

# WORLD TRADE ORGANIZATION

RESTRICTED

G/IT/M/29  
2 January 2002

(02-0006)

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

### MINUTES OF THE MEETING OF 29 NOVEMBER 2001

Chairperson: Mr. Hiromi Yano (Japan)

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### Introduction

The Chairperson stated that the proposed agenda for this meeting was circulated in WTO/AIR/1672 on 19 November 2001. He asked if there were any other matters to be raised under "Other Business". The delegate of China took the floor to ask whether it was appropriate to make a statement with respect to their future participation in the ITA under "Other Business" or the agenda item "New Participants". The Chairman responded that either was appropriate, and China stated that they would take the floor under item 2.D. New Participants. The Chairman stated he would take up the "review of product coverage" 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.21)**

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.21. 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/Q2/1, G/IT/SPEC/Q2/2, G/IT/SPEC/Q2/3, G/IT/SPEC/Q2/4, G/IT/SPEC/Q2/5, G/IT/SPEC/Q2/6, G/IT/SPEC/Q2/7, G/IT/SPEC/Q2/8, G/IT/SPEC/Q2/9, G/IT/SPEC/Q2/10, and G/IT/SPEC/Q3/1)**

2.1 The Chairman stated that the Committee had a useful discussion on the Non-Tariff Measures' Work Programme, at the informal meeting earlier in the week. He believed the Committee had

discussed some positive directions to take with respect to proceeding with the NTM Work Programme, but there were no formal decisions taken at that informal meeting.

2.2 As a point of reference, he noted eleven submissions to the work programme, and this included the original submissions and one comment on the submissions; it also included the recent submission of India. Furthermore, he asked how the Committee would like to proceed, perhaps participants would present their papers at this session.

2.3 The delegate of Australia welcomed the intention to continue the work programme as expressed during the informal consultations. He believed that this Committee should continue to work towards expeditious conclusion of the work programme and at some point find a mechanism for moving beyond phase II into phase III. He thanked India for their contribution. He noted the importance for all participants to make submissions toward the work programme as it was important to share information about the experiences of not only developed country participants, but those of developing countries as well.

2.4 With respect to the papers his delegation submitted, he stated that the NTMs raised in the submission were issues related to the development, content, and application of standards with trade-related implications, applied at both the international and national levels, and included the issue of delayed adoption of national and international standards in some countries. Further, there were issues in regulatory procedures governing ITA products and the lack of acceptance of conformity assessment test reports and certification issues between countries and regulators. He did not believe that this represented an exhaustive list of the NTMs which impeded trade in information technology products, but from Australia's experience, these were ones they wished to focus on.

2.5 With respect to their phase II submission, he came to the conclusion that while it was difficult to actually assess the economic impact of those measures, he believed that access to IT products was fundamental to economic progress and development, hence all countries, including developing countries stood to benefit from greater access to IT products, resulting from trade liberalisation. Although the immediate outlook for overall trade growth was uncertain, the IT sector had been one of the fastest growing categories of world trade and continued growth in this sector would be important in addressing economic recovery. Non-tariff measures caused delay in trade and added to the costs. There was a direct effect on manufacturers and exporters by impeding trade, and the delays and costs also effected consumers, government, business and non-government organisations as it hindered their access to the latest technology and thus acted as a break on economic development, employment and social welfare. In closing, he noted it was important to turn at some point towards consideration of the outcome and to that end he recalled during the informal consultations that he had suggested, with broad agreement, that the Secretariat should produce an overview paper of the submissions received. One of the other issues he wanted to explore was the idea put forward by Canada on a pilot project. This concerned the possibility of EMC and standards being candidates for a pilot project. He welcomed discussion on this matter.

2.6 The delegate of Canada joined Australia in welcoming the Committee's intention to continue and reinvigorate the work programme and he noted the importance of working expeditiously to find mechanisms to move from phases I and II, to phase III. In that regard, he noted that the Committee should consider how to interact with other WTO Committees in respect of issues such as standards and perhaps import licensing. Canada was very keen on the NTM work programme and in that regard had provided two papers, and therefore encouraged other Members to continue to provide papers for both phases I and II. He noted that the Australian paper for phase II highlighted the key issues that NTMs can have on trade, and that NTMs do raise the costs of IT products, for exporters, importers, and consumers.

2.7 With respect to the two Canadian papers, they had consulted with industry to look at what was going on. As indicated in the paper on import licensing, they faced a number of problems in the

application of import licensing, they faced disagreements about the appropriate classification of information technology goods under the HS, they faced difficulties in finding information on whether or not the product did or did not require an import licence, and there were problems in determining whether or not it was an automatic licence or discretionary licence. All of these added to the cost of importing and caused delays. The paper also detailed more examples of administrative delays, problems of unclear administrative procedures, and the costs involved in the delays associated with the application of the import licence. In referring to the EC's paper, he noted that in Section D, they also pointed out that unclear import licensing requirements and other customs procedures added real costs to trade.

2.8 Turning to their second paper, he noted that others also raised issues regarding standards, technical regulations, and in particular conformity assessment requirements. He shared these concerns in their paper, and focused on the specific issue of EMC. Their concern was not the standards or technical regulations themselves, as these were international and were generally applied by everybody. The problem was that conformity assessment requirements varied, therefore an exporter trying to export to different markets had to go through different procedures and it was these different procedures that caused cost and delays, in particular for products of short life-cycles.

2.9 As a way forward, he proposed a pilot project, perhaps focusing on EMC as this would be a positive step forward to moving to the last stage of the work program. He believed that EMC was a good place to start because there was already large agreement on what the international standards and technical regulations should be, and these products tended to be low risk in terms of safety. He suggested building on the earlier 1999 survey, perhaps developing a questionnaire to obtain further information from ITA participants on exactly what were the conformity assessment procedures with regard to ITA products for EMC. Once the information was available, the Committee could, and maybe in conjunction with the TBT Committee, do an objective evaluation of the inputs to determine where the differences were or where there were options. This could provide possible options or recommendations on how to facilitate trade in ITA products. Furthermore, it might be worthwhile, in regard to EMC to have a workshop with regulators so they could come together and brainstorm on what the next steps might be with regard to the outcome. For example, were multilateral, plurilateral, bilateral negotiations or arrangements more appropriate for addressing the problem associated with differences in conformity assessment procedures with regard to EMC.

2.10 With respect to the other papers submitted, he thought they had been very valuable contributions; the papers clearly indicated that there were genuine problems out there and he found it particularly interesting that the papers expressed concerns raised by people in the business, actual traders, so there were real problems. He thought the Chinese Taipei paper had an interesting suggestion with regard to providing transparency; i.e. where you could go to find out what the regulations and technical standards were for various products. In this respect he reported that the Canadian regulations could be found on the Industry Canada internet website. He found certain aspects of the EC paper very interesting, and these issues needed further consideration. Likewise with the Hong Kong, China paper, he agreed with the point they were raising; and acknowledged the kind of problems raised by Mauritius in their paper. He thanked New Zealand for their paper on government procurement, and agreed that the practices identified could be access barriers for IT products. He thanked India for their paper, and as he had just received it 2 days ago, his delegation was still looking at it, but it seemed to raise a number of valid issues that would be worth discussing.

2.11 The delegate of the European Communities emphasized the importance of the work programme and this interest was clearly conveyed in their submission in March. His delegation's submission focused on two subjects: 1) the regulatory environment on which we have given some comments and indicated some of the concerns, and 2) burdensome and cumbersome customs procedures, which had been partially mentioned by Canada as well.

2.12 He noted that with respect to the EC, they had already moved in this field from a number of national regulations to one that had harmonized legislation on the EC level, and these regulations were initially based on mandatory technical specifications. The present system was based on limiting the regulatory intervention to what was absolutely necessary, to protect the public interest, and therefore they had identified three basic elements with respect to IT products: 1) electrical safety, 2) EMC, and 3) spectrum-compatibility. In all of these sectors, the approach of the EC was to introduce a system of conformity assessment which was based on self-declaration of the supplier. This was a very liberal and advanced system and they had very good experience with it.

2.13 He thanked India for their recent paper, and his delegation was in the process of studying it and would come back to it once they had examined it. Furthermore, he commented on the two suggestions by Canada. With respect to the pilot project, he thought it was an excellent proposal because this would be a way forward to move from a general debate to some practical work. He agreed with Canada that it would be important to find the appropriate structure for a pilot program. With regard to the workshop, he was also in favour of organizing a workshop. He suggested it would be an appropriate forum for moving from phases I and II, into phase III. For this reason, he suggested that the workshop be organized in the period of time when there were more phase II submissions. With respect to his delegation, he announced that unfortunately they would not be able to meet the deadline of 30 November 2001, but were actively working on their phase II submission. They were in contact with their industry, and were analyzing the papers which had been submitted by other delegations, and were also looking at what was going in other forum, like the OECD. He hoped to be able to present their phase II contribution in January 2002.

2.14 The delegate of India expressed her appreciation for the informal meeting held earlier in the week for the NTM work programme. A number of important issues were raised which required further consideration. First, she explained her delegation's paper. The focus of their paper had been to see whether for developing countries there was a stereotypical image which prevented or inhibited the exports and also whether there were certain barriers which operated in the form of non-tariff barriers which prevented the development of exportable products from these countries. Taking into account India's experience in the information technology sector, they had tried to identify some NTMs. Some of the NTMs that were identified had been brought forth by their industry, and some of those were also reflected in some of the other submissions. One important aspect that she thought required consideration by the Committee was whether there was discriminatory application of those NTMs. Her paper tried to provide an overview of institutional constraints or inter-linkages between certification and testing agencies. Another type of barrier that they identified was where a process or production method was viewed to have conditionalities, as she believed such conditionalities added to the cost and delayed exports. Furthermore, she noted that field trials could sometimes act as an impediment to trade. With respect to software exports, they had tried to highlight four types of constraints in their paper-- one related to the administration or movement of natural persons, and the other three related to travel documentation, social security requirements, and taxation requirements. She thought it would be useful to see how the ITA Committee could also deal with this issue.

2.15 With respect to the proposal of Australia on a mechanism for phases II and III, she was open to see how this could be further developed. As concerned the proposal of Canada for a pilot project for EMC, she thought it was important to look at EMC along with EMI because the two were often dealt with in a common international/regional protocol and many times it was difficult to separate one from the other. She thought it would be useful to have some more details from Canada on what the pilot project would entail. She thought it would be useful to first see a compilation of all the issues that have been raised, because EMC and EMI had been touched upon by a number of submissions including India's, the EC's, and the Canadian submissions.

2.16 The delegate of Switzerland supported the work programme and the proposal by Australia to have an overview paper prepared by the Secretariat, as she thought it was a very good idea and would

give a better image of all the NTMs that had been identified by Members. She also supported the Canadian proposal on a pilot project and a workshop.

2.17 The Chairman noted there were no objections concerning the preparation of an overview paper by the Secretariat. The important issue for the Committee was to consider how to move beyond generality to specifics in order to reach some conclusions. He therefore thought it was a good idea to ask the Secretariat to produce an overview paper and compile the submissions together with additional information which might be useful and could be available outside the WTO in order to further study this issue. As concerned the pilot project, he thought this would logically follow after asking the Secretariat to produce an overview paper which would be organized issue by issue, like standards, import licensing, etc... Once the possible subjects were laid out, further discussions on the subjects to be covered in a pilot project could be discussed. These two issues might go hand in hand in moving forward from generality to specific issues. Regarding the issue of a workshop, this was a very good idea to keep in mind and perhaps it was worth discussing in detail in the future, perhaps during informal consultations.

2.18 The delegate of the Canada clarified that their proposal for a workshop was to cover EMC in particular. This was without prejudice to having a broader workshop or seminar, but that was his original idea with respect to the workshop. He thought his delegation could put together a short paper on what they had in mind for the pilot project. The focus was on EMC because he thought it was a good place to start, but did not view it as the only possibility. He thought the reference to EMI by India would bring in different issues, and his point was only to focus on one narrow part at this stage in a pilot project to see how it worked, then expand from there. He furthermore suggested a questionnaire which may be useful in this work.

2.19 The delegate of Australia agreed with the Chairman's summary, and believed that the production of a Secretariat overview paper was the logical starting-point. Furthermore, he noted that members had welcomed the idea of a pilot project and a workshop as put forward by Canada, however he believed that at this stage it would be premature to come to a decision as to what the focus of either of those should be. Therefore he suggested using the Secretariat paper as a basis, and also including the contribution on further details by Canada in terms of both the pilot project and the workshop. The Chairman could then consult on this basis.

2.20 The Chairman stated that with respect to the workshop, as Canada mentioned, it was probably too early to prejudge what would be the focus of the workshop and therefore he would take this up in informal consultations to be held in January. It probably would not be beneficial to have a general workshop, but rather one that had a focus. Regarding the pilot project, he agreed with Australia and Canada that it was premature to specify exactly what would be the topic for the pilot project. More time was needed to see how to address the submissions on the table. He noted that EMC and EMI were cited as possible starting points. He thought it important to look at the Secretariat overview paper first, in order to classify the submissions so far submitted and then decide what kind of pilot project would be useful. Furthermore, he thought it useful if Canada could provide more details on the proposed pilot project. On the issue of the questionnaire, he thought it would be more productive to take up it up at a later point in time, after more information was provided.

2.21 The delegate of Singapore, in referring to the movement into phase III, thought that the Canadian suggestion about a pilot project was a good link because it would be part of the analysis of issues and problems that had been raised. As phase II would normally end tomorrow, a slight extension could be taken and used to start informal consultations on what this pilot project would entail. She agreed with Australia that the next steps would have to be consulted upon once the additional information was present. Then the determination on whether a workshop was necessary and whether it would be only for EMC issues or other issues could be made.

2.22 The Chairman noted that as had been discussed at the informal meeting, it was obvious that the deadline would need to be extended. He wanted to make it clear that there was no closure, and if any delegation wanted to submit papers to phases I or II, they were encouraged to do so. However, he urged them to do so as soon as possible so they could be incorporated in the compilation paper by the Secretariat. He noted that the pilot project could be one of the ways to move the exercise into phase III, although the classification of phases I, II, or III was not important. He would consult on the issue of a pilot project in the new year once the Secretariat overview paper was circulated.

2.23 The Committee took note of the statements made and agreed that the Secretariat should prepare an overview paper.

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

3.1 The Chairman recalled that the Committee had made good progress on the issue of classification divergences. There were good discussions in the Committee on the basis of document G/IT/W/6, and its revision, G/IT/W/6/Rev.1. He noted that the Committee had sent List III to the WCO, and he confirmed that the WCO took up these items at its last session, earlier this month. While, time had been short and he was informed that a formal reply would be sent shortly, he informed the Committee that the WCO had taken the following actions, based on his informal contacts. For ID number 113, Quartz Reactor Tubes, the WCO decided on classification in HS 7020; for ID number 142, Apparatus for Wet Etching, the WCO decided on classification in HS 8479.89; and for ID numbers 129, 130, 133, 135, 153, 157, 168, and 169; a common issue was raised and the WCO will be sending an explanation with respect to these items.

3.2 He noted that when the formal reply from the WCO was received, this would be appropriately communicated to the Committee. In the meantime, he noted that there had been little movement or developments among the products in the various lists as set out in the document. He felt that it was important to continue to move this process along, and as most in the Committee today were not customs experts, he suggested a further meeting of the customs experts to work out the outstanding issues for the remaining products. He asked for the Committee's input on how to proceed.

3.3 The delegate of Chinese Taipei proposed that the item number 122 should be moved to List III. The rationale was because HS numbers 842489 and 854330 were listed as two possible classifications for item 122. The classification of their respective parts were 842490 and 854390 respectively. However, when checking item 135, which was the parts of item 122, he found that 852490 and 854390 were not listed as possible classifications for item 135. To have a more consistent and reasonable relationship between the host apparatus (item 122) and parts (item 135), he thought that 852489 and 854330 should be deleted from item 122. In addition, he noted that the US had indicated that item 122 and 142 involved dry processes and wet processes respectively. While 842489 and 854330 were listed in item 142 now, it was appropriate that they also appear in item 122. In conclusion, Chinese Taipei proposed to move item 122 to List III and ask WCO/HSC to clarify whether 842489 and 854330 should be included for item 122. He hoped participants would consider this proposal favourably.

3.4 The delegate from Canada noted that his delegation would be submitting some comments; for example he thought they would propose that items 141, 147, 149 and 158 be moved from List IA to List IB because those items had more than one tariff classification possibility. He also had a number of questions regarding items 6, 7, 8, 9 as to whether or not they should be in List IB because his delegation didn't quite agree with some of proposed tariff classifications. In that respect, he would send out a paper indicating what the concerns were. He also thought that there may be some questions regarding item 11, and also item 8 on list IV. This was because the HSC of the WCO had ruled this product was classified under HS 847180, however this may be due to some linkages with the issue of wide area networks, and it may need to be clarified what the product actually was. With

respect to having another meeting of customs experts, it was something he could not directly answer and could not confirm Canadian participation at this time, although it would probably be useful.

3.5 The delegate from the United States noted that the two earlier interventions from Chinese Taipei and Canada underlined the importance of having an experts meeting to deal with these issues. He thought that such a meeting made sense, the question would be the timing. He would communicate this to his capital and engage in consultations with view to coming up with an appropriate date.

3.6 The delegate of India noted that since her delegation was entering their budget preparation phase in India, she asked to be consulted with respect to the timing for the experts meeting.

3.7 The Committee took note of the statements and agreed to organize a meeting of customs experts to meet during the first half of next year. The date would be determined after consultations with participants.

#### **4. New Participants**

4.1 The Chairman stated that there had been one schedule submitted to the Committee for consideration, the schedule of Moldova. The schedule was circulated to all participants on 23 November for consideration. The Secretariat has performed the electronic verification of the schedule which had shown that there were no discrepancies. This information had also been circulated along with the schedule. Thus, he believed the Committee was now in a position to take up the schedule of Moldova for approval.

4.2 The schedule of Moldova was approved. The Committee welcomed Moldova as the 57th participant to the Committee.

4.3 The delegate of China stated that China accepted the Protocol on the Accession of the People's Republic of China on 11 November this year. The protocol would then enter into force on 11 December 2001. China's ITA schedule was an important subject in their market access negotiations with WTO Members during the accession process, and was now an integral part of the tariff schedule on goods attached to the Protocol. In view of this, his delegation wanted to inform the members of this Committee that pursuant to the understanding agreed upon by this Committee concerning the procedures for becoming a participant to the IT Agreement (as contained in document G/IT/M/2), a letter to be signed by the Ambassador of the Permanent Mission of China at Geneva would be sent to the Director-General of the WTO in the coming week, formally requesting that the Committee consider the issue of China's ITA participation and this be put on the agenda of the next meeting of the Committee for a decision.

4.4 The Committee took note of the statements made.

#### **5. Other Business**

5.1 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.

5.2 Furthermore, he proposed that the Committee's next regular meeting be held on 15 February 2002, subject to confirmation. It was so agreed.

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