

WORLD TRADE ORGANIZATION

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

MINUTES OF THE MEETING OF 27 FEBRUARY 2001

Chairperson: Ms. Elizabeth Chelliah (Singapore)

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Introduction

The Chairperson stated that the proposed agenda for this meeting was circulated in WTO/AIR/1488 on 14 February 2001. She asked if there were any other matters to be raised under "Other Business". Hearing no requests, she stated she would take up the "review of product coverage" and the date of the next meeting of the Committee under this agenda item. The agenda was adopted with these additions.

1. **Review of the Status of Implementation of the Ministerial Declaration on Trade in Information Technology Products (G/IT/1/Rev.17)**

1.1 The Chairperson pointed out that an overview of the implementation of the Ministerial Declaration on Trade in Information Technology Products was contained in G/IT/1/Rev.17. This document showed the implementation issues pertaining to the WTO procedures for implementation, and was slightly revised in its format to reflect the clarifications sought at the last meeting of the Committee. She hoped it was clearer and noted that it correctly reflected the participants to date, and their respective procedures for implementing the Ministerial Declaration.

She pointed out that since the issuance of the document, two items should be updated to reflect the current situation. First, the letter of acceptance had been received from Oman, so therefore the number of outstanding acceptances, as noted in paragraph five should be "five" instead of "six". Secondly, the certification of the Polish ITA schedule was currently in progress in the Secretariat following a notification from Poland that 'internal domestic procedures' relating to the Declaration were completed. Therefore, 'Poland' should be removed from the last sentence of the second paragraph, and instead added to footnote number five. Poland should also be reflected in the list of countries in paragraph six, with the same footnote as was indicated for Cyprus.

1.2 The Committee took note of the Chairperson's statement.

2. Non-tariff Measures Work Programme (G/IT/19)

2.1 The Chairperson stated the Committee had moved ahead with the Non-Tariff Measures' Work Programme, as contained in G/IT/19. The important work at this time concerned the inventory (Phase I) of the work programme which was envisioned to be completed in March 2001. She noted that from the discussions last time, it was decided that 'guidelines' would be circulated so that participant's making submissions would do so in a similar format. These 'guidelines' were circulated by fax to all participants on 22 December 2000. At the last meeting, she also encouraged submissions by 15 February so that the Committee could take an assessment of the situation prior to this formal meeting. She informed the Committee that as of this date, there had been two very recent submissions received in the Secretariat which were being circulated today in the room in the format received. The formal documents would be forthcoming. She also recalled that her informal consultations indicated that some delegations would be in a position to make submissions in the coming weeks. Thus, this was encouraging, but she hoped to hear more directly from participants on how the inventory phase was coming along, and thoughts for how to proceed, especially as Phase II was not too far in the distant future.

Secondly, she informed the Committee of the related work on this matter currently being undertaken by the OECD. She stated that the OECD was an observer to this body and had been following the matter of non-tariff measures. She had recently been informed of the in-depth work and research that had been undertaken by them on this subject of non-tariff barriers to IT trade and thought it would be useful for the Committee to hear about the work being undertaken there, as it directly related to the work here. She noted that a representative of the OECD was in the room and would make a short statement after the participants had spoken on this agenda item.

2.2 The delegate of Australia noted his country's keen interest in the matter, and was encouraged by the two submissions received to date. Australia had been in the forefront to make sure that this matter was addressed in the Committee and momentum was not lost. He noted that his government was not in a position to submit their contribution today, but noted that a draft was prepared, but was subject to internal clearance procedures, so he hoped to submit it in the next two weeks. For transparency, he noted that their future submission covered 1) deficiencies in some standards, 2) deficiencies in regulatory procedures, and 3) lack of acceptance of conformity assessment test reports and certification. In accordance with the 'guidelines' issued, his delegation took a generic approach to ensure that all participants felt comfortable that Phase I (inventory) would not identify particular vulnerabilities in particular markets. He urged that all participants take the same approach in drafting their submissions.

He welcomed information from others on the status of their submissions, so that the Committee could determine if Phase I could be completed by the stipulated deadline of March 2001. He pointed out that his delegation supported the outcomes of the discussions in the General Council on implementation and the triennial review of the TBT Agreement. His delegation did not seek to re-open these discussions in this Committee. Thus, he emphasized that the work here should not be a duplication of the work undertaken in other bodies, but that the Committee should be mindful of these other outcomes. In respect of standards-setting organizations, he noted the importance of document WT/GC/42, which proposed actions to increase the participation of developing-country Members in the work of relevant international standards-setting organizations.

2.3 The delegate of Canada indicated that his authorities had made their submission which consisted of two papers, one on import licensing and the others on standards and conformity assessment in the area of EMC for IT products. It was not their intention to present these papers in substance at this time, but to join Australia in encouraging others to submit papers so that the inventory would have significant submissions by the March 2001 deadline.

2.4 The delegate of Japan stated that his delegation had also submitted a paper on this subject, as they wanted to show their strong support for this exercise. The paper they had submitted concerned the requirement of a certificate of origin. He noted that the paper submitted was an aid for this discussion, and that it would be revised and re-submitted so as to put it in a generic format for formal circulation.

2.5 The delegate of Switzerland stated that they had held consultations with industry but so far there had been little response. At the present time, they were continuing consultations and hoped that a constructive contribution would be submitted.

2.6 The delegate of the European Communities indicated that their formal submission was being finalized and hoped to be finished before 9 March 2001. The Commission had closely consulted with industry and their contribution was close to being finalized following their internal procedures. Without prejudice to the final contribution, the EC submission would focus on 4 main areas: 1) regulatory environment and level of regulation, 2) disparity of national standards, non-use of international standards and non-harmonized radio spectrum use, 3) conformity assessment and testing requirements, and 4) customs procedures, local establishment and related requirements. A main theme of the contribution was related to the appropriate and proportionate level of technical regulations for ITA products. The document would also raise the issue of transparency, coherence, and predictability in the transposition of international standards. The NTMs identified by the EC were also obstacles that the Commission and the EC Member States faced in creating the 'Single Market'. The paper therefore contained information on the experience gained by the EC in dealing with the issue at hand in an international environment with different traditions, languages, administrative cultures etc... As part of its contribution to Phase I of the NTM work programme, the EC hoped to share this experience in the hope that it could assist in the ensuing analysis and discussions.

2.7 The delegate of Norway congratulated those who had already submitted papers and noted that Norway was consulting industry with the aim of submitting a contribution in March.

2.8 The delegate of New Zealand stated that her delegation hoped to be in a position to make a contribution today or in the next couple of weeks, but unfortunately they were not clear at this time if that would be possible. The two areas they were examining for a potential submission were technical standards and conformity assessment, and government procurement. Currently, they were in the process of surveying New Zealand businesses on NTM issues across all product groups and hoped to collect data from this exercise for the IT sector. With respect to government procurement, she raised the problem of 'buy local' requirements, and this experience was consistent with some previous OECD work with respect to the telecommunications sector. She would keep the Committee informed of developments and thanked those who had already made submissions, while she encouraged others to do so as well.

2.9 The delegate of the United States stated that his delegation attached great importance to this work and gave his support for Phase I. His delegation was consulting with industry and expected to make their submission shortly.

2.10 The delegate of Thailand recalled the submission of Japan which noted the problem of certificates of origin in Thailand. He stated he would convey the submission of Japan back to his capital so that a solution could be found soon.

2.11 The observer from the Organization for Economic Co-operation and Development (OECD) stated that his organization aimed to provide a good analytical foundation to the discussions here and elsewhere. He noted that he had submitted a short paper for the benefit of participants, thus his statement would be brief. In the context of their regulatory reform project, the OECD was in the process of carrying out various programmes on the regulatory barriers to trade. The work on this project seemed to suggest that significant barriers to trade may derive from differing regulatory requirements in different markets. On the other hand, they had also acknowledged that regulation has its regulatory objectives, reflecting social needs and public concerns. The question would arise on how they could reach both objectives and satisfy regulatory concerns. The OECD had examined various standards-related barriers according to different regulatory objectives. In fact, they recognized that standards-related barriers had often been confused with different regulations for the different objectives, which could often be overlapping on the product. In the telecom sector, there could be various kinds of regulatory objectives,

for example, electrical safety and EMC, protection of the public network, interoperability, quality of radio spectrum management, and health. For some objectives, there may already be good international standards but for others, it may be too difficult to reach such harmonization. Also, for conformity assessment, different approaches have been taken such as type approval, third party certification, and suppliers' declaration of conformity. Based on these considerations, they had been asked by OECD Members to conduct fact-finding work on the regulatory practices in OECD members. This included lists of regulatory objectives where governments adopted mandatory regulations, voluntary schemes, or how they used voluntary standards in technical regulations, or how they were using national standards, and what approaches were taken in respect of conformity assessment procedures. The initial results were already discussed at an OECD meeting, and a revised paper will be discussed at the next OECD meeting in March 2001. He expected the whole project would be completed in the final quarter of the year. He hoped this information would be useful to the Committee especially as concerned possible links or synergies to the NTM work programme here.

2.12 The Committee took note of the statements made.

3. Divergences in Classifying Information Technology Products (G/IT/14/Rev.1, G/IT/W/6)

3.1 The Chairperson recalled that the Committee had proceeded with its work on this agenda item--a meeting of the customs experts was held in December 2000, with a revised report issued as G/IT/14/Rev.1; a communication from Macau, China was received and informally circulated to the Committee; and an informal meeting was held the previous week on this matter. She was happy to report on the good work and progress for a way forward that was proposed at that meeting last week. Thus, she summarized the main points from that meeting for the benefit of all participants.

First, she recalled to the Committee the contents of paragraph 3 of the Annex to the Ministerial Declaration which guided the participants in their work in this area. This paragraph noted the "common objective of achieving, where appropriate, a common classification for these products within existing HS nomenclature". It also stated that "In any instance in which a divergence in classification remained, participants would consider whether a joint suggestion could be made to the WCO with regard to updating existing HS nomenclature or resolving divergences in interpretation of the HS nomenclature." Thus, these were the important points noted in the Declaration with respect to this matter, and in which the "customs experts" had kept in mind in doing their work. The culmination of their work and their recommendations to the Committee were contained in document G/IT/14/Rev.1, which was before the Committee today. Thus, this had been a long process and had culminated in, what she viewed as--achievable results. The discussions during the previous week noted the progress that had been made and the outcomes which were reflected in the report. These could be summarized as follows:

many of the classification divergences were narrowed down, divergences where no narrowing-down was possible due to a variety of reasons were identified and it was noted that the matter may best be referred to the WCO, divergences where no further progress could be made were identified, and the importance and implications of broader issues were noted.

Thus, as a way forward, participants asked for the preparation of various 'lists' outlining the particular situation for each Attachment B item. This would allow participants to see and examine the situation with respect to each category. So, in preparation for this meeting, document G/IT/W/6 was prepared which outlined four categories, as follows: 1) those items where divergences were narrowed to one classification option, 2) those items where divergences were narrowed to two or more possible classifications, 3) those items which were recommended to be sent to the World Customs Organization (WCO) Harmonized System Committee (HSC), and 4) those items where no further progress could be achieved due to a number of circumstances. She stated that it was also noted at the informal meeting that the Committee would need to examine these lists with a view to establishing a date on which to review these and take the necessary next steps. Thus, she believed the Committee was in a position to take this work forward based on what had recently been done.

3.2 The delegate of the European Communities stated his delegation's appreciation to the Secretariat and the customs experts for their work in this area. As a suggestion, he asked if the Chairperson could

circulate her statement to all participants, as in his view, this summarized the current situation and it would help all delegations report this matter to capitals. He referred to documents G/IT/14/Rev.1 and G/IT/W/6, and hoped that all delegations could examine these with a view that the Committee could formally endorse the recommendations found therein at their next meeting.

3.3 The delegate of the Philippines, in supporting the EC statement, thanked the Secretariat for the document of the 'compilation of lists' (G/IT/W/6) which was requested at the informal meeting. She agreed to many of the points in the Chairperson's speaking notes on how the Committee could proceed with this work. She referred to document G/IT/W/6, and with respect to List I, she noted that this was the list of items having one classification option, and stated that it would be ideal at the next meeting if the Committee could agree on this list. With respect to List II, she understood that the list of possible HS classifications were listed here, and she noted to other participants that this was not a problem as they could classify the product in any number of HS possibilities. This would still meet the mandate of the Committee as well. For List III, she pointed out that it would be ideal if the Committee could agree to send these items to the WCO. With respect to List IV, she was not sure how to react to this list at this time.

3.4 The Chairperson responded to the Philippines and explained that some of the reasons why no more progress could be made with respect to those items in List IV could be found in the explanations in document G/IT/14/Rev.1.

3.5 The delegate of the United States supported the statement of the Philippines, and agreed that the Committee should consider Lists I, II, and III at the next meeting. He pointed out that in some ways List I was the hardest, as divergences would be narrowed down to one possible alternative. If this was not the option participants used, they would thus need to change their practice. With List II, the situation would likely be easier, as there were more classification possibilities. He noted the problems associated with List III, as this was the list customs experts noted they had problems with and needed further guidance from another body. He stated there was nothing to be lost in consulting with the WCO to see if the issues could be clarified. He noted that while there was not a strong sense of urgency, there was a risk of losing momentum if the matter carried on for a long time, as a lot of work had gone into producing Lists I, II, and III.

3.6 The delegate of Australia thanked the customs experts and the Secretariat for the two documents. Like others, he noted the importance of not letting a lot of time pass, and welcomed the possibility to review these lists in advance of the next meeting so that some form of decision could be taken on a way forward.

3.7 The observer from the World Customs Organization (WCO) stated that his organization had studied very carefully document G/IT/14/Rev.1 as it was very important for their work in the classification of merchandise. He noted with satisfaction that the group of experts had turned to the WCO for problems with product classification, as the WCO Harmonized System Committee was legally empowered to give binding information on the classification of products. The Harmonized System Committee (HSC) usually met twice a year at the WCO in Brussels and had 102 Contracting Parties, who were obliged to abide by classification decisions emanating from the HSC, however, each Contracting Party retained the right to lodge a reservation. He noted that it would seem logical that this Committee would turn to the WCO HSC to examine some classification divergences. Noting document G/IT/W/6, he stated that this matter would seem to involve sending 8 product descriptions to the HSC. He noted that the work of the HSC was highly technical and required a lot of information, and time to reach a decision on issues of this kind, so he asked that if the Committee had reached agreement, this should be sent to the HSC as soon as possible. Furthermore, he noted that the next meeting of the Committee would be in May 2001 and the next after that would be either in October or November 2001. Normally, difficult issues were not decided in the time span of a single meeting, and it was not unlikely that decisions could take a year or more to be finalized. Thus, he expressed an interest in receiving these matters as soon as possible so that an answer could be given in a timely manner. On a related matter, he noted on page 2 of

document G/IT/14/Rev.1 that the custom experts proposed that the Committee submit proposals for amendments to the HSC. This was a different matter than the one just discussed and would involve proposals for amendments to the Harmonized System nomenclature for 2007. For these proposals, the timing was short as well, and it would need to reach the WCO Secretariat as soon as possible as there were only six sessions before June 2004, which was the deadline at which time the Council would be adopting the recommendations for HS 2007 amendments. Therefore he asked this Committee to be in contact with the WCO with respect to any new proposals for the HS 2007 amendments. Furthermore, he noted that his organization had sent information concerning the classification of IT products up to the 25th Session of the HSC and he would be sending the update from the latest meeting shortly. He looked forward to working with the Committee on issues of classification.

3.8 The Chairperson stated that she would circulate her speaking notes on this item to all delegations, and as a next step she proposed that the Committee follow the suggestions of the Philippines and the United States and take a decision with respect to Lists I, II and III in document G/IT/W/6 at the next meeting of the Committee scheduled for 10 April 2001. This was also keeping in mind the deadline of the WCO, whose next meeting was scheduled for May 2001. It was so agreed and the Committee took note of the statements made.

4. New Participants

4.1 The Chairperson noted that there had been one new schedule, that of Bulgaria, submitted to the Committee for consideration. The schedule was circulated to all participants on 19 February 2001. The Secretariat had performed the electronic verification of the schedule which had shown that there were no discrepancies. This had also been circulated along with the schedule. She furthermore pointed out, that in its communication, Bulgaria stated that "the elimination of customs duties on information technology products covered by the Declaration took place on 1 January 2001 with the exception of one product, for which the first stage of tariff reduction took place on the same date". She believed that the Committee was now in a position to take up the schedule of Bulgaria for approval.

4.2 The delegate of Bulgaria stated that since 1998, Bulgaria had autonomously applied significantly reduced or zero duties on imports of IT products. Since 2000, there were zero duties applied for all ITA products, with one exception which was HS 847050 – cash registers, and which duties were proposed to be eliminated in 2004. He hoped that the Committee would approve their schedule and they looked forward to becoming an ITA participant.

4.3 The Committee approved the schedule of Bulgaria, and welcomed them as the fifty-sixth participant of the Committee.

5. Election of Chairperson

5.1 The Chairperson stated that the Committee normally elected a new chairperson on an annual basis. Pursuant to consultations by herself and Ambassador Pérez del Castillo of Uruguay, she believed they had reached an informal consensus on the election of Mr. Hiromi Yano of Japan as the new chairperson of the Committee. Hearing no objections, Mr. Yano was elected Chairman.

5.2 Many delegations took the floor to congratulate and express appreciation to the incoming and outgoing Chairpersons.

6. Other Business

6.1 The Chairperson stated that the issue of the review of product coverage continued to be under consultation, and she encouraged delegations to continue their efforts.

6.2 The delegate of Norway thanked the Chairperson for her efforts on consultations and encouraged the new Chairman to continue consultations on this matter. He also believed it would soon be time for the Committee to move beyond consultations and look into how actual work on the review of product coverage could be addressed in a manner acceptable to all participants, in accordance to paragraph 3 of Annex to the Ministerial Declaration.

6.3 The delegate of the Czech Republic thanked the Chairperson for her statement on the review of product coverage (ITA II), stated that his delegation was not consulted on this issue and noted that their position had not changed.

6.4 The delegate of India noted the statement of Norway and hoped that the new chairperson could take into account the suggestion of Norway in his consultations with participants. She was aware that some participants were consulting among themselves but was not sure what Norway meant with his suggestion that the participants should consult with respect to paragraph 3 of the Annex to the Declaration. She hoped Norway could clarify this in consultations her delegation may have with Norway on this subject.

6.5 Furthermore, the Chairperson proposed that the Committee's next regular meeting be held on 10 April 2001, subject to confirmation. It was so agreed.
