

# WORLD TRADE ORGANIZATION

RESTRICTED

**G/IT/M/2**

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## **Committee of Participants on the Expansion of Trade in Information Technology Products**

### MINUTES OF THE MEETING OF 30 OCTOBER 1997

Chairman: Mr. A. Hoda

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### Introduction

The Chairman welcomed participants to the second formal meeting of the Committee of Participants on the Expansion of Trade in Information Technology Products. He noted that this meeting had been convened among only the participants to the Ministerial Declaration in Trade in Information Technology Products as there had been no decision taken yet with respect to attendance of non-participants.

With reference to the proposed agenda set forth in WTO/AIR/710, he said that he would take up two items under "Other Business": correcting typographical errors and other technical corrections to the Ministerial Declaration, and the date of the next meeting. The agenda, which was contained in WTO/AIR/710 dated 20 October 1997, was adopted with the inclusion of the items mentioned by the Chairman under "Other Business".

1. Organizational Matters of the Committee

1.1 Chairmanship

1.1.1 The Chairman recalled that at the last meeting of the Committee, delegations indicated that additional time was necessary to consult on the matter of chairmanship. He furthermore asked if participants were now in a position to take a decision in this regard.

1.1.2 The representative of Canada stated that informal consultations had not led to a consensus on the selection of a chairperson and therefore asked that Mr. Hoda continue as Chairman until such a time as the Committee is ready to take a decision on the matter.

1.1.3 It was so agreed.

1.2 Status of non-participants, acceding countries, and other organizations in the meetings of the Committee

1.2.1 The Chairman noted that discussions had taken place on this issue at the recent informal meeting and as a result, a draft text on this matter was faxed to delegations and circulated again in the room today. With respect to the text, he noted that there were two alternative formulations for paragraphs one and two, and there also was a phrase in the last paragraph that was in square brackets.

1.2.2 The delegate of the United States stated a preference for referring in the first alternative to "observers to the Council for Trade in Goods", in line with paragraph 4 of document G/L/160.

1.2.3 The delegate of Canada proposed that "Governments which are not Members of the World Trade Organization" be replaced with "Governments which are observers to the Council for Trade in Goods" and then continue "may follow the proceedings of the Committee of Participants on the Expansion of Trade in Information Technology Products, hereinafter referred to as the 'Committee', in an observer capacity".

1.2.4 The Chairman stated that in light of the comments made the paragraph would read as follows:

"Members of the World Trade Organization which are not participants to the Ministerial Declaration and Governments which are observers to the Council for Trade in Goods may follow the proceedings of the Committee of Participants on the Expansion of Trade in Information Technology Products, hereinafter referred to as the "Committee", in an observer capacity."

He asked whether delegations were in a position to adopt this text?

1.2.5 The delegate of Switzerland responded that the text could be adopted with the understanding that under paragraph 3, the Committee would need to agree as to what would be considered to be a "confidential matter" when deliberating in a special restricted session.

1.2.6 The delegate of Costa Rica raised concerns regarding paragraphs 3 and 5 with respect to the word "participate" when referring to the rights conferred to the observers in the Committee. He asked whether the word "participate" meant merely the right to attend and be present in the meetings, and whether the observer would fully participate or only when invited to do so. Furthermore he emphasized that requests for observership of international intergovernmental organizations should be examined on a case-by-case basis and that the Committee should revert to the criteria for granting this status at a later time.

1.2.7 The Chairman responded that there was clarification already in the text with respect to the participation of observers. In paragraph 2, the second sentence stated that "observers may participate in the discussions but decisions shall be taken only by participants." Furthermore, in the rules of the General Council, there was a provision that observers may speak only after participants had spoken.

1.2.8 The delegate of Costa Rica agreed with the clarification provided by the Chairman.

1.2.9 The Chairman further clarified that the Annex to the Rules of Procedure for the General Council contained a reference to the role of observers, which stated "representatives of governments accorded observer status may be invited to speak at meetings of the bodies to which they are observers normally after Members of that body have spoken. The right to speak does not include the right to make proposals, unless a government is specifically invited to do so, nor to participate in decision-making".

1.2.10 The text was adopted with the agreed-upon amendments and is attached to document G/IT/3 (Rules of Procedure).

1.2.11 The Chairman noted that now that the decision was taken with respect to observers, the Committee should address the requests for observer status which it had received. It appeared from the discussions, that while the request for observer status from Egypt was addressed automatically by the adoption of this decision, the Committee would have to take a position on the observer status of the World Customs Organization (WCO). He further noted that the decision just taken provided that requests for observer status by international organizations would be considered on a case-by-case basis and that the annex to the Rules of Procedure of the General Council provided that the international intergovernmental organizations concerned should have a direct interest or relevance in the matter. With respect to the WCO, the request for observer status was limited to meetings of the Committee where questions relating to HS classification and HS amendments were to be taken up. It seemed that the WCO met the criteria set out in the rules of procedure for observer status.

1.2.12 The delegate of Japan supported the observer status of the WCO, mentioning specifically paragraph 5 of the Ministerial Declaration which referred to the contribution of the WCO, and to Annex 3 of the Rules of Procedure of the General Council which referred to the direct interest of international intergovernmental organizations.

1.2.13 The Chairman stated that there was agreement to invite the WCO as an observer to the Committee whenever the issues of HS classification or HS amendments were on the agenda.

### 1.3 Document Distribution

1.3.1 The Chairman recalled that this issue was raised at the last meeting and that documents related to the work of the Committee were being distributed to participants under the G/IT symbol and in paper form only. It was also useful to note that other committees under plurilateral agreements dealt with document dissemination in various ways. Some had open circulation to all WTO Members and observers, while others restricted documents or certain series of documents to signatories only. The decisions on document dissemination had been taken by the respective Committee.

1.3.2 The delegate of the European Communities, recalling what was said at the previous informal meeting, proposed three different types of documents for the Committee. The G/IT series should be the general documents of the Committee and would have the widest distribution in both the restricted and derestricted forms. The need for a more selective distribution of documents to participants only could be met by a SPEC series and informal room documents. In the case of the latter two types of documents, the participant requesting the circulation could however indicate to the Secretariat that the document could receive a wider distribution.

1.3.3 The Chairman summarized that there would be three types of documents; the G/IT series would be distributed to all WTO Members and observers, and the room and SPEC documents would be restricted in their circulation to participants only, with the observation that the participant that circulates the paper had the right to request a wider circulation. It was so agreed.

1.3.4 The delegate of Switzerland stated that because the G/IT series would be made available to all Members, for practical purposes the series should also be available electronically by posting them on the DDF (Document Dissemination Facility).

1.3.5 The Chairman stated that, in principle, documents would be available only electronically; hard copies would be made available at the request of participants.

#### 1.4 Document Derestriction

1.4.1 With respect to document derestriction, the Chairman referred to the WTO Decision on the derestriction of WTO documents contained in WT/L/160/Rev.1. For the purposes of the Committee's work, he proposed that the Committee follow the procedures for derestriction set forth in this document.

1.4.2 This was agreed.

#### 1.5 Rules of Procedure

1.5.1 The Chairman noted that the Committee had before it, the Draft Rules of Procedure, as prepared by the Secretariat, which were based on the Rules of Procedure of the General Council and of other Committees under the WTO. These draft rules could be found in document G/IT/W/1. As a decision was already taken with respect to observers, the Draft Rules would have to be amended, especially in respect of rule 2. He proposed that the Rules of Procedures of the General Council be adopted with the exceptions listed in document G/IT/W/1.

1.5.2 On the basis of suggestions made by the delegates of Canada and Costa Rica the Chairman proposed that the decision on participation of observers in the Committee be amended to make reference to the Annexes of the Rules of Procedure of the General Council in both paragraphs 2 and 4. In paragraph 4, the reference to Annex 3 to WT/L/161 would be made in brackets after the word WTO, and in paragraph 2, the change would be to insert "in accordance with paragraphs 9 to 11 of the guidelines in Annex 2 to WT/L/161" after the word 'discussions' in the second line. The only change to be made to the draft Rules of Procedure in G/IT/W/1 would be to paragraph (iv), where it would say "Rule 10 of Chapter IV (Observers) is not applicable. See attached Decision". There would also be another consequential change in paragraph (i), whereby the phrase "except as provided for in Rule 10 below" should be deleted as this was no longer applicable.

1.5.3 The Rules of Procedure were adopted with the amendments outlined by the Chairman. They are contained in document G/IT/3.

2. Review of the Status of Implementation of the Ministerial Declaration on Trade in Information Technology Products

2.1 The Chairman drew participants' attention to document G/IT/1/Rev.1 which updates the status of implementation of the Ministerial Declaration. He further noted that the document also included information with respect to the formal certification of schedules. Since the issuance of this document, the Czech Republic and the Slovak Republic had recently submitted their schedules under the formal procedures for rectification and modification of schedules. It appeared that implementation was proceeding as planned.

2.2 The delegate of Israel gave approval to derestrict Israel's schedule and to post it to the internet site; a formal letter would be sent in this respect.

2.3 The delegate of Switzerland noted that its ITA schedule was submitted to the Secretariat today and that the first rate reduction would take place, as agreed, as of 31 December 1997.

3. Future Work Programme of the Committee

3.1 Divergences in classifying information technology products

3.1.1 The Chairman recalled that at the last meeting of the Committee, there was a request by Canada to prepare an addendum to document G/IT/2, to include the information on an HS-code basis and by participant. This addendum had been prepared.

3.1.2 The delegate of Canada expressed appreciation for the addendum to document G/IT/2 and stated that this would be useful to examine both the divergences and convergences of classifying information technology products.

3.1.3 The delegate of the United States stated that consultations were in course with industry and other participants concerned on this matter. He expected that by 31 December 1997 a paper would be put forth on a proposal with respect to initial work that could be undertaken on this issue.

3.1.4 The Chairman summarized that more time was needed to reflect on the matter; the Committee would revert to it at a later meeting.

3.2 Review of Product Coverage

3.2.1 The Chairman noted that the Committee was to undertake a review of product coverage, as envisioned in paragraph 3 of the Annex to the Ministerial Declaration and paragraph 7 of the document on the Implementation of the Ministerial Declaration (G/L/160). He recalled that beginning 1 October 1997 and no later than 31 December 1997, participants may submit to the Committee lists of additional information technology products for possible additional tariff concessions. Discussions at the last meeting indicated that work was ongoing in capitals and that proposals would be forthcoming. At this time, he was not aware of any submissions. At the last meeting, Switzerland had noted that certain proposals that were submitted in January this year remained on the table. It appeared that more time was needed before the lists would be forthcoming.

3.2.2 The Committee agreed to revert to the matter at the next meeting.

### 3.3 Consultations on Non-Tariff Barriers

3.3.1 The Chairman recalled that a discussion had taken place last time on this issue and a number of delegations had indicated their desire to pursue the matter. Specifically, he noted that there was a proposal put forth by the United States on the issue of a survey on the use of two specific standards. At that time, some delegations indicated they needed more time to consider the proposal. Progress was made on this issue in informal discussions.

3.3.2 The delegate of the Japan indicated that while his delegation had reserved its rights on this matter at the last meeting, it considered it useful to conduct the survey with respect to technical standards and therefore supported the proposal.

3.3.3 The Chairman noted that there was agreement to carry out the survey proposed by the United States.

3.3.4 The delegate of the European Communities indicated that his delegation had circulated a room document on non-tariff measures at the informal meeting and requested that it be given a wide circulation. In this document, the EC proposed that in the next stage of the ITA certification and testing of IT products be discussed, as the IT industry had increasingly required mandatory testing and certification procedures for products. These requirements often created unnecessary trade obstacles and therefore there was merit in finding less trade restrictive alternatives to pre-market certification of IT products. Specifically, the EC proposed to examine within the framework of the ITA the feasibility of reducing or avoiding these pre-market certification requirements, in favour of an approach involving a manufacturers' declaration of conformity. This concept had been endorsed in very general terms within the framework of the TBT Agreement, and an ITA specific initiative would be compatible and complimentary to the TBT work. With respect to the survey on specific standards proposed by the United States, the European Communities believed that it would be useful at the same time, to extend the survey to cover the types of conformity assessment procedures which different ITA participants used for the approval of IT products.

3.3.5 The delegate of the United States supported the proposal made by the European Communities and agreed that it would be complimentary to the TBT Agreement.

3.3.6 The delegate of Japan took note of the proposal by the European Communities and stated that as it included a broader content than the United States' proposal, more time was needed to examine it.

3.3.7 The delegate of Canada took note of the paper by the European Communities and supported the proposal with respect to the survey as it would compliment work going on in other Committees.

3.3.8 The delegate of Thailand, speaking on behalf of ASEAN, agreed with the proposal made by the United States delegate on the issue of the survey on standards; however, with respect to the document distributed by the European Communities, more time was needed to reflect on the implications, in particular as concerned possible overlapping with other bodies of the WTO. Therefore, the ASEAN members reserved their rights to come back to this issue of conformity assessment, as raised by the European Communities.

3.3.9 The delegate of Korea noted that while more time was needed to examine the European Communities' proposal, he could agree to go ahead with the survey.

3.3.10 In summarizing the discussions on the matter, the Chairman stated that because this proposal by the European Communities was only made informally very recently, delegations needed more time to reflect. The Committee would revert to this matter at the next meeting.

3.3.11 The delegate of Canada recalled that at the last meeting of the Committee his delegation had expressed an interest in exploring import licensing in relation to IT products, as the Canadian industry had raised a number of concerns. Pursuing work in this area would be fully consistent with the Ministerial Declaration. Canada's interest concerned the purpose and role of import licenses, especially how to facilitate and streamline the process for obtaining such licenses. Canada intended to put forth a paper to initiate work in this area.

#### 4. New Participants

##### 4.1 Procedures for becoming a participant in the Ministerial Declaration on Trade in Information Technology Products

4.1.1 The Chairman noted that the Committee would need to address the procedures required to deal with applications of WTO Members and acceding countries that wanted to become participants.

4.1.2 On the basis of a text prepared by the Secretariat and commented on by participants, the Committee agreed on the following understanding concerning procedures for becoming a participant:

"Any WTO Member, State or separate customs territory in the process of acceding to the WTO, hereinafter referred to as government, that would like to become a participant to the Ministerial Declaration on Trade in Information Technology Products should send a formal request to the Director-General of the WTO and submit a draft schedule of its commitments for verification. If the draft schedule is in line with the conditions set out in the Ministerial Declaration, it would only need to be verified in the usual way, first informally by the Secretariat<sup>1</sup> and then in the Committee, and unless there are objections, the government in question could become a participant. If, however, the government in question would want to deviate from the conditions set forth in the Declaration, this would have to be negotiated between the government concerned and the participants before its draft schedule is submitted for verification."

##### 4.2 Schedule of Latvia

4.2.1 The Chairman noted that the schedule of Latvia was electronically verified by the Secretariat and after being revised, was circulated along with the verification sheets, to all participants on 6 October 1997. He further drew attention to the note in the schedule of Latvia which indicated that the implementation of the commitments would become effective from the date of Latvia's accession to the WTO.

4.2.2 The delegates of the European Communities and the United States indicated that further consultations would have to take place as concerned the above mentioned note.

4.2.3 The Chairman stated that the Committee had taken note of the observations made and would revert to the subject at the next meeting.

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<sup>1</sup>With respect to verification, if discrepancies were found in the Secretariat verification, they would be communicated to the government concerned as well as to the participants. The government concerned could then correct these discrepancies and the schedule to be circulated would contain a note by the Secretariat to that effect. Alternatively, if the government concerned so desired, the schedule would be circulated as originally submitted with the discrepancies.

#### 4.3 Schedule of Panama

4.3.1 The Chairman stated that with respect to the schedule of Panama, the Secretariat also performed an electronic verification and the resulting discrepancies were conveyed to the delegation of Panama on 6 October 1997. At present, a revised schedule had not yet been received from Panama, and he proposed that the matter be pursued at a future meeting after the schedule had been revised and circulated.

4.3.2 It was so agreed.

#### 5. Other Business

##### 5.1 Corrections to the Ministerial Declaration

5.1.1 The Chairman said that on the issue of correcting typographical and technical errors in the Ministerial Declaration, a draft was circulated to delegations. Following Secretariat examination of the Declaration, as contained in WT/MIN(96)/16, it was noted that a number of typographical and technical errors existed in the Declaration in the three official languages. Since the Declaration and its Annex formed the essential basis of work in this area, and would be continually referred to in the years to come, it seemed appropriate to correct these inaccuracies. He asked if any delegation had any comments on the corrections.

5.1.2 The delegate of Switzerland asked to have more time to further reflect on these issues and enquired whether the corrections were already incorporated in the schedules, or whether changes would need to be made.

5.1.3 The Chairman responded that the corrections were already incorporated in the verified schedules. It was agreed that if the Secretariat did not receive any comments within two weeks, the corrections to the Ministerial Declaration would be made.

##### 5.2 Date of the next meeting

5.2.1 The Chairman proposed that the next meeting be held on 12 December 1997.

5.2.2 It was so agreed.

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