

WORLD TRADE ORGANIZATION

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Council for Trade in Goods

IMPLEMENTATION OF THE MINISTERIAL DECLARATION ON TRADE IN INFORMATION TECHNOLOGY PRODUCTS

The following communication was sent on 26 March 1997 to the Chairman of the Council for Trade in Goods with a request that it be circulated to all Members.

The following Members of the World Trade Organization ("WTO") and States or separate customs territories in the process of acceding to the WTO:

Australia	Macau
Canada	Malaysia
Czech Republic	New Zealand
Costa Rica	Norway
Estonia	Romania
European Communities	Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu
Hong Kong	Singapore
Iceland	Slovak Republic
India	Switzerland ¹
Indonesia	Thailand
Israel	Turkey
Japan	United States
Korea	

(hereinafter referred to as "participants")², having been parties to the Ministerial Declaration on Trade in Information Technology Products³ (hereinafter referred to as "Declaration"), or having agreed, in the period since the Declaration was circulated, to participate in the expansion of world trade in

¹On behalf of the customs union Switzerland and Liechtenstein.

²Participants took note that Panama and Poland submitted documents after 1 March 1997 that could not be reviewed by 26 March 1997 and that others may submit documents on or before 1 April 1997. Participants agreed to meet again during the week of 14 April 1997 to complete the review process with respect to these documents. It was understood that, upon approval of these documents, the procedures set forth in the Annex to the Declaration would apply as if the documents had been approved at the meeting of 26 March 1997, and the States or separate customs territories referred to above would thenceforth be considered to be "participants" for purposes of the further implementation of the Declaration.

³WT/MIN(96)/16, 13 December 1996 (attached).

information technology products according to the modalities set forth in the Declaration, met on 26 March 1997⁴, took the decisions described below, as provided for in the Annex to the Declaration, and established the elements described below, concerning the further implementation of the Declaration, as reflected below.

Agreement on Actions foreseen in the Declaration

1. The participants accepted⁵ the results of the review process described in paragraph 2 of the Annex to the Declaration, as reflected in the documents attached hereto, which were submitted by participants and have been reviewed and approved on a consensus basis.
2. The participants agreed that the criteria established in paragraph 4 of the Annex to the Declaration have been met, and therefore, that participants shall implement⁵ the actions foreseen in the Declaration.

Establishment of the Committee of Participants

3. In order to carry out the provisions of paragraphs 3, 5, 6 and 7 of the Annex to the Declaration, the participants established a Committee of Participants on the Expansion of Trade in Information Technology Products (hereinafter referred to as "Committee"). The Committee shall oversee the functioning of these elements and shall serve as the forum for meetings required under its procedures and collective consultations among the participants. All decisions of the Committee shall be taken by consensus.
4. Membership in the Committee shall be open to representatives of all participants. The Committee shall elect a chairperson from among the representatives of the participants or as otherwise decided. The Committee may decide to invite, as appropriate, representatives of WTO Members and of observers to the Council for Trade in Goods that are not participants as of 26 March 1997 to attend meetings of the Committee as observers.
5. The participants agreed that any WTO Member, or State or separate customs territory in the process of acceding to the WTO, that is not a participant as of 26 March 1997, and that notifies the Committee of its interest in binding and eliminating customs duties, and other duties and charges, on the importation of information technology products into its territory pursuant to these elements, may become a participant on terms to be agreed between it and the participants at that time. Unless otherwise agreed, such WTO Member, or separate customs territory in the process of acceding to the WTO, shall, on the date that it becomes a participant, make effective all rate reductions it would have undertaken had it been a participant as of 26 March 1997.
6. The participants agreed that the Committee shall hold regular meetings to review developments related to the implementation of the Declaration, and shall hold special meetings at the request of any participant or as otherwise necessary by invitation of the chairperson. The first regular meeting of the Committee shall be held no later than 30 September 1997. The Committee shall consider at that meeting the schedule of future regular meetings, taking account of the meetings provided for in paragraph 7 below.

⁴The WTO Secretariat shall maintain a set of the informal documents exchanged by participants in consultations that led to the decisions taken at that meeting. These documents shall be made available to participants for consultation upon request.

⁵Subject to the completion of domestic procedural requirements.

Process for Monitoring Implementation and Consultations on and Review of Product Coverage

7. The participants agreed that, in conducting the consultations and review described in paragraph 3 of the Annex to the Declaration⁶, the Committee may also take into account changes in patterns in trade in information technology products. The participants expressed their intent to conduct the initial review and any consultations pursuant to paragraph 3 of the Annex to the Declaration according to the procedures attached hereto.

8. The participants also agreed that, in conducting the consultations described in paragraph 5 of the Annex to the Declaration,⁷ the Committee may consider product classification divergences with a view to ensuring that the actions foreseen in the Declaration are implemented in a coherent fashion by all participants.

GATT 1994 Article XXVIII

9. The participants agreed that any participant that is a WTO Member having recourse to the provisions of Article XXVIII of the GATT 1994 with respect to the possible modification or withdrawal of a concession included in its WTO schedule of tariff concessions, as modified pursuant to these procedures, shall so notify the other participants at the time that it notifies the Director-General of the WTO. Upon the request of any participant, the Committee shall convene a meeting within thirty days of the circulation of the notification to consider the potential impact of the proposed modification or withdrawal of the concession on the trade of other participants in information technology products. Such deliberations shall be without prejudice to rights and obligations under the WTO Agreement.

10. The participants agreed that, in light of the technical specificity of information technology products, participants may wish to consider, in the course of the review provided for in paragraph 3 of the Annex to the Declaration, additional procedures to address the concerns of small- and medium-sized exporting participants regarding their rights under Article XXVIII, bearing in mind that a review will be conducted by the Council for Trade in Goods five years from the date of entry into force of the WTO Agreement pursuant to paragraph 1 of the Understanding on the Interpretation of Article XXVIII of the General Agreement on Tariffs and Trade 1994.

⁶The text of paragraph 3 is as follows: "Participants shall meet periodically under the auspices of the Council on Trade in Goods to review the product coverage specified in the Attachments, with a view to agreeing, by consensus, whether in the light of technological developments, experience in applying the tariff concessions, or changes to the HS nomenclature, the Attachments should be modified to incorporate additional products, and to consult on non-tariff barriers to trade in information technology products. Such consultations shall be without prejudice to rights and obligations under the WTO Agreement."

⁷The text of paragraph 5 is as follows: "Participants shall meet as often as necessary and no later than 30 September 1997 to consider any divergence among them in classifying information technology products, beginning with the products specified in Attachment B. Participants agree on the common objective of achieving, where appropriate, a common classification for these products within existing HS nomenclature, giving consideration to interpretations and rulings of the Customs Co-operation Council (also known as the World Customs Organization or "WCO"). In any instance in which a divergence in classification remains, participants will consider whether a joint suggestion could be made to the WCO with regard to updating existing HS nomenclature or resolving divergence in interpretation of the HS nomenclature."

Incorporation of the Annex to the Declaration

11. The participants agreed that the modalities set forth in the Annex to the Declaration, including the Attachments to that Annex, are an integral part of these elements.

Attachments:

- A. Ministerial Declaration on Trade in Information Technology Products, WT/MIN(96)/16, 13 December 1996.
- B. Approved Schedules of Participants.⁸

⁸Available for consultation by participants and WTO Members in the WTO Secretariat (Market Access Division).

PROCEDURES FOR CONSULTATIONS ON AND REVIEW OF PRODUCT COVERAGE

Pursuant to paragraph 7 above, it is the intention of the participants to conduct the initial review and any consultations pursuant to paragraph 3 of the Annex to the Declaration according to the following schedule:

- (a) Beginning 1 October 1997 and no later than 31 December 1997, participants may submit to the Committee lists of additional information technology products for possible additional tariff concessions, including supporting technical documentation to facilitate consideration by the Committee, taking into account paragraph 5 of the Annex to the Declaration regarding classification issues. Such lists shall be circulated to all participants.
- (b) Beginning 1 January 1998 and no later than 31 March 1998, participants that have submitted the documentation described in paragraph (a) above shall consult upon request with interested participants to clarify information and exchange views on the documentation submitted, including technical specifications of the products covered in such documentation.
- (c) No later than 30 June 1998, the Committee shall meet to decide whether to revise Attachment A or B to the Annex to the Declaration, and if so, to establish a revised list of products with respect to which participants would bind and eliminate customs duties and other duties and charges. Such list would replace Attachment A or B.
- (d) If the Committee decides to establish a revised list pursuant to paragraph (c), then each participant shall submit no later than 1 September 1998 a document similar to that required under paragraph 2 of the Annex to the Declaration.
- (e) The Committee shall meet no later than 15 September 1998 to conduct a review of these documents in a manner similar to that conducted pursuant to paragraph 2 of the Annex to the Declaration, and shall conclude its review no later than 30 September 1998. At that meeting participants shall also consider the possibility and procedures for further reviews.
- (f) Upon successful completion of the Committee review, the participants shall submit to the Secretariat the documents incorporating the results of the review as proposed modifications to their WTO Schedules of tariff concessions, pursuant to the Decision of 26 March 1980 on Procedures for Modification and Rectification of Schedules of Tariff Concessions (BISD, 27S/25), with a view to the entry into force of the revised Schedules, and incorporation in their domestic tariff schedules, no later than 1 January 1999 bearing in mind the need of each participant to fulfil its domestic procedural requirements. Each participant that is not a Member of the WTO shall implement these measures on an autonomous basis, pending completion of its WTO accession, and shall incorporate these measures into its WTO schedule on goods.