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

MINUTES OF THE MEETING OF 15 FEBRUARY 2002

Chairperson: Mr. Hiromi Yano (Japan)

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Introduction

The Chairman stated that the proposed agenda for this meeting was circulated in WTO/AIR/1713 on 4 February 2002. He asked if there were any other matters to be raised under "Other Business". He stated he would take up the review of product coverage, a communication to the Chairman of the Committee on Trade and Development, and the date of the next meeting of the Committee under "Other Business". 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.22)

1.1 The Chairman 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.22. This document showed the participants and the implementation issues pertaining to the WTO procedures for implementation.

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

2. Non-tariff Measures Work Programme (G/IT/SPEC/Q2/11 and G/IT/SPEC/Q3/2)

2.1 The Chairman provided an overview of the developments that had occurred since the last meeting of the Committee. First, he noted that as was agreed previously, the Secretariat had provided an overview paper of the submissions, which was circulated in document G/IT/SPEC/Q2/11. He thought this was a very useful and a factual summary of the issues raised, and could serve as a basis for further discussions. Secondly, there was a proposal submitted by Canada for a "Pilot Project on EMC/EMI Conformity Assessment for ITA Products", as contained in document G/IT/SPEC/Q3/2. He believed this was the follow-up to the discussions in the Committee last time on possible ways to proceed, and Canada had kindly submitted their proposal in writing. Finally, he provided an overview of where things stood today. There were a total of twelve submissions received from participants to the work programme, and this included original submissions, the comments on the submissions from Australia, and the proposal from Canada. He hoped the Committee would continue to focus on these submissions for its further work, but any new submissions would be welcomed.

2.2 The delegate of Canada thanked Australia for their continued work on the NTM work programme. With respect to the proposal on a pilot project that Canada had submitted, he emphasized that this should be thought of as a "pilot", and that work on this subject could potentially be used for work on other NTMs in the work programme. There were a few reasons that they chose EMC/EMI as a promising topic for a pilot project. First, there appeared to be clear international standards in this area on which national regulatory requirements tended to be based. Thus, the pilot project could focus on the conformity assessment side. Secondly, he believed this area represented a low risk in terms of safety, and given the short life cycles of many IT products, there was certainly an opportunity to make a positive difference in this area. He hoped that at the end of the pilot project, and perhaps others involving different elements, a workshop involving regulatory experts in the area could be arranged. At the end of the pilot project, he hoped the Committee could collectively be in a position to make recommendations on ways to facilitate market access of IT products as well as develop specific recommendations for further action.

2.3 The delegate of Australia believed that the Committee should focus on the submissions that had been put forward under phases I and II as the basis of the Committee's work but not close the door to new submissions being put forward. Completion of the work programme as agreed in November 2000 was their key objective. He encouraged all those yet to make submissions under phases I and II to do so as soon as possible as this would contribute to the body of knowledge that would benefit both developing and developed countries. With respect to the Canadian proposal, he thanked Canada for the paper and introduction of its proposal for a pilot project on EMI/EMC which would lead to a regulators workshop. He believed that these initiatives were worthy of support and he noted in particular the emphasis on standards and conformity assessment. Furthermore, he announced that Australia would be tabling for consideration, a formal proposal for an industry symposium which he saw as possibly being jointly sponsored by the WTO and other relevant organizations or industry bodies. He noted that the Committee had before it the useful Secretariat paper which could form the basis of some of the Committee's work in conjunction with the submissions made thus far, and there was the Canadian proposal, and his own delegation's future proposal. He emphasized that the Committee would need to consider the chronology of events and how to take these initiatives forward in order to determine how to best manage the agenda.

2.4 The delegate of the United States stated that his delegation had a draft submission circulating in Washington for clearance and he expected to be able to make a submission within the next few weeks. With respect to the two proposals that had been put forward today, his delegation was favorable to both ideas. He noted that both proposals would move the process beyond the study phase and embark on something that might translate into action that would be of assistance to all producers and consumers in this area. Both of these proposals were ways of moving things forward. Thus, he thought it would be necessary to get industry regulators, the firms producing these products, and consumers involved in this process to discuss the concerns that they had and see if there were ways to lighten the burden. He thought that these issues were very important and that all governments should do as much as possible and devote resources in order to move things forward.

2.5 The delegate of the European Communities thanked Canada for its proposal on EMC/EMI and supported it as a way forward to make more progress on NTMs. His delegation fully supported the idea of a pilot project in one area, although once it was finished, he hoped other important areas would be included in similar projects. He hoped that the pilot project would lead to a better view of best practices in this sector which would help in further work. Furthermore, he looked forward to the submission by the US in due course. With regard to the Australian proposal, he was sympathetic to it as well, as his delegation remained committed to make progress on this non-tariff measures work programme.

2.6 The delegate of Malaysia agreed to the proposal to conduct a pilot project in the area conformity assessment of EMC/EMI, nevertheless he advocated a building block approach. He

preferred to take it step by step, and thus his delegation could agree to conducting a survey as the first step. The outcome of the survey could then be discussed in the Committee, and then discussions and decisions could be made as to whether to have a workshop. He preferred to go ahead with the survey without prejudicing whether to proceed with a workshop or seminar.

2.7 The delegate of India wanted to clarify that the pilot project should cover conformity assessment of both EMI and EMC. As for Canadian paper, his capital was still studying this paper and wanted to come back to it at a latter meeting. Furthermore, he shared the earlier views that the focus should be on the papers already submitted, but Members would still have the ability to make additional submissions. Given the complexity of the issue on hand, it was important for the Committee to have as many submissions as possible to fully examine the issue.

2.8 The delegate of Canada thanked those delegations who supported their proposal. He emphasized that it was a "pilot project" and had two roles—1) to move forward the issue of EMI/EMC conformity assessment, and 2) provide a model for what could be done in other areas. He hoped that with the first step, the survey, could be used to conduct an objective evaluation of the current situation, identify key problems, and possible options. He emphasized that the idea of the workshop was not have a major seminar, but rather a workshop for regulators as well as other government officials to sit down and further educate themselves on the issues and identify possible solutions to the problems; thus, an informal meeting. He hoped to get this pilot project up and running. Also, his delegation was interested in the Australian proposal for a different type of seminar, as it seemed to be broader and involved industry, consumers, and regulators. He thought this would contribute to the expansion of knowledge and advance the work, and therefore looked forward to their proposal.

2.9 The Chairman noted that there was a convergence of views on how to proceed. In following the statement from Canada, he proposed that the Committee start with the survey for the time being. Secondly, as stated by many, he encouraged participants to concentrate on the papers already submitted, and that participants should continue to submit comments or discuss the issues already raised in the papers submitted. Thirdly, he noted that the door would remain open to any new submissions. With respect to the comment made by Malaysia, he noted that there wasn't a need to prejudice anything at this time, and that was not the intent. He noted that it was acceptable to proceed with the survey on EMC/EMI, at this stage. He encouraged any delegation that had anything to contribute to the drafting of the survey to be in contact with the Secretariat.

2.10 The Committee took note of the statements made and agreed to proceed with the first part of the pilot project, to conduct a survey.

3. Divergences in Classifying Information Technology Products (G/IT/20 and G/IT/21)

3.1 The Chairman recalled that the Committee had continued to work on the issue of classification divergences. There were good discussions in the Committee, and as a result of our last meeting, it was agreed to have another meeting of customs experts during the first half of this year. As a result of the Secretariat consultations with participants, it appeared the proposal for 6-8 May 2002 was the best for those who responded and showed an interest in participating. Therefore, the Committee could look forward to a productive session on classification issues in the near future. Secondly, he recalled that the Committee had sent List III of document G/IT/6/Rev.1 to the WCO for consideration. In the meantime, the official reply from the WCO had been received, and this was circulated in document G/IT/20. He believed this would be a useful contribution to discuss at the future meeting of customs experts. Finally, he reminded the Committee that there had also been a submission from Canada with regard to commenting on the existing listing of classifications. This has been circulated in document G/IT/21.

3.2 The delegate of the United States looked forward to participating in this meeting during 6-8 May on classification divergences. He pointed out that there were couple of things that ITA

participants needed to consider in the run up to that meeting. He noted that in the past, classification divergence meetings had not been well attended in terms of the broader membership of the Committee. To the extent this was coming to the end, it was important to have broad participation to finish this work. He appealed to Committee to have as many ITA participants as possible send experts from capitals because this meeting required special expertise in order to participate fully. In preparation for this experts meeting, capitals would need to review the results of previous meetings so that the work done was acceptable to the broader membership.

3.3 The Chairman noted that the experts group had met a number of times and that the remaining issues were quite difficult. Furthermore, while it was difficult for everyone to participate, he encouraged participants to send experts from capitals in order to finalize this work.

3.4 The Committee took note of the statements and agreed to the dates of 6-8 May for the next customs experts meeting.

4. New Participants

4.1 The Chairman stated that there had been one schedule submitted to the Committee for consideration, the schedule of the People's Republic of China. The schedule was circulated to all participants on 6 February for consideration. The Secretariat had performed the electronic verification of the schedule which has shown that there are no discrepancies. This information had also been circulated along with the schedule. He pointed out, that in its communication, China "refers to the Working Party Report on China's accession to the World Trade Organization, where the intention of the Government of China to join the Ministerial Declaration on Trade in Information Technology Products is reflected. China's Schedule for Participation in the ITA was now an integral part of the Annex 8 of the Protocol on China's accession to the WTO, and the Protocol entered into force on 11 December 2001."

4.2 The delegate of the United States stated that his delegation was anxious to have China as a Member of this Committee. He thought that they would be an active and helpful participant in the work of the Committee and it remained their goal to welcome them into this body as soon as possible. However, his delegation had discovered a problem of interpretation, and therefore thought it necessary to request that this item be held over to the next meeting of the Committee, whereby he hoped to have this worked out. For transparency, he noted that the Chinese Customs Service had issued a regulation for 15 ITA products that required an end-use certificate in order to get zero duty treatment. He recalled that this approach had been addressed in the negotiations leading up to the Agreement, and had been dismissed because it was impossible to reach a common definition of IT and by leaving this to the discretion of every Member would be unsatisfactory. His delegation was working through their Embassy in Beijing and hoped to resolve this issue in time for next meeting of the Committee.

4.3 The delegate of the People's Republic of China stated that China had recently acceded to the WTO. As background, he noted that China published and put into effect their 2001 tariff schedule on 1 January 2002. Information technology products of more than 20 tariff lines were included in this schedule and would be subject to the ITA tariff concession, as committed during China's accession process. There were another 15 items, as mentioned by the US, that were listed separately in the schedule as ex-out tariff lines. These products could be imported into China for use in the IT sector and would be considered IT products and subject to the ITA tariff rate; however, if they were imported for other uses, outside the IT sector, they would not be considered IT products and would not be subject to the IT tariff. In order to have the customs authority identify the above-mentioned imports for the different uses, the Ministry of Information Industry and the Ministry of Finance of the People's Republic of China published the interim rules to identify certain IT products that would be approved by the State Council's Tariff Commission. Since it's the accession to the WTO, China had been implementing its commitments made in its accession negotiations. From his understanding, as

from 1 January 2002, the IT products imported into China enjoyed the full preferential tariff treatment as compared with the MFN treatment for other categories of imports.

4.4 The Chairman proposed that this matter be taken up at the next meeting of the Committee, and he encouraged those interested delegations to consult in the meantime to resolve the outstanding issues. It was so agreed.

5. Election of Chairperson

5.1 The Chairman stated that the Committee normally elected a new Chairperson annually at the beginning of the calendar year. However, at this point in time, he was informed that the consultations for this year for this Committee, as well as other bodies of the Council for Trade in Goods, were not completed at this time. Therefore, he proposed to revert to this matter at the next meeting whereby there should be a proposal for a suitable candidate at that time.

5.2 The Committee took note of the Chairman's statement.

6. Other Business

6.1 The Chairman stated that the issue of the review of product coverage continued to be a matter under consultation, and he encouraged delegations to continue their efforts.

6.2 The Chairman informed the Committee for transparency reasons that he had received a communication from Mr. Irumba, Chairman of the Committee on Trade and Development, regarding this Committee's work with respect to special and differential treatment, as the CTD was following up on the provisions of Paragraph 44 of the Doha Ministerial Declaration (Special and Differential Treatment). This request was apparently sent to all WTO bodies. He noted that there were no special and differential treatment (S&D) provisions in the Ministerial Declaration, as such, nor was there a specific mandate in this Committee relating to S&D. However, the Chairman informed the Committee that he had informed the CTD that this body would likely continue adding new participants to the Committee during this time, and in that respect, the provisions of flexibility of extended staging for developing countries would likely be taken into account as it has been in previous cases when developing countries had become part of the ITA. The Chairman believed this was a factual reply to the matter.

6.3 Furthermore, he proposed that the Committee's next regular meeting be held on 3 May 2002, subject to confirmation. It was so agreed.
