accordance with the procedures set out in the WTO Agreement.

[1] Council Decision 94/800/EC of 22 December 1994 concerning the conclusion on behalf of the European Community, as regard matters within its competence, of the agreements reached in the Uruguay Round of multilateral negotiations (1986-1994) OJ L 336 23.12.1994, p. 1.

2.2. The Ministerial Conference of the World Trade Organization

The Ministerial Conference is the highest decision-making body of the WTO, and meets at least once every two years. As a matter of practice, decisions are taken by consensus.

The next meeting of the Ministerial Conference will take place in Geneva, Switzerland (30 November – 3 December 2021).

2.3. The envisaged acts of the WTO Ministerial Conference

On 3 December, the WTO's 12th Ministerial Conference ('MC12') is expected to adopt several decisions regarding:

1. Fisheries subsidies
2. Trade and health
3. Measures related to intellectual property, as provided for in the TRIPS Agreement, in the circumstances of the COVID-19 pandemic and other pandemics
4. Transparency improvements in agriculture
5. Domestic support in agriculture
6. Public stockholding for food security purposes
7. Export restrictions in agriculture, including the World Food Programme exemption from export restrictions
8. Export competition in agriculture
9. Market access in agriculture
10. Special safeguard mechanism (SSM) in agriculture
11. Review of the Bali Tariff Rate Quota (TRQ) Decision
12. Cotton
13. LDCs and SDT
14. Notifications
15. Trade concerns

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The objective of this proposal is to allow the EU to join a possible consensus in the WTO on the adoption by the Ministerial Conference of the envisaged acts.

While it is not yet clear if, and to what extent, WTO Members will be able to reach consensus, the EU position at MC12 has to be established in advance by the Council pursuant to Article 218(9) TFEU.[2]

It should be noted that the EU position to support the extension of the moratorium on customs duties on electronic transmissions and the extension of the moratorium on complaints of the types provided for under subparagraphs 1(b) and 1(c) of Article XXIII of the General

[2] To the extent that, contrary to the current expectations, the consensus was formalised in an international agreement amending the WTO Agreement or in a plurilateral international agreement among some WTO Members, the Commission would make the necessary proposals in accordance with Article 218(6) TFEU following the adoption of the texts and their opening for acceptance by the MC12 or by the WTO Members concerned during MC12.

Agreement on Tariffs and Trade 1994 (non-violation and situation complaints) will not be included in this proposal as Council Decision (EU) 2015/2236 of 27 November 2015 provides that this can be done on an indefinite basis.

The current proposal covers the following issues on which decisions may be taken:

- **Fisheries subsidies:** Reaching a multilateral agreement on rules on the elimination of certain fisheries subsidies is foreseen in the UN Sustainable Development Goal 14 Target 6 ("SDG 14.6") agreed by Heads of States in 2015 and the WTO Ministerial Decision of 13 December 2017 (WT/MIN(17)/64). Negotiations are underway and the EU should support an agreed outcome.

- **Trade and Health:** Discussions on Trade and Health issues started in 2020 with a proposal of 13 like-minded countries (the 'Ottawa Group') in the WTO (WTO/GC/223) of 24 November 2020 to agree on a Trade and Health Initiative in response to the current and future pandemics. The EU was amongst the original proponents of the initiative, which suggested a number of actions related, in particular, to export restrictions, trade faciliating measures and enhanced transparency. The proposal also encouraged the WTO to cooperate more closely with other international organizations in the work on crisis preparedness. Over time, the number of co-sponsors increased to 26. A revised proposal for a Draft General Council Declaration was tabled in the WTO on 15 July 2021 (WT/GC/W/823) regarding the trade policy response to the COVID-19 pandemic and to enhance resilience against future pandemics. The EU should support a potential outcome in this area on export restrictions, trade facilitating measures, enhanced transparency and other elements included in the latest proposal for a draft General Council Declaration. This may also include a WTO work programme for the work post MC12, the objective of which would be to enhance Members' resilience against future pandemics.

- **Measures related to intellectual property, as provided for in the TRIPS Agreement, in the circumstances of the COVID-19 pandemic and other pandemics:** These negotiations are part of the ongoing discussions in the WTO on how the trade system can enhance global access to COVID-19 vaccines and therapeutics. On 21 May 2021, a number of WTO Members submitted to the WTO Council for TRIPS a communication with a revised proposal for a waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19 (IP/C/W/669/Rev.1). On 4 June 2021, the EU submitted a communication on Urgent trade policy responses to the COVID-19 crisis to the WTO General Council (WT/GC/231) and a communication on Urgent trade policy responses to the COVID-19 crisis: intellectual property to the WTO Council for TRIPS (IP/C/W/680). On 18 June 2021, the EU submitted to the WTO Council for TRIPS a Communication with a draft Declaration on the TRIPS Agreement and Public Health in the circumstances of a pandemic (IP/C/W/681). The draft declaration aims to clarify or facilitate the use of the compulsory licensing system provided for in the TRIPS Agreement, in order to make it work as efficiently as possible in the circumstances of a pandemic. Given the importance of this issue, the EU should support an outcome in accordance with the EU Communications mentioned above. At the same time, the position to be taken on the EU's behalf should be sufficiently flexible to take account of the dynamic nature of the ongoing text-based process including as regards the instrument used by the Ministerial Conference. In particular, the EU should remain open to accepting other elements aiming to enhance or simplify the use of existing flexibilities provided for in the

TRIPS Agreement in the circumstances of the COVID-19 pandemic, other pandemics or other circumstances of extreme urgency related to public health that other WTO Members may propose.

- **Transparency improvements in agriculture:** The EU strongly believes that its proposal (JOB/AG/213) for a Ministerial Decision on transparency improvements in agriculture co-sponsored by Canada, Japan and the United States could constitute a basis for a decision at MC12. The proposal includes ideas for transparency improvements across the board in agriculture. This is an important initiative for MC12 considering that the pandemic has renewed the importance of greater transparency and predictability of agricultural support and trade. This initiative could be a credible element of a food security agenda indicated by the WTO Director General as a priority for MC12.

- **Domestic support in agriculture:** Negotiations on trade-distorting domestic support are embedded in Article 20 of the WTO Agreement on Agriculture and have been part of the Doha Development Agenda (DDA) mandate, as embodied in the Doha Ministerial Declaration of 14 November 2001 (WT/MIN(01)/DEC/1). Given the divergence of positions in the negotiations, the EU sees as a possible outcome a post-MC12 work programme on a reform of trade distorting domestic support.

- **Public stockholding for food security purposes:** Negotiations aim at agreeing on a 'permanent solution' fulfilling the goal set out in the Bali Ministerial Decision of 7 December 2013 on Public Stockholding for Food Security Purposes (WT/MIN(13)/38-WT/L/913), as interpreted by the subsequent General Council Decision of 27 November 2014 (WT/L/939). This goal was repeated in the Nairobi Ministerial Decision of 19 December 2015 (WT/MIN(15)/44-WT/L/979). This issue may be part of the work programme on domestic support.

- **Export restrictions in agriculture:** Negotiations on export restrictions in agriculture, including the World Food Programme exemption from export restrictions, have shown that a large part of the WTO Membership supports the commitment not to impose such restrictions on purchases for humanitarian purposes. Given the importance of the issue, the EU should continue to support the proposal for a Ministerial Decision on this matter, which could constitute an important element of a food security package at MC12. The EU should support an agreed outcome.

- **Export competition in agriculture:** While we see a need to seek improvements to both transparency and disciplines in export competition, the reality of negotiations shows that there is only limited interest. There is, however, some chance of progress on transparency improvements for MC12. Indeed, the EU included several ideas in this respect in our co-sponsored proposal (JOB/AG/213) for a Ministerial Decision on transparency improvements in agriculture. Also in the area of export competition, a triennial review of the Nairobi Decision on Export Competition (WT/MIN(15/45)) is ongoing in the regular Committee on Agriculture as mandated in paragraph 5 of that decision. The purpose is to review the disciplines contained in the decision. It has been agreed to postpone the review until the next meeting of the Committee on Agriculture in March 2022. Such agreement may require a Ministerial level decision at MC12. The EU is supportive of this postponement.

- **Market access in agriculture:** Discussions on market access negotiations in agriculture have shown that there is no appetite or realistic chance for any revival of tariff reduction negotiations at the WTO any time soon. Nevertheless, some of the WTO Members have made proposals which aim at launching negotiations post

MC12 including a proposal in the area of tariff simplification containing the calculations of Ad Valorem Equivalents (AVEs). The EU sees transparency elements as the only possible outcome in market access. This should include the proposal (JOB/AG/212) by Australia, Brazil, Canada and Ukraine on transparency in applied tariff changes and treatment of goods *en route* where the EU is supportive. The EU should support an agreed outcome.

- **Special safeguard mechanism (SSM) in agriculture:** Given the divergence of positions and lack of engagement of Members, no outcome is expected at MC12. Nevertheless, the EU has an interest to ensure that SSM is not negotiated as a stand-alone element, but rather as part of the wider market access negotiations.
- **Review of the Bali Tariff Rate Quota (TRQ) Decision:** Discussions on the review of the Understanding on Tariff Rate Quota Administration provisions of Agricultural Products, as defined in Article 2 of the Agreement on Agriculture (WT/MIN(13)/39, WT/L/914)) should reach a result by 31 December 2021. The current unequal coverage of the decision exempting the US and developing countries from the underfill mechanism is not acceptable. Considering the discussions take place in the regular Committee on Agriculture it is possible that a General Council level outcome would be considered instead of a Ministerial outcome. The EU should support an agreed outcome.
- **Cotton:** Given the divergence of positions in the negotiations, the most likely outcome for MC12 would be some transparency improvements. The EU has included an idea on transparency in cotton in the co-sponsored proposal (JOB/AG/213) for a Ministerial Decision on transparency improvements in agriculture.
- **LDCs and SDT:** Negotiations on SDT provisions are part of the DDA and a possible outcome at MC12 may clarify existing provisions or grant additional SDT for the LDC group and possibly other vulnerable WTO Members. Given the importance of the issue the EU should support an agreed outcome.
- **Notifications:** In view of the need to improve the transparency and compliance with existing notification requirements, the EU put forward a proposal for a General Council Decision on Procedures to Enhance Transparency and Improve Compliance with Notification Requirements under WTO Agreements (JOB/GC/204/Rev.7). Negotiations are underway and the EU should support an agreed outcome.
- **Trade concerns:** Seeking to strengthen the effectiveness of the work of regular WTO councils and committees, notably as regards the consideration of trade concerns, the EU submitted a proposal to the WTO on a General Council Decision on Procedural Guidelines for WTO Councils and Committees Addressing Trade Concerns (WT/GC/W/777/Rev.6). Negotiations are underway and the EU should support an agreed outcome.

Since negotiations are currently ongoing on all elements above, the Commission expects that the Council will take its decision on the EU position on the outcome of the negotiations once the situation regarding the relevant texts becomes clear during the Ministerial Conference itself.

The initiative is fully consistent with existing policy provisions. Similar decisions were prepared for previous WTO Ministerial Conferences, including most recently for the 11th WTO Ministerial Conference in 2017.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing '*the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement*.'

The concept of '*acts having legal effects*' includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are '*capable of decisively influencing the content of the legislation adopted by the EU legislature*'[3].

4.1.2. Application to the present case

The WTO Ministerial Conference is a body set up by an agreement, namely the WTO Agreement, which according to Article IV:1 of the WTO Agreement has the authority to take decisions on all matters covered under any of the multilateral trade agreements, including decisions having legal effects.

The envisaged acts mentioned above constitute acts having legal effects, as they may affect the rights and obligations of the Union.

The envisaged acts do not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged acts relate to the common commercial policy, as the envisaged possible decisions on DDA issues fall thereunder.

The substantive legal basis of the proposed decision, therefore, is Article 207 TFEU.

4.3. Conclusion

The legal basis of the proposed decision should be Article 207 TFEU in conjunction with Article 218(9) TFEU.

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[3] Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the World Trade Organization's 12th Ministerial Conference

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 207(4), first subparagraph, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Marrakesh Agreement Establishing the World Trade Organization ('the WTO Agreement') was concluded by the Union by Council Decision 94/800/EC of 22 December 1994[4] and entered into force on 1 January 1995.

(2) Pursuant to Articles IV:1 and IX:1 of the WTO Agreement, the Ministerial Conference of the World Trade Organization ('WTO') may adopt decisions by consensus.

(3) The WTO Ministerial Conference, during its 12th meeting on 30 November – 3 December 2021, may adopt decisions on Fisheries subsidies, Trade and health, Measures related to intellectual property, as provided for in the TRIPS Agreement in the circumstances of the COVID-19 pandemic and other pandemics, Transparency improvements in agriculture, Domestic support in agriculture, Public stockholding for food security purposes, Export restrictions in agriculture, including the World Food Programme exemption from export restrictions, Export competition in agriculture, Market access in agriculture, Special safeguard mechanism (SSM) in agriculture, Review of the Bali Tariff Rate Quota (TRQ) Decision, Cotton, LDCs and SDT, Notifications, and Trade concerns.

(4) It is appropriate to establish the position to be taken on the Union's behalf in the WTO Ministerial Conference, as the decisions are binding on the Union.

(5) Negotiations on fisheries subsidies are part of the Doha Devleopment Agenda (DDA) and were identified as a priority in UN Sustainable Development Goal 14 Target 6 ("SDG 14.6") agreed by Heads of States in 2015 and the WTO Ministerial Decision of 13 December 2017 (WT/MIN(17)/64). Given the importance of the issue for trade and sustainable development, and the fact that the Union has been one of the proponents, the Union should support an agreed outcome.

(6) Discussions on Trade and Health issues started in 2020 with a proposal of 13 like-minded countries (the so-called Ottawa Group) in the WTO (WTO/GC/223) of 24 November 2020 to agree on a "Trade and Health Initiative" in response to the current and future pandemics. The EU was amongst the original proponents of the initiative. A revised proposal for a Draft General Council Declaration was tabled in the WTO on 15 July 2021 (WT/GC/W/823) regarding the trade policy response to the COVID-19

[4] OJ L 336, 23.12.1994, p. 1.

pandemic and to enhance resilience against future pandemics. Given the importance of the issue, the Union should support an outcome in this area.

(7) Negotiations on measures related to intellectual property, as provided for in the TRIPS Agreement, in the circumstances of a pandemic, including the COVID-19 pandemic, are part of the ongoing discussions in the WTO on how the trade system can enhance global access to COVID-19 vaccines and therapeutics. On 21 May 2021, a number of WTO Members submitted to the WTO Council for TRIPS a communication with a revised proposal for a waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19 (IP/C/W/669/Rev.1). On 4 June 2021 the Union submitted a communication on Urgent trade policy responses to the COVID-19 crisis to the WTO General Council (WT/GC/231) and a communication on Urgent trade policy responses to the COVID-19 crisis: intellectual property to the WTO Council for TRIPS (IP/C/W/680). On 18 June 2021 the EU submitted to the WTO Council for TRIPS a Communication with a draft Declaration on the TRIPS Agreement and Public Health in the circumstances of a pandemic (IP/C/W/681), which aims to clarify or facilitate the use of the compulsory licensing system provided for in the TRIPS Agreement, in order to make it work as efficiently as possible in the circumstances of a pandemic. Given the importance of this issue, the Union should support an outcome in accordance with the EU Communications mentioned above. At the same time, the position to be taken on the EU's behalf should be sufficiently flexible to take account of the dynamic nature of the ongoing text-based process including as regards the instrument used by the Ministerial Conference. In particular, the EU should remain open to accepting other elements aiming to enhance or simplify the use of existing flexibilities provided for in the TRIPS Agreement in the circumstances of the COVID-19 pandemic, other pandemics or other circumstances of extreme urgency related to public health that other WTO Members may propose.

(8) Negotiations on transparency improvements in agriculture as a cross-cutting issue have gained renewed attention during the COVID-19 pandemic due to its contribution to keeping trade flows open. Transparency is an essential element for monitoring obligations under the Agreement on Agriculture, for informing negotiations, and for ensuring fair, effective, and resilient agricultural markets and trade. Given the importance of the issue, the Union together with Canada, Japan and the United States have made a proposal for a Ministerial Decision on transparency improvements in agriculture (JOB/AG/213) and therefore the Union should support an agreed outcome.

(9) Negotiations on trade-distorting domestic support are embedded in Article 20 of the WTO Agreement on Agriculture and have been part of the DDA mandate, as embodied in the Doha Ministerial Declaration of 14 November 2001 (WT/MIN(01)/DEC/1). Given the divergence of positions in the negotiations, the EU sees as a possible outcome a post-MC12 work programme on a reform of trade distorting domestic support. Given the importance of the issue the Union should support an agreed outcome.

(10) Negotiations aim at agreeing on a 'permanent solution' fulfilling the goal set out in the Bali Ministerial Decision of 7 December 2013 on Public Stockholding for Food Security Purposes (WT/MIN(13)/38-WT/L/913), as interpreted by the subsequent General Council Decision of 27 November 2014 (WT/L/939). This goal was repeated in the Nairobi Ministerial Decision of 19 December 2015 (WT/MIN(15)/44-WT/L/979). Given the importance of the issue the Union should support an agreed outcome. This issue may be part of the work programme on domestic support.

(11) Negotiations on export restrictions in agriculture, including the World Food Programme exemption from export restrictions have shown that a large part of the WTO Membership supports the commitment not to impose such restrictions on purchases for humanitarian purposes. Given the proposal for a Ministerial Decision on this matter and the fact that this is an important element of a food security package at MC12, the Union should support an agreed outcome.

(12) A triennial review of the disciplines contained in the Nairobi Decision on Export Competition (WT/MIN(15/45) is ongoing in the regular Committee on Agriculture as mandated in paragraph 5 of that decision. It has been agreed to postpone the review until the next meeting of the Committee on Agriculture in March 2022. Such agreement may require a Ministerial level decision at MC12. The EU is supportive of this postponement. Moreover, the discussions have shown a certain interest of the Membership in transparency improvements in export competition. Indeed, the EU included several ideas in this respect in its co-sponsored proposal (JOB/AG/213) for a Ministerial Decision on transparency improvements in agriculture. Given that the Union has been one of the proponents, it should support an agreed outcome.

(13) Discussions on market access negotiations in agriculture have shown that there is no appetite or realistic chance for any revival of tariff reduction negotiations at the WTO any time soon. Nevertheless, some of the WTO Members have made proposals which aim at launching negotiations post MC12 including a proposal in the area of tariff simplification containing the calculations of Ad Valorem Equivalents (AVEs). The EU sees transparency elements as the only possible outcome in market access. This should include the proposal (JOB/AG/212) by Australia, Brazil, Canada and Ukraine on transparency in applied tariff changes and treatment of goods en route where the EU is supportive. The Union should support an agreed outcome.

(14) Discussions on the Special Safeguard Mechanism (SSM) in agriculture have continued pursuant to the proposals on the table and the Nairobi Ministerial Decision (WT/MIN(15)/43 - WT/L/978). Given the divergence of positions and lack of engagement of Members, no outcome is expected at MC12. Nevertheless, the EU has an interest to ensure that SSM is not negotiated as a stand-alone element. The Union should thus support an outcome on SSM only if it forms part of the wider market access negotiations.

(15) Discussions on the review of the Understanding on Tariff Rate Quota Administration provisions of Agricultural Products, as defined in Article 2 of the Agreement on Agriculture (WT/MIN(13)/39, WT/L/914)) should reach a result by 31 December 2021. The current unequal coverage of the decision exempting the US and developing countries from the underfill mechanism is not acceptable. Considering the discussions take place in the regular Committee on Agriculture it is possible that a General Council level outcome would be considered instead of a Ministerial outcome. The Union should support an agreed outcome.

(16) Discussions on cotton have continued in the framework set up in paragraphs 5, 6 and 7 of the Bali Ministerial Decision on Cotton (WT/MIN(13)/41 - WT/L/916) and in paragraph 14 of the Nairobi Ministerial Decision on Cotton (WT/MIN(15)/46 - WT/L/981). Given the divergence of positions in the negotiations, the most likely outcome for MC12 could be some transparency improvements. The Union should support an agreed outcome.

(17) Negotiations on Special and Differential Treatment provisions are part of the DDA and a possible outcome at MC12 may clarify existing provisions or grant additional

SDT for the LDC group and possibly other vulnerable WTO Members. Given the importance of the issue, the Union should support an agreed outcome.

(18) Discussions on notifications are ongoing in the General Council as regards the proposals on a General Council Decision on Procedures to Enhance Transparency and Improve Compliance with Notification Requirements under WTO Agreements (JOB/GC/204/Rev.7). Given the importance of improving the transparency and compliance with existing notification requirements and the Union's role as one of the proponents of the proposal, the Union should support an agreed outcome in this area.

(19) Discussions on trade concerns are ongoing in the General Council as regards the Decision on Procedural Guidelines for WTO Councils and Committees Addressing Trade Concerns (WT/GC/W/777/Rev.6). Given the importance of strengthening the effectiveness of the work of regular WTO councils and committees, notably as regards the consideration of trade concerns and the Union's role as one of the proponents of the proposal, the Union should support an agreed outcome in this area,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 12th session of the WTO Ministerial Conference shall be:

To join the consensus reached among WTO Members with a view to adopting decisions regarding Fisheries subsidies, Trade and health, Measures related to intellectual property, as provided for in the TRIPS Agreement in the circumstances of the COVID-19 pandemic and other pandemics, Transparency improvements in agriculture, Domestic support in agriculture, Public stockholding for food security purposes, Export restrictions in agriculture including the World Food Programme exemption from export restrictions, Export competition in agriculture, Market access in agriculture, Special safeguard mechanism (SSM) in agriculture, Review of the Bali Tariff Rate Quota (TRQ) Decision[5], Cotton, LDCs and SDT, Notifications, and Trade concerns.

Article 2

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

[5] Having regard to Article IV:2, second sentence, of the WTO Agreement, this includes a possible consensus reached among WTO Members on the adoption of a decision regarding the Review of the Understanding on Tariff Rate Quota Administration provisions of Agricultural Products, as defined in Article 2 of the Agreement on Agriculture (WT/MIN(13)/39, WT/L/914)) (Bali Tariff Rate Quota (TRQ) Decision) in a meeting of the General Council.