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Page: 1/6

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**PROPOSED TEXT ON "MINISTERIAL DECLARATION ON COMBATING, MITIGATING AND RECOVERING FROM THE IMPACTS OF COVID-19 AND BEYOND"**

COMMUNICATION FROM THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU

The following communication, dated 17 June 2021, is being circulated at the request of the delegation of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsuo.

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Further to our submission of "A Proposal on a 'Ministerial Declaration on Combating, Mitigating and Recovering from the Impacts of COVID-19 and Beyond' for MC12: Elements to Be Considered for the Declaration" (JOB/GC/256, dated 23 April 2021), we hereby propose a more concrete draft of "Ministerial Declaration on Combating, Mitigating and Recovering from the Impacts of COVID-19 and Beyond" for Members to consider.

The contents of this proposal are partly inspired by the proposal of "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2) originally submitted by the Ottawa Group and later joined by other Members, the India and South Africa's proposal of "Waiver from Certain Provisions of the TRIPS Agreement for the Prevention, containment and Treatment of COVID-19" (IP/C/W/669) and the APEC Ministers Responsible for Trade Meeting Joint Statement 2021. In the relevant parts of this proposed text on "Ministerial Declaration on Combating, Mitigating and Recovering from the Impacts of COVID-19 and Beyond" we will incorporate relevant contents of these documents to the fullest extent possible.

Note that the expansion of production and supplies of vaccines and public health related products is of highest importance in combating COVID-19. Paragraphs 4 and 5 of the proposed text are originated from Director General Dr. Ngozi Okonjo Iweala's vision on the expansion of production and supplies of vaccines and public health related products.

The proposal illustrates the possible use of "trade and economic tools" consistent with the objective and rules of the WTO to address the three aspects of the impacts arising from COVID-19. These aspects include combating COVID-19, mitigating the economic and public health impacts arising from COVID-19, and recovering from the economic and public health impacts arising from COVID-19.

There is a view that at the present time (i.e., before and at MC12), Members should merely focus on the most urgent public health matter of fighting against COVID-19 and should leave other related matters for a later time. Although we agree with the view that fighting COVID-19 is the most urgent task of WTO Members, we should still ask ourselves whether the mitigating and recovering issues are really not urgent matters and whether we will have another appropriate opportunity to address mitigating and recovering issues after MC12. It can be reasonably expected that after MC12, Members might start focusing on many other matters (such as WTO reform issues). If we decide not to address the mitigating and recovering aspects of public health and economic impacts arising from COVID-19 at MC12, we might miss the greatest opportunity to address these important and relatively urgent issues, and we might not have another such appropriate opportunity to do so in the near future. Therefore, we urge Members to consider working together on formulating a comprehensive declaration on addressing these three aspects of COVID-19.

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## **MINISTERIAL DECLARATION ON COMBATING, MITIGATING AND RECOVERING FROM THE IMPACTS OF COVID-19 AND BEYOND**

1. The pandemic caused by COVID-19 has severely affected WTO Members, particularly developing and least developed country (LDC) Members, and the lives and livelihood of the people, particularly the most vulnerable groups, whose existing inequalities are further exacerbated.

2. We recognize the importance of fair and equitable access to vaccines and other essential medicines to fight the COVID-19 pandemic and other public health crises of similar nature. As one of the international organizations most relevant to addressing the pandemic caused by COVID-19, the WTO has certain trade and economic tools to comprehensively help its Members to combat, mitigate and recover from the public health and economic impacts arising from the single greatest and most urgent challenge facing the whole humanity. The WTO should demonstrate by its actions that multilateral trade rules have an essential role to play in addressing the human catastrophe of the COVID-19 pandemic, in tackling the health and economic impacts arising therefrom and in facilitating a strong economic recovery for all Members.

3. Facing COVID-19, we stress our commitment in working together to maintain a free, fair, inclusive, non-discriminatory, transparent, predictable and stable trade and investment environment; to keep our markets open; to promote open and more resilient supply chains and to foster an enabling business environment for vulnerable groups.

### **COMBATING COVID-19**

#### **Expanding the production of COVID-19 related vaccines and medical products**

4. We acknowledge that ramping up the production of COVID-19 related vaccine and other medical products is particularly important to fight COVID-19. There are untapped production capacities in many developed and developing country Members that need to be employed. We will take any possible trade and economic approach consistent with the objectives and rules of the WTO to expand production capacities and supplies for COVID-19 related vaccines and other essential medicines, medical devices and components and personal protective equipment, consistent with public health guidance.

5. We will make best endeavour to encourage and facilitate private sectors' technology transfer through voluntary licensing agreements and other appropriate means to help scale up manufacturing of COVID-19 related vaccines and other medical products.

6. We fully support the WTO Director-General to play a central role in facilitating the expansion of production and the technology transfers of COVID-19 related vaccines and other medical products.

#### **TRIPS flexibility and waivers**

7. We reaffirm the principles and flexibilities stated in the Declaration on the TRIPS Agreement and Public Health adopted on 14 November 2001 (WT/MIN(01)/DEC/2), including that the TRIPS Agreement does not and should not prevent Members from taking measures to protect public health and that the Agreement can and should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all.

8. [Depending on the result of the text-based TRIPS Waiver discussion at the TRIPS Council, there could be some paragraphs to address the TRIPS Waiver issues.]

#### **Government support for R&D of COVID-19 related vaccines and medical products and for other activities**

9. We note that many Members have used public funding to support COVID-19 related research, development, manufacturing, production and other activities in the supply chain of vaccines and medical products, and to place advance orders for COVID-19 vaccines. These supports have contributed to the swift development and expansion in the supply of these products to fight against COVID-19. While it is important to remain transparent in terms of the public funding they provide,

we will exercise due restraint in using the SCM Agreement to challenge these supports which respond to the COVID-19 pandemic within the limited time period of the pandemic.

### **Technical regulations**

10. Vaccines, medicines and medical devices are approved by relevant regulatory authorities of Members to ensure the quality, safety and efficacy of these medical products. We will make best endeavour to streamline the regulatory conformity checks, by unilateral measures, including, when appropriate, unilateral recognition of third country approvals or temporarily exempting their certification, authorization and other procedures for medical goods in order to allow a wider range of products to enter the market more quickly, while still ensuring continued health and safety protection.

11. We will also cooperate in the exchange and implementation of best practices in the area of standards and technical requirements and, through collaboration within relevant international organizations, work towards enhanced regulatory alignment with the aim of facilitating trade and reducing adaptation costs for manufacturers of essential medical goods. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2).]

### **Export restrictions**

12. We will review and promptly eliminate unnecessary existing restrictions on exports of essential medical goods necessary to combat the COVID-19 pandemic; and exercise restraint in the imposition of any new export restrictions, including export taxes, on essential medical goods and on any prospective vaccine or vaccine materials. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2).]

13. We will also ensure that any measures deemed necessary to prevent or relieve critical shortages are implemented in a manner that is targeted, transparent, proportionate and temporary, and consistent with WTO obligations; give particular consideration to the interest of the developing country Members, particularly LDC Members, many of which have scarce manufacturing capacities and are highly dependent on imports, in order to avoid a negative impact of such measures on their access to essential medical goods; and, ensure that any trade measures, including export restrictions, do not disrupt the provision of humanitarian shipments of essential medical goods, nor the work of the COVAX facility in distributing vaccines. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2).]

14. Any export restrictions should be promptly notified to the WTO and published on a domestic website. The notification should include justification of the measures and an explanation of how the measure is consistent with the WTO agreements and why it was considered targeted and proportionate to the objective pursued. Equally, if following the review referred to above, it is decided to continue to maintain export restrictions, upon request, justification for the continuation of the measures and an explanation as above will be provided. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2).]

15. The period of validity of such measures should be as limited as possible and ideally, it should not exceed 3 months, subject to a possible extension. In any event, the duration of export restrictions should not exceed the duration of the state of public health emergency. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2).]

### **Trade facilitation**

16. For Members which have not done so, we encourage them to accelerate the implementation of the Agreement on Trade Facilitation to the extent possible, particularly the provisions which are especially critical during the pandemic, such as Article 7.1 (Pre-arrival processing), Article 7.3 (Separation of release from final determination of customs duties, taxes, fees, and charges), and Article 7.8 (Expedited shipment). We will also make best endeavour to prioritize, expedite and temporarily suspend or simplify customs clearance, licensing and other import or export procedures for COVID-19 related vaccines, medicines and other goods.

### Transparency and experience sharing

17. Members are encouraged to notify trade-related measures, including customs and other border operations, which are introduced in response to COVID-19 to the WTO as quickly as possible after their adoption, preferably even in advance of their adoption.

18. We will share experiences as regards the trade facilitating and other COVID-19 related measures that have been put in place in response to the COVID-19 crisis with a view to establishing best practices in the context of a crisis. We will consider to what extent they can be made permanent. Such measures may include measures relating to technical regulations, digital customs procedures, and services such as freight, logistics, distribution and transport, which have proven an effective tool in facilitating the frictionless movement of essential medical goods across borders. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2) with a little expansion to cover measures other than trade facilitation ones.]

19. We will respond swiftly to requests for information on trade measures adopted during the present health crisis, including on measures undertaken to implement this initiative, from any other Members. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2).]

20. We will engage fully with the trade monitoring exercises done on a regular or an *ad hoc* basis in the WTO, including the bi-annual Trade Monitoring Report, and pay particular attention to complying with all WTO notification requirements during the Covid-19 crisis. The monitoring and notification of measures should allow for a quick identification of disruptions in the supply chains and allow Members to enter into consultations with a view to avoiding such disruptions in the shortest possible timelines. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2).]

21. The WTO Secretariat shall make a summary report on the actions implemented by Members under the Initiative which should be made available by the date of the 12th WTO Ministerial Conference. We will provide any requested information or clarification to the WTO Secretariat for the purpose of the preparation of such a report. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2).]

### Cooperation with other organizations

22. We commend the work of the WTO Secretariat resulting in an extensive database of measures related to COVID-19 and a range of dedicated studies and reports allowing them to have a comprehensive and accessible overview of the situation. The WTO Secretariat is encouraged to continue that work, focusing on the causes and effects of the disruptions in the supply chains of essential goods and drawing on research of other international organizations. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2).]

23. Given the need to enhance pandemic preparedness and respond to current and future pandemics, the WTO Director-General is strongly encouraged to intensify cooperation with other relevant international organizations such as the World Health Organization, the World Customs Organization, the World Intellectual Property Organization, the Organization for Economic Cooperation and Development, the United Nations as well as the G20 with the aim of improving the analytical capacity of WTO Members to monitor market developments in trade and production of essential medical goods. This would enhance WTO Members' preparedness for a health crisis and contribute to the creation of an early warning mechanism in the event of critical shortages of essential medical goods. [This paragraph is integrated from "COVID-19 and Beyond: Trade and Health" (JOB/GC/251/Rev.2).]

### MITIGATING THE PUBLIC HEALTH AND ECONOMIC IMPACTS ARISING FROM COVID-19

#### For all Members

24. We will maintain trade flows to the largest extent possible during and after the COVID-19 pandemic so as to ensure a predictable and stable trade environment, to enhance access to essential food and medical products and to limit negative impacts on jobs and poverty.

**For the vulnerable Members**

25. We will make best endeavour to avoid applying restrictive measures to trade on essential food and medical products with LDC Members and to provide aids and other technical assistances to Members in need, particularly LDC Members.

**For the vulnerable group and MSMEs**

26. We recognize that the existing disadvantages and inequalities for women, disables, many ethnic minorities, workers, other vulnerable groups and micro, small and medium-sized enterprises (MSMEs) are further exacerbated by COVID-19. There could be long-term devastating consequences arising from the pandemic if the exacerbated disadvantages and inequalities are not properly addressed.

27. We firmly commit to make the WTO more inclusive by empowering women and other vulnerable groups and better integrate MSMEs into the global trading system. To this end, we will take all necessary steps to ensure that the vulnerable groups and MSMEs are provided with necessary support, and to ensure that inclusive policy instruments are in place to fast-track the mitigation and recovery of their businesses.

28. The SCM Agreement should be interpreted as providing policy space for Members to allocate more resources to remedy the economic impacts of the Covid-19 pandemic suffered by the vulnerable groups and MSMEs and to empower them by enhancing their skills and creating enabling environment for them. Government supports and measures adopted by any Member within the policy space should not be considered as subsidies causing adverse effects to the interest of other Members.

**RECOVERING FROM THE PUBLIC HEALTH AND ECONOMIC IMPACTS ARISING FROM COVID-19****For all Members**

29. We commit to strengthen cooperation with other multilateral and bilateral partners, the private sectors, and civil societies to set up necessary framework for dealing with COVID-19 and future public health crises of similar nature.

30. We will also adopt appropriate trade tools and economic measures consistent with the objective and rules of the WTO to enhance, stimulate or facilitate short-term and long-term economic recovery and job creation, to make global supply chains more resilient and less vulnerable to similar impacts and to advance sustainable economic growth.

**Expansion of duty-free and quota-free scopes for LDCs**

31. Developed-country Members that have not yet provided full duty-free and quota-free market access for products originating from LDC Members, defined at the tariff line level, are encouraged to improve their existing duty-free and quota-free coverage for such products as a specialized system of preference (SSP), so as to provide greater market access for LDC Members, at least for a specific period, to help them recover from the impact.

32. Developing-country Members, declaring themselves in a position to do so, are encouraged to provide duty-free and quota-free market access for products originating from LDC Members, or encouraged to improve their existing duty-free and quota-free coverage for such products, as an SSP, so as to provide greater market access for LDC Members, at least for a specific period, to help them recover from the impact.

**The Aid-for-Trade initiative and access to trade finance**

33. We reinforce our support to the Aid-for-Trade initiative to mobilize resources to address the trade-related constraints caused by COVID-19 identified by developing and least-developed country Members and to enhance their economic recovery for the benefit of vulnerable groups and MSMEs.

34. We commit to work together to improve vulnerable groups and MSMEs' access to trade finance to help them recover from COVID-19.

#### **Other policies for developing country Members**

35. We recognize the structural vulnerability of many developing country Members and all LDC Members during and after COVID-19 pandemic. We also recognize the role that trade can play in economic recovery from COVID-19 pandemic, including mobilizing resources to address the trade-related constraints caused by COVID-19 pandemic as identified by developing country Members, particularly LDC Members.

36. We further recognize their need for policy space to respond to the current pandemic challenges facing them, to enhance preparedness for future pandemic of similar nature and to pursue economic recovery or to realize structural transformation.

37. We will consider other possible special assistances consistent with the objective and rules of the WTO to be provided to those developing country Members in need, particularly the LDC Members, to help them swiftly recover from the extreme economic difficulties.

#### **[ESTABLISHMENT OF THE COMMITTEE ON TRADE AND PUBLIC HEALTH] [COORDINATION BETWEEN WTO BODIES]**

38. ALT 1: [Considering that public health related issues involve many WTO bodies (such as the Council for Trade in Goods, the Council for Trade in Services and their respective subsidiary bodies as well as the TRIPS Council), considering also that it is important to timely and comprehensively respond to COVID-19 and other public health crises of similar nature by the WTO and noting that there is no WTO body responsible for addressing such public health crises and for reviewing the related trade measures in a holistic manner, we decide to direct the General Council to establish a Committee on Trade and Public Health open to all members of the WTO to report to the Ministerial Conference to review the work and terms of reference of the Committee, including its relations with the existing WTO bodies, in the light of recommendations of the Committee.]

ALT 2: [Considering that public health related issues involve many WTO bodies (such as the Council for Trade in Goods, the Council for Trade in Services and their respective subsidiary bodies as well as the TRIPS Council), considering also that it is important to timely and comprehensively respond to COVID-19 and other public health crises of similar nature by the WTO and noting that there is no WTO body responsible for addressing such public health crises and for reviewing the related trade measures in a holistic manner, we decide to direct the relevant WTO bodies to report to the General Council on a periodic basis their related works. The General Council will review the works and make necessary coordination or recommendation to respond to the public health crisis when necessary.]

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