



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

MINUTES OF THE MEETING OF 30 OCTOBER 2018

CHAIRPERSON: MR MUHAMMAD NUR HADRI BIN SOPRI

INTRODUCTION

The Committee adopted the proposed agenda for the meeting circulated in document WTO/AIR/IT/8, dated 19 October 2018. An annotated agenda for the meeting was circulated in document JOB/IT/22, dated 23 October 2018. The Chairperson stated that he would take up one issue under "Other Business": the date of the Committee's next meeting.

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1 REVIEW OF THE STATUS OF IMPLEMENTATION OF THE MINISTERIAL DECLARATION ON TRADE IN INFORMATION TECHNOLOGY PRODUCTS (G/IT/1/REV.58)

1.1. The Chairperson informed Participants that an overview of the status of implementation of the Ministerial Declaration on Information Technology Products could be found in document G/IT/1/Rev.58.

1.2. He indicated that, under this agenda item, and in addition to an overview of the status of implementation, two sub-agenda items had been added. The first-sub agenda item had been added at the request of Canada, China, the European Union, Japan, the Republic of Korea, Norway, Chinese Taipei, and the United States, regarding an implementation issue concerning India. The second sub-agenda item had been added at the request of the European Union, Japan, Chinese Taipei, and the United States, regarding an implementation issue concerning China.

1.3. Regarding the review of the status of implementation, he recalled that two issues were pending: (i) the completion of El Salvador's domestic legal procedural requirements; and (ii) the submission of Morocco's final ITA Schedule of Concessions.

1.4. He reported that El Salvador had completed its domestic legal procedural requirements in relation to its participation in the Ministerial Declaration on Trade in Information Technology Products, and its ITA Schedule had been certified on 29 June 2018. Therefore, one of the outstanding issues concerning the 1980 Procedures for the Rectification and Modification of Schedules had now been resolved. An updated "Status of Implementation" was contained in document G/IT/1/Rev.58.

1.5. The representative of El Salvador was delighted to inform the Committee that El Salvador had indeed completed its domestic legal procedures relative to the Agreement.

1.6. The Chairperson then turned to the pending issue of the submission of Morocco's final ITA Schedule of Concessions. He recalled that, as stated at previous meetings of the Committee, Morocco had become a participant to the ITA on 14 November 2003. However, Morocco had not yet submitted its final ITA Schedule of commitments, despite outreach to Morocco on several occasions by the Chair's predecessors, including a letter that his immediate predecessor had sent to the Minister of Economy and Finance of Morocco in the autumn of 2017, to which no formal response had been received. The Chair proposed to raise this issue again at the Committee's next meeting.

1.7. He proposed that the Committee take note of the statements made.

1.8. It was so agreed.

1.1 Request by Canada, China, the European Union, Japan, the Republic of Korea, Norway, Chinese Taipei, and the United States Regarding an Implementation Issue Concerning India (G/IT/W/42 and G/IT/W/45)

1.9. The Chairperson moved to the first sub-agenda item, the request by Canada, China, the European Union, Japan, the Republic of Korea, Norway, Chinese Taipei, and the United States, regarding an implementation issue concerning India. In this context, he referred to document G/IT/W/42, which had been circulated at the request of the delegations of the European Union, Japan, and the United States, and to document G/IT/W/45, circulated at the request of the delegation of India.

1.10. The representative of the United States commented that it was unfortunate to have to raise yet again the issue of India's tariff increases on telecommunications and ICT products. She pointed out that, rather than responding to the concerns already raised by the United States and numerous other Members, India had undertaken additional concerning actions in the past month alone. Just the previous week, India had announced another round of tariff increases on telecommunications equipment. Tariffs were being increased on base stations (8517.61) and certain telecommunications equipment (8517.69), from 10% to 20%. These increases further raised import tariffs on products for which India appeared to have a WTO binding commitment to provide duty-free access. For example, India had a duty-free commitment for base station (8517.61) at the HS 6-digit level. With this latest customs notification, the import duty rate for base station would be increased to 20%.

These increases came on top of India's submission of a proposed rectification and modification of its WTO Schedule XII (G/MA/TAR/RS/572), which proposed to unbind several concessions relating to subheadings in Chapters 84 and 85.

1.11. After careful review, her delegation believed that the proposed modifications would adversely affect the scope of its concessions with regard to the goods concerned and, as such, these modifications could not be considered to be rectifications. As a result, her delegation considered that the proposed modifications were not within the terms of paragraph 2 of the 1980 Decision on Procedures for Modification and Rectification of Schedules of Tariff Concessions.

1.12. She stated that the United States had formally registered its objection to India's proposed rectification that same month. Indeed, her delegation had serious systemic concerns with regard to India's proposed rectification.

1.13. She stated that the very work of this Committee, as well as the Committee on Market Access, was based on the foundation that, with each set of HS nomenclature changes, Participants undertook the necessary technical work and Member review to ensure that each Member's tariff concessions remained unchanged.

1.14. She felt that India's rectification suggested otherwise and could thus have a significant impact on the nature and meaning of India's WTO binding tariff commitments. India's proposed rectification included many products for which India had binding WTO commitments, as per Schedule XII, to provide duty-free access, as previously discussed at meetings of this Committee, the Committee on Market Access, and the Council for Trade in Goods. Base stations, mentioned earlier, were one example. In another example, 8517.62, India's commitment for this tariff line was at the HS 6-digit level, so any national tariff line, or ex-out, which India might propose would need also to be bound at zero. However, if her delegation had understood India's proposal correctly, it suggested that a new ex-out for 8517.62 would be "unbound".

1.15. As her delegation and numerous other Members had noted many times at countless previous meetings of this Committee, the Council for Trade in Goods, and the Committee on Market Access, she felt that there were obvious discrepancies between India's WTO bound commitments to provide duty-free access to certain products, and the non-zero import duties that India was actually charging imported products at the border. She found it deeply troubling that India would suggest that these discrepancies could somehow be justified on the basis of a proposed scheduled modification.

1.16. The representative of the European Union noted that India's excessive applied tariffs on certain ICT products had been on the agenda of the Market Access Committee, the Council for Trade in Goods, and the ITA Committee, for several years now. He recalled that, since 2014, India had progressively increased its customs duties on ICT products and that, as pointed by the US delegation, the latest increase had occurred just one week before. He felt that these import duties constituted *prima facie* violations of India's WTO commitments, given that the tariff lines in question were subject to duty-free commitments in India's GATT Schedule of Concessions.

1.17. He stated that on several occasions in bilateral and WTO Committee meetings, as well as in an exchange of letters, his delegation had raised the issue of basic customs duties on products that the EU considered to have been bound at zero in India's GATT Schedule, and which were, in their view, covered by the ITA Agreement, to which India was a party.

1.18. He reiterated that India should reconsider its duty increases on ICT products because they contradicted its WTO commitments.

1.19. Regarding India's draft rectification of its Schedule of Concessions, as communicated to WTO Members on 25 September 2018, he stated that, after careful assessment of document G/MA/TAR/RS/572, his delegation believed that the proposed changes in India's Schedule would alter the scope of India's concessions on the goods concerned.

1.20. His delegation also believed that the tariff lines in the draft rectification corresponded to India's commitments in the framework of the ITA, as modified in India's Schedule in 1997, and their successive evolution to the HS2002 and HS2007 nomenclatures. As a consequence, the EU

considered that this draft rectification did not represent a change of purely formal character but rather that it would alter the scope of India's 1996 ITA and GATT 1994 commitments.

1.21. He said that the EU had already objected in writing to the certification of India's draft rectification as it was not within the terms of paragraph 2 of the 1980 Decision on the Procedures for Modification and Rectification of Schedules of Tariff Concessions.

1.22. The representative of Japan stated that, together with the other co-sponsors, his delegation continued to be concerned over India's customs duties on ICT products.

1.23. Japan understood that, under India's WTO bound schedule, mobile phones (HS8517.12) and their parts (HS8517.70) were classified as zero duty goods at the six-digit level. However, as a result of a series of duty increases, mobile phones had in fact become subject to 20% customs duties, and mobile phone parts to 15% customs duties.

1.24. As pointed out by the US and the EU, on 12 October 2018, India had again raised its tariff rates for base stations (HS8517.61) and certain telecommunication products falling under HS8517.62.90 and HS8517.69.90 from 10% to 20%. In addition, on the same day, India had introduced a 10% tariff on certain types of printed circuit board assembly (HS8517.70.10). Japan considered that these duties clearly violated India's binding commitments.

1.25. He reported that Japan and India had held several expert-level meetings and that Japan continued to wait for a response from India to its questionnaire, sent to India in April 2018.

1.26. Referring to India's circulation of a proposed rectification and modification of its ITA Schedule (G/MA/TAR/RS/572) on 25 September 2018, he considered that the proposal altered the scope of India's concessions and so could not necessarily be considered rectifications of a purely formal character.

1.27. He informed the Committee that internal consultations on this matter were continuing in Capital, and that his delegation would revert to this issue if necessary.

1.28. He urged India immediately to withdraw the tariffs on the ICT products at issue.

1.29. The representative of Canada expressed Canada's ongoing disappointment that, despite the concerns raised by Members in this Committee, at the Council for Trade in Goods, and at the Market Access Committee, India not only had maintained tariffs on ICT products above its bound commitments but had also continued to announce additional tariff increases on ICT products above its bound rates.

1.30. He noted that, on 11 October 2018, India had further increased applied tariffs, from 10% to 20%, on certain ICT products, including base stations. He felt that the application of tariffs above India's bound rates on a broad range of ICT products remained inconsistent with India's WTO commitments and ran contrary to the objectives of multilateral tariff liberalization.

1.31. He stated that Canada continued to have both systemic and commercial concerns over India's decision to introduce tariffs on these products in excess of India's bound commitments. He pointed out that India's attempt to address this situation by unbinding its commitments through a notification of rectification and modification of schedules of tariff concessions had only further exacerbated Canada's concerns. Thus, Canada did not accept; (i) India's justification for applying tariffs above its bound commitments; and (ii) India's attempt to modify its bound commitments.

1.32. He once again called upon India immediately to rescind these tariff increases and to refrain from pursuing any further tariff increases above its WTO bound commitments.

1.33. The representative of Norway repeated Norway's statement on this issue that he had already delivered in this and other Committees several times before. He echoed the concerns of other Members and urged India to bring its tariff regime on ICT products into conformity with its ITA commitments.

1.34. The representative of Switzerland echoed the comments made by previous speakers, having for some time shared and similar concerns regarding the duty treatment of certain telecommunication and IT equipment in India. She noted that the recent notification under the 1980 Decision on Procedures on Rectification and Modification of Tariff Concessions, dated 25 September 2018, for 15 tariff positions, had not alleviated their concerns; to the contrary, the products mentioned in India's communication were IT products listed in India's Schedule for which the bound duty rate should be zero, and therefore these products should not be subject to any import duty when imported into India. In short, she was of the view that India's published tariff for these products was inconsistent with its commitments in its WTO certified Tariff Schedule of Concessions. She was also of the view that the recent rectification notification by India altered the balance of concessions and could therefore not be considered to be of a purely formal character. As other Members had also done, she requested India to abide by its WTO commitments. Switzerland expressed its reservation on India's notification for systemic and commercial reasons.

1.35. The representative of Chinese Taipei shared the concerns of other Members regarding India's increased import duties on several telecommunications and ICT products, which dated back to 2014. She noted that, one month before, India had further proposed, in document G/MA/TAR/RS/572, to make certain rectifications to its WTO Schedule in which several items relating to sub-headings in Chapters 84 and 85 of India's WTO Schedule had been changed to unbound; the items concerned were mainly the ITA products on which tariffs had been raised. She believed that India's proposal would adversely affect India's WTO and ITA commitments. She argued that, according to document JOB/MA/108, circulated on 9 July 2013, the methodological notes by the Secretariat on HS2007 transposition in the case of heading 8486 (for example, subheading 8486.10, in HS2007) includes many ITA items under HS2002, such as ex8421.19 and ex8456.10, at a zero-tariff rate. However, she noted that, in Appendix 2 of India's proposal, the bound duty rate for certain of the ICT products at issue had further increased in 2017, and had been changed to unbound. Obviously, the unbound rate for 8486.10 was not correct. This was also the case for other subheadings in Appendix 2, including subheadings 8486.20, 8486.30, 8486.40, and 8486.90.

1.36. In her view, India's proposed modifications negatively changed the scope of India's concessions on the goods concerned; therefore, the proposed rectifications could not be considered to be of a purely formal character within the terms of paragraph 2 of the 1980 Decision on Procedures for Modifications and Rectifications of Schedules of Tariff Concessions. In this regard, she reported that her delegation had submitted an official letter of objection to India, on 19 October 2018. In addition, she requested India, for clarification purposes, to provide a written transposition correlation table between the HS2007 and HS2002 transpositions of the products concerned.

1.37. The representative of China noted that India had increased its applied tariff rates on mobile phones and related parts, and that some of these tariffs had exceeded India's WTO bound rates. He considered that these tariff increases were inconsistent with the ITA and GATT Article II, and India's Schedule of Concessions. China had also noted that, on 25 September 2018, India had circulated a communication requesting rectification of its HS2007 Schedule on certain ITA products. China believed that the draft rectification requested by India was not a change of purely formal character, and that it would alter the scope of India's ITA and GATT commitments, and adversely affect the concessions on the products concerned. China was of the view that India's measures were inconsistent with its commitments under the ITA and its WTO Schedule of Concessions, and that they violated WTO rules. He urged India to withdraw the customs duties on the products at issue, and to abide by its WTO bound rates.

1.38. The representative of the Republic of Korea stated that, as a co-sponsor of this agenda item, Korea, too, had serious systemic concerns about India's continuing imposition of tariffs on a number of ICT products. Korea called upon India to give duty-free access to any goods belonging to HS lines on which India had committed to provide duty-free access.

1.39. The representative of Thailand stated that her delegation remained concerned over India's re-imposition of customs duties, above its bound commitments, on an increasing number of ICT products. Thailand joined other delegations in requesting India to abide by its WTO commitments. Thailand would continue to monitor this matter closely.

1.40. The representative of Singapore shared other Members' concerns over India's increased tariffs on products covered under its ITA commitments. She urged India to make the changes necessary

to allow Participants to find a way forward on this issue. Singapore would continue to engage with India bilaterally on this issue, and to monitor any developments closely.

1.41. The representative of Australia echoed other Members' concerns regarding India's modification of its tariffs beyond its bound rates. He noted that this had been an issue for some time, and that there was a clear systemic interest in ensuring that Members upheld their tariff commitments, and the basic principles of the WTO Agreements. He called upon India to amend its tariff increases and to refrain from pursuing any further tariff increases above its WTO bound commitments.

1.42. The representative of New Zealand echoed the concerns raised by other Members and registered its ongoing systemic interest in this issue, as it had done at previous meetings of this and other Committees.

1.43. The representative of Hong Kong, China echoed the concerns raised by other delegations on India's tariff hike on products covered by its ITA commitments. She said that Hong Kong, China had systemic concerns over India's proposed modification to its Schedule of Concessions, in document G/MA/TAR/RS/572, dated 25 September 2018, which would, in effect, unbind India's list of concessions in Chapters 84 and 85. She felt that any tariff rise that was not consistent with a Members' bound tariff commitments ran contrary to the objectives of multilateral tariff liberalization. For this reason, she urged India to honour its tariff elimination commitments under the ITA. Her delegation looked forward to hearing India's substantive responses to Members' questions.

1.44. The representative of India thanked those delegations that had intervened for their continued interest in India's customs duty regime on certain telecommunication and other products. He said that on the issue of duties imposed on certain telecom products, which were alleged to be ITA-I products by some Members, India would repeat its previous statements, and comments on subsequent developments by way of preliminary observations.

1.45. He stated that India was fully aware of its obligations and commitments under the ITA and had been abiding by the same. India had signed the ITA in 1997, and had presented its Schedule of Commitments, which had subsequently been certified in document WT/Let/181. India had not intended to commit there to anything that went beyond the scope of the 1996 ITA commitments inscribed in that document.

1.46. In addition, in document G/MA/TAR/RS/24, dated 2 April 1997, India had made it clear that it reserved the right to make technical changes to its Schedule to correct any errors, omissions, or inaccuracies, as necessary.

1.47. India considered that the items on which duties had been raised did not form part of the ITA that India had signed. India had been seeking input from other delegations as to their perception of these items relative to the coverage of these products under the ITA, as well as on the customs duties imposed by other Members on such products.

1.48. On the general concerns raised by Members regarding the measures taken by India, vis-à-vis its ITA commitments, India had already provided both its written responses, and its replies in various meetings of the ITA Committee, the Committee on Market Access, and the Council for Trade in Goods.

1.49. India had reiterated in its earlier interventions that Members had the right to revisit any errors or mistakes committed in assigning bound tariffs while transposing their latest schedules, and to place the necessary rectification request before the relevant Committee. Accordingly, India had filed its rectification request for the purpose of correcting certain errors in its HS2007 Schedule. This request was in accordance with the Procedures for Modification and Rectification of Schedules of Tariff Concessions, contained in the Decision of 26 March 1980, under the category "Other rectifications".

1.50. India's rectification request was contained in document G/MA/TAR/RS/572, dated 25 September 2018. It had been made clear in the detailed explanatory note attached to the rectification request that, while transposing the tariff lines and the description of products recommended by WCO for HS2007, or from HS2002 to HS2007 transposition, India had

inadvertently included tariff subheadings given in that table of the Appendix under zero bound commitments. While noting that it was important to keep in perspective both technological progression as well as the expansion of telecom and IT products. India encouraged Members to study its rectification request and, in case a Member had other views on any of the technical aspects of the products at issue, or their classification, India would be happy to discuss these with the Member concerned.

1.51. He would forward Members' statements to Capital for examination and consideration.

1.52. The Chairperson proposed that the Committee take note of all the statements made.

1.53. It was so agreed.

1.2 Request by the European Union, Japan, Chinese Taipei, and the United States Regarding an Implementation Issue Concerning China

1.54. The Chairperson turned to the second sub-agenda item, the request by the European Union, Japan, Chinese Taipei, and the United States, regarding an implementation issue concerning China.

1.55. The representative of Japan expressed his appreciation to China for its detailed explanations of its classification of Insulated Gate Bipolar Transistors (IGBT), and for providing the relevant documents throughout their bilateral consultations.

1.56. However, he stated that his delegation continued to have concerns. One of Japan's concerns was over the classification of the Intelligent Power Module (IGBT-IPM). Japan understood that, in accordance with the WCO's Classification Opinions, it was to be classified as a Power Module under HS8542.39. China, however, treated the IGBT-IPM differently, by classifying it under HS8504.40 at import clearance, and by imposing, after HS2017 transposition, a customs duty rate of 5%. He asked China to provide a detailed explanation of its practice in this regard. Japan also noted China's remark, made at the most recent meeting of the Council for Trade in Goods, that all the MCO products in question would be at zero duty by July 2021. Japan would continue to monitor this issue closely.

1.57. The representative of the European Union stated that they had addressed this issue several times, in this body and in other WTO committees, which indicated that WTO Members were yet to develop a thorough understanding of how duties on certain MCO semiconductors had increased in China upon the introduction of changes to the HS nomenclature. She thanked China for its engagement both bilaterally and in other contexts, such as the GAMS meeting, but her delegation wished to discuss this matter still further, and to receive further clarification of the issue. China had shared with other Members an overview of its tariffs on MCOs following transposition towards tariff heading 8542 under HS2017, as well as additional elements concerning the division of MCOs into different categories, and the respective allocation of the different duty rates. However, EU experts considered that, notably in relation to IGBT (which China classified under 8504.40.91), the WCO guidance had not been followed. She said that her delegation intended to continue to engage with China on this issue in all appropriate fora, and that the EU continued to think that it would be useful for the WTO Secretariat to prepare guidance on how the transposition should have taken place, although such guidance would go beyond this particular case and therefore be to the benefit of all ITA Members.

1.58. The representative of the United States supported the statements and questions raised by Japan and the EU, and reiterated their concern about a change in China's applied duty rates for semiconductor products, which was an issue that her delegation had raised previously in the Committee, as well as the Committee on Market Access and the Council for Trade in Goods. The US continued to assert, in line with the General Council Decision on HS transpositions, that the scope of China's concessions had substantially changed, and that the value of the concession had been impaired, given that these semiconductor products, which had been duty-free for over a decade, were now facing duties.

1.59. The representative of Chinese Taipei thanked China for its engagement on this issue bilaterally and for sharing information regarding the calculation of its tariff transposition. However, he again recalled that the results of the HS2017 transposition should be tariff-rate neutral, meaning that the value of the tariff concession for the MCO products concerned, which were effectively duty-free,

should not be impaired as a result of a change in HS nomenclature. He noted that China had recently announced tariff cuts on imports of industrial machinery, construction materials, and other goods, as of 1 November 2018. Unfortunately, the MCO items had not been included. He recommended that China further eliminate the tariffs on the MCO products at issue in any future import tariff cuts.

1.60. The representative of Thailand registered its systemic concern over China's duties on MCO products, and stated that Thailand would continue to monitor the development of this issue closely.

1.61. The representative of the Republic of Korea shared the concerns of other Members on this issue. Korea believed that the transposition process had fully to respect the spirit and principles of the ITA by maintaining a balance of commitments among Members. In this regard, Korea hoped that the concerns raised by Members would soon be clarified by China.

1.62. The representative of China thanked delegations for raising their concerns. He stated that China had commented on this issue at previous meetings of the Committee, as well as at the Market Access Committee and the Council for Trade in Goods. China had conducted several bilateral consultations with interested Members to clarify the technical questions at issue. In the transposition of MCO products, China reiterated that it had used the method suggested by the WTO documents, which was fully consistent with the WTO rules on HS2017 transposition. China had undertaken its ITA Expansion tariff reduction commitments seriously, and since 1 July 2018, China's duty rates on MCO products had been further reduced, to 2.1%, 1.9%, and 5%, respectively. China would continue to fulfil its tariff reduction commitments in the context of the ITA Expansion Agreement. All duties on MCO products would be eliminated by July 2021.

1.63. Regarding the new technical questions raised by certain Members, he said that he would forward these to Capital for consideration, and provide further clarifications in the context of bilateral consultations. He told the Committee that China stood ready to discuss bilaterally with any Member any further technical questions on MCO products that Members may have.

1.64. The Chairperson suggested that the Committee take note of the statements made.

1.65. It was so agreed.

2 REVIEW OF PRODUCT COVERAGE

2.1. The Chairperson recalled that, since the Committee meeting of 15 May 2012, and as requested by some delegations, the "review of product coverage" had been included as a regular item on the Committee's agenda. It provided an opportunity for the Committee to receive reports and updates from those participants that were engaged in bilateral and plurilateral consultations relative to the review of product coverage pursuant to paragraph 3 of the Annex to the ITA.

2.2. The representative of Canada, speaking on behalf of the ITA Expansion Participants, reported that almost all participants to the ITA Expansion Agreement had implemented, on an MFN basis, their tariff reduction and elimination commitments under their national ITA Expansion schedules. In addition, since the previous ITA Committee meeting, one additional Member, Albania, had submitted its modification and rectification to its respective Schedule of Concessions to the GATT 1994, in accordance with the 1980 Decision. Albania's certification document would be circulated shortly.

2.3. He observed that, as mentioned at past meetings of this Committee, the ITA Expansion Agreement was open to all WTO Members, and all WTO Members were strongly encouraged to consider participation in this important initiative.

2.4. He said that the Group would continue to reach out to other Members and to provide them with information on the ITA Expansion Agreement and its benefits. The Group stood ready to provide more information to any WTO Member that might be interested in joining.

2.5. The Chairperson proposed that the Committee take note of the statement made and agree to revert to this matter, as appropriate, at its next meeting.

2.6. It was so agreed.

3 NON-TARIFF MEASURES WORK PROGRAMME

3.1. The Chairperson turned to the Work Programme on Non-Tariff Measures (NTMs) and reminded the Committee that paragraph 3 of the Annex to the 1996 Ministerial Declaration required that "Participants [...] meet periodically ... to consult on non-tariff barriers to trade in information technology products." He recalled that the Committee had attached great importance to NTBs and that, since 2000, NTBs had become an essential part of the regular work of the Committee.

3.2. He further recalled that, on 7 May 2015, an industry-driven workshop dedicated to NTBs affecting trade in ICT products had been organized. The main issues raised at that workshop by industry representatives were: (i) transparency; (ii) standards for recognition of test results; (iii) e-labelling; and (iv) energy efficiency. A factual report by the Chairperson had been circulated in document G/IT/28. At subsequent meetings of the Committee, the Chairperson had been tasked to continue consultations on follow-up to the ITA NTB Workshop.

3.3. He also recalled that NTBs had also been extensively discussed at the ITA 20th Anniversary Symposium, which had been held in June 2017.

3.4. He drew the Committee's attention to the report by Switzerland given at the meeting of the ITA Committee of 17 May 2018. In that report, Switzerland, as coordinator of the informal consultations on NTBs among a small group of participants, consisting of 15 Members, had stated that the main purpose of the group was to advance the work on NTM-related issues within the context of the ITA Agreement. The group had been working more specifically on such issues as conformity assessment procedures; test results; e-labelling; and transparency. In past years, their discussions had continued mostly in bilateral and informal formats on various elements between interested parties on each specific issue.

3.5. In this context, he invited Switzerland to provide an update of their work.

3.6. The representative of Switzerland informed the Committee that her delegation had coordinated an informal group, consisting of 15 Members, that were interested in the advancement of NTM-related issues within the context of the ITA Agreement. The group worked more specifically on issues relating to conformity assessment procedures linked to test results, e-labelling, and transparency.

3.7. She informed Participants that the current state of play remained the same as that indicated at the Committee's previous meeting. Her delegation intended to continue these discussions of the three areas outlined above, in bilateral and informal exchanges in various formats between interested parties. Switzerland would continue to keep the Committee informed of any developments.

3.8. She recalled that participation in the informal group was open to all Members being party to the ITA Agreement and expressing an interest in NTM issues. In this regard, if any delegation had questions concerning the work of this group, or was interested in participating, they should not hesitate to contact the Swiss delegation or one of the other members of the group at any time.

3.9. Switzerland wished also to reiterate the importance of NTMs affecting trade in ICT products, which were nowadays one of the main obstacles to trade given that tariffs were now at zero or close to zero for most ICT products. She encouraged WTO Members to work together on the advancement of NTM-related issues, which fell within the mandate of the Committee.

3.10. The representative of the European Union thanked Switzerland for its work on this matter. He stated that the EU considered that the removal of non-tariff barriers had become critical to further facilitating trade in IT products. His delegation was aware of the challenges involved in moving towards commitments in regulatory areas under the umbrella of the ITA, but remained fully engaged in all efforts to make progress in this area.

3.11. The Chairperson proposed that the Committee take note of the statements made and agree to revert to this matter, as appropriate, at its next meeting.

3.12. It was so agreed.

4 EMC/EMI PILOT PROJECT – DRAFT LIST OF TYPES OF CONFORMITY ASSESSMENT PROCEDURES FOR EMC/EMI USED BY ITA PARTICIPANTS (G/IT/W/17/REV.22)

4.1. The Chairperson turned to the EMC/EMI Pilot Project and recalled that one of the outcomes of the NTM Work Programme had been the completion of the pilot project that had led to the adoption of the "Guidelines for Electromagnetic Compatibility (EMC) and Electromagnetic Interference (EMI) Conformity Assessment Procedures". Upon adoption of those "Guidelines", the Secretariat has prepared a note on the "Draft List of Types of Conformity Assessment Procedures for EMC/EMI used by ITA Participants", as contained in document G/IT/W/17 and its subsequent revisions. The note contained the responses to the survey and other notifications received from Participants on the type of assessment procedures for EMC/EMI that they used. ITA Participants had indicated on several occasions that they had found the information contained in this document to be very useful and that they wished to have it completed.

4.2. He reported that, to date, of the 53 ITA Participants, 39 had provided information on their conformity assessment procedures for EMC/EMI. The latest submission had been received from Switzerland, on 25 October 2018, which was an update on Switzerland's EMC/EMI conformity assessment procedures. A revision of document - G/IT/W/17/- would shortly be issued to reflect the update from Switzerland.

4.3. He reminded the Committee that there were still 14 Participants that had not yet provided any information on their conformity assessment procedures. He reminded the 14 Participants concerned to submit their information as soon as possible and to contact the Secretariat if they needed any further information or clarification. He also announced that he was planning to send a reminder to the 14 Participants, as his predecessors had done, to urge them to provide this information as soon as possible.

4.4. The representative of Switzerland also indicated that her delegation had just submitted an update of the information regarding the Swiss conformity assessment procedures for EMC and EMI products, which were aligned with EU regulations. The main modification related to the transfer of wired telecommunication terminal equipment to a telecommunication network, which constituted the basis for any groundwork in this important area given that our communities were becoming ever more interconnected.

4.5. She agreed with the Chair that it was important to provide the relevant information on EMC/EMI conformity assessment procedures so as to keep Participants fully informed in this regard. She strongly encouraged all Participants to reply to the survey and to keep their EMC/EMI information updated.

4.6. The representative of Canada expressed his support for the Chair's efforts to reach out to the 14 Participants that had not yet provided any information on their conformity assessment procedures. He considered that the Secretariat note on "Draft List of Types of Conformity Assessment Procedures for EMC/EMI used by ITA Participants" was not a new document, and that the list on the front page of the Secretariat note was itself fairly self-explanatory. Therefore, he considered that it should be straightforward for Participants to provide their information to the Secretariat, thus enabling the Committee to complete this project and move forward. He encouraged the Chair to make every effort to reach out to the Participants concerned. If necessary, Canada would be willing to provide support and assistance.

4.7. The representative of the European Union echoed the comments made by Switzerland and Canada. He called upon the Participants that had not yet responded to do so as soon as possible in light of the importance of this transparency exercise.

4.8. The Chairperson, noting that the Committee was drawing closer to finalization of the Pilot Project, asked Participants to reflect upon what steps, if any, that they would be prepared to consider with a view to maximizing the usefulness of the information on EMC/EMI conformity assessment procedures that had been provided. Participants were invited to share their insights in this regard with the Chair and with the Secretariat at any time.

4.9. He proposed that the Committee take note of the discussion under this agenda item.

4.10. It was so agreed.

5 DIVERGENCES IN CLASSIFYING INFORMATION TECHNOLOGY PRODUCTS (G/IT/14/REV.1/ADD.1, G/IT/W/6/REV.3, G/IT/W/33, G/IT/W/34, G/IT/27, JOB/IT/12, G/IT/29, G/IT/W/40/ADD.1-G/IT/W/40/ADD.21, AND G/IT/W/40/SUPPL.4)

5.1. The Chairperson then turned to the agenda item on divergences in classifying information technology products. Under this agenda item, there were three sub-items: (i) the implementation of the 2013 Decision for the classification of 18 Attachment B products (document G/IT/27); (ii) the implementation of the 2016 Decision for the classification of an additional 15 items (document G/IT/29); and (iii) the "Note by the Secretariat on the Divergences of Classification" of the remaining 22 Attachment B items, as contained in document G/IT/W/40 and its supplements and addenda.

5.1 Implementation of the Decision for the Classification of 18 Attachment B Products (G/IT/27)

5.2. The Chairperson recalled that, on 20 July 2013, the Committee adopted a Decision for the HS1996 classification of 18 Attachment B items, which were included in the List I-A of document G/IT/W/6/Rev.3. The Committee Decision had been circulated in document G/IT/27. As required by the Decision, each participant shall reflect the agreed classifications in its WTO Schedule of concessions, as appropriate, following the 1980 Decision on Procedures for the Modification and Rectification of Schedules of Tariff Concessions (BISD 27S/25).

5.3. He stated that, since the last meeting of the Committee, no Member had approached the Secretariat for assistance. At the same time, he noted that the technical work involved in this exercise was very time-consuming and thus could only be undertaken on a gradual basis. In anticipation of additional requests, the Secretariat had undertaken a preliminary analysis of the remaining developing country participants. He urged these developing country participants to contact the Secretariat if they required technical assistance with the modification of their schedules.

5.4. He proposed that the Committee take note of his statement.

5.5. It was so agreed.

5.2 Implementation of the 2016 Decision for the Classification of an Additional 15 items (G/IT/29)

5.6. The Chairperson turned to the second sub-item, which was the implementation of the 2016 Decision on the classification of an additional 15 items. He recalled that, on 18 April 2016, the Committee had adopted the "Decision for HS2007 Classification of 15 Additional 'Attachment B' Products", which had been circulated in document G/IT/29. Most of the items covered by the Decision had related to HS2007 heading 8486 (machines and apparatus for the manufacture of semiconductor boules or wafers) and one item had related to heading 8471 (automatic data processing machines and units thereof).

5.7. He reported that, regarding the implementation of the 2016 Decision, no new Member has approached the Secretariat for assistance since the Committee's previous meeting.

5.8. He suggested that the Committee take note of his update.

5.9. It was so agreed.

5.3 The remaining 22 Attachment B items as contained in document G/IT/W/40 and its supplements and addenda

5.10. The Chairperson turned to the third sub-item, concerning the remaining 22 Attachment B items as contained in the Note by the Secretariat on "Divergences of Classification: Possible HS2007 Classification for the Remaining 37 'Attachment B' Items". This document had been

prepared based on the Swiss proposal for a three-step procedure (document JOB/IT/12), and had been circulated as document G/IT/W/40 and its supplements and addenda.

5.11. He recalled that, at the Committee meeting of 31 October 2014, it had been agreed that: "Participants are expected to submit a communication to the Secretariat no later than 30 June 2015, indicating: (a) the items that, in the participant's opinion, should be classified differently from the HS2007 codes listed in column 8 of the Annex to this document; and (b) the HS2007 subheading(s) that, in the participant's opinion, are relevant for the classification of the items in question." It was also agreed that "[T]he Secretariat will compile communications received in a separate document. On that basis, participants would then be expected to assess the next steps that could be taken to reduce any remaining divergence in classification."

5.12. He reported that, so far, the Secretariat had received comments from 21 participants. These had been circulated as addenda to document G/IT/W/40, as follows: Norway (G/IT/W/40/Add.1); Chinese Taipei (G/IT/W/40/Add.2); Switzerland (G/IT/W/40/Add.3); the European Union (G/IT/W/40/Add.4); Hong Kong, China (G/IT/W/40/Add.5); China (G/IT/W/40/Add.6); Japan (G/IT/W/40/Add.7); Canada (G/IT/W/40/Add.8); the United States (G/IT/W/40/Add.9); India (G/IT/W/40/Add.10); Macao, China (G/IT/W/40/Add.11); El Salvador (G/IT/W/40/Add.12); the Republic of Korea (G/IT/W/40/Add.13); Panama (G/IT/W/40/Add.14); Thailand (G/IT/W/40/Add.15); Guatemala (G/IT/W/40/Add.16); Mauritius (G/IT/W/40/Add.17); Montenegro (G/IT/W/40/Add.18); the Russian Federation (G/IT/W/40/Add.19); Seychelles (G/IT/W/40/Add.20); and New Zealand (G/IT/W/40/Add.21).

5.13. All these comments had been consolidated into and reflected in document G/IT/W/40/Suppl.4, which also took account of the 2016 Decision on the classification of the additional 15 items. Therefore, as participants could see from that document, there remained 22 Attachment B items for which Participants should provide their comments with a view to arriving at a common HS classification.

5.14. In this regard, he invited delegations that had not yet provided their comments on the possible HS2007 classification of the remaining 22 items to do so as soon as possible with a view to arriving at a common classification for these products within existing HS nomenclature, and to fulfil the mandate of paragraph 5 of the Annex to the Ministerial Declaration on Trade in Information Technology Products.

5.15. The representative of India stated that the issue of divergence in classification of the remaining 22 items was being considered by his authorities and India would be providing its views on the same.

5.16. The Chairperson suggested that the Committee take note of his updates and of the statement made by India.

5.17. It was so agreed.

6 DRAFT ANNUAL REPORT (2018) OF THE COMMITTEE TO THE COUNCIL FOR TRADE IN GOODS (G/IT/W/48)

6.1. The Chairperson then turned to the Committee's draft annual report to the Council for Trade in Goods. The Committee's draft annual report was contained in document G/IT/W/48 and would be updated to reflect developments from this meeting.

6.2. The draft annual report was approved, with the inclusion of updates and modifications, where appropriate, to reflect the discussions that had taken place at this meeting.

6.3. It was so agreed.

7 OTHER BUSINESS

7.1 Date of next meeting

7.1. The Chairperson informed the Committee that its next meeting would be held in the spring of 2019.

7.2. It was so agreed.
