

## Government/Authorities Meeting on Semiconductors

### Chairman's Summary

Berlin, Germany, October 20, 2016

1. The Government/Authorities Meeting on Semiconductors (GAMS) took place on October 20, 2016 in Berlin, Germany, chaired by the European Commission. In attendance were delegations from China, the European Commission, Japan, Korea, Chinese Taipei and the United States.
2. Based on the report of the World Semiconductor Council (WSC) meeting held in Seoul, Korea on May 26, 2016 and its recommendations, GAMS discussed a wide range of issues impacting the global semiconductor industry including the importance of free and open markets, worldwide customs and trade facilitation, transducers, ITA implementation, policies related to encryption, regional support programmes, effective protection of intellectual property rights, fighting the proliferation of semiconductor counterfeiting, cooperative approaches in protecting the global environment, conflict minerals, growth initiatives and other issues of interest to the worldwide semiconductor industry.
3. GAMS congratulates the WSC on its 20<sup>th</sup> anniversary and underscores the WSC's seminal contribution to the development of the semiconductor sector and the fertile dialogue with governments and authorities to address the common challenges of the industry.
4. GAMS agreed to accelerate the implementation of the **Information Technology Agreement (ITA) Expansion**. GAMS members that have not yet implemented this Agreement are urged to implement ITA expansion commitments, completing as a matter of urgency both the processes of domestic implementation of tariff cuts and notification of their revised WTO schedule. Given the impact and relevance of worldwide trade in MCOs, GAMS will consider positively the WSC recommendation that ITA participants eliminate tariffs on MCOs autonomously prior to January 2017, when MCOs will move from a variety of headings to the heading for integrated circuits (HS 8542) under the World Customs Organisations' Harmonised System (HS) update. GAMS invite other WTO Members to join ITA and ITA Expansion, and will collaborate to accelerate this expansion. Noting that the ITA expansion Declaration commits participants to meet periodically to review the product coverage specified in the Attachments, GAMS agreed to put in place the necessary domestic and WTO processes in order to prepare for the review of the products coverage of the ITA before January 2018. GAMS also invites industry at future meetings to provide regular updates on advances in semiconductor technology with a view to maintaining duty-free treatment on future generations of

semiconductors as technology evolves.

5. Given the impact and importance of worldwide trade in **Semiconductor-Based Transducers**, GAMS welcomes the consensus reached by the WSC on the amendment of HS heading 8541 including the proposed notes to HS chapter 85 on the definition of semiconductor-based transducers and its clarifications. GAMS endorses the definition of semiconductor-based transducers formulated by the WSC and proposes that its customs authorities advance this definition within the WCO framework in order to achieve the adoption of this amendment to HS heading 8541 within the HS 2022 review.
6. Recognizing the extensive benefits of **trade facilitation** in reducing barriers to trade and increasing competitiveness, GAMS reaffirms its supports to an ambitious implementation of the Trade Facilitation Agreement, and urges all WTO Members to act in this respect. GAMS further supports the adoption of additional trade facilitation measures and the modernization of customs procedures in line with the WSC's trade facilitation principles.
7. GAMS welcomes WSC recommendations encouraging enhanced cooperation with customs authorities in order to strengthen the **Authorised Economic Operator (AEO)** programmes and enhance tangible trade facilitation and benefits. GAMS acknowledges the importance of the global harmonisation of the different supply chain security programmes, and welcomes the acceleration of future work for their further alignment and mutual recognition.
8. GAMS welcomes the WSC Study of Relevant HS Subheadings and encourages their customs authorities to work in the WCO in order to address the discrepancies between the different **HS classifications for semiconductor** products identified therein and ask them to consider talks amongst the relevant Authorities in this regard.
9. GAMS congratulates the European Commission as Chair for hosting a successful 2016 GAMS Workshop on **Regional Support Programmes** held on the 18<sup>th</sup> of October 2016, and appreciates the contributions of GAMS representatives, regional support programmes specialists, and industry experts to explore this important topic.
10. GAMS views the Workshop as an important first step to improve transparency and mutual understanding of the different support programmes of GAMS members. This is essential to maximise the opportunities for collaboration and to avoid harmful trade distortions. GAMS underscores that these programmes should be guided by the principles of openness, transparency, inclusiveness, non-discrimination, and respect WTO rules.

GAMS also recognises that government action should be guided by market-based principles, and that competitiveness of companies and their products, not the intervention of governments and authorities, should be the principal driver of innovation, industrial success, and international trade. GAMS advocates transparency among governments and authorities and calls on GAMS members to implement the relevant WTO notification commitments.

11. GAMS calls on the WSC to develop recommendations/best practices on how to implement in practice the aforementioned principles, and to continue on an on-going basis with the practice started in February 2015 of exchanging information on support programmes in the different regions. GAMS invites the WSC to discuss the outcomes of these exercises in February 2017. GAMS further calls on its members to engage in an information exchange mechanism to enhance mutual understanding and cooperation, and to explore also related issues with a bearing on government support (such as investment, anti-monopoly rules, or IP issues). GAMS welcomes the opportunity to discuss these issues during inter-sessional work and a follow-up Workshop in 2017.
12. With rapid technology development, for example, IoT, medical devices, cloud computing, big data, connected cars, and connected homes, information technology is becoming increasingly present in all areas of our daily life. GAMS reiterates the need to review the global regulatory environment for products with **encryption**, based on the WSC Encryption Principles which emphasize market access, transparency, adoption of voluntary, consensus-based international standards, and non-discriminatory and open procedures and rules. GAMS furthermore reiterates the importance of WSC Encryption Principles and encourages other governments to take them into account in order to avoid a negative impact on the industry's competitiveness and prevent unnecessary restrictions to trade, while making use of international consensus-based global security standards which can ensure the worldwide availability of the most robust and trusted security solutions and support the widespread diffusion of emerging technologies containing encryption.
13. GAMS underscores the importance of meaningful stakeholder participation whenever regulations, administrative procedures, or certification requirements on the importation or use of commercial encryption are created or revised. Also, GAMS agrees that consensus-based international standards adopted through open procedures are the optimal way to achieve rigorously scrutinized and broadly studied cryptographic technology and facilitate trade in line with the WSC principles. GAMS agrees to continue to review specific concerns related to regulatory practices in their regions, welcomes efforts for enhanced WTO notification and underscores the need to fully respect such WTO obligations.

14. GAMS takes note of the WSC's concern that the misappropriation of **trade secrets** is a growing problem, and that present protection through existing means – unfair competition law, employment law, and other branches of law – is often inadequate. GAMS notes that the WSC's "Core Elements for Trade Secret Protection Legislation" includes a number of useful recommendations for national trade secret protection legislation and any related pending legislation or legislative reforms or amendments. Building on the WSC input regarding examples and cases of trade secrets infringement, GAMS encourages WSC to continue this work, allowing GAMS to better understand the extent of the problem. GAMS will also consider the exchange of published legal texts in order to enhance transparency.
15. GAMS emphasises the importance of exploiting all avenues to improve **patent quality**. In this respect, GAMS welcomes the continuation and deepening of cooperation amongst Patent Offices through IP5 (US, EU, Japan, Korea and China) and other channels, and supports the cooperation between the WSC and WIPO on patent quality.
16. GAMS welcomes the WSC recommendations to address continuing problems caused by **abusive patent litigation (including NPEs/PAEs)** and welcomes the acceleration of future work. GAMS acknowledges the impact and complexity of abusive patent litigation and supports balanced and appropriate initiatives, including where necessary at the legislative level, to address litigation in order to help advance innovation and improve patent systems. GAMS engages to closely monitor developments and urges members to further update on domestic developments and invites WSC to share best practices on this issue and to report on these at the next GAMS meeting.
17. GAMS takes note of WSC concerns regarding the **Foreign Filing License (FFL) requirements**, which can create uncertainty, increase costs for applicants and delay commercial exploitation. In this regard, GAMS agrees to explore ways to take this matter forward.
18. GAMS reconfirms its commitment to **fighting semiconductor counterfeiting**, a global issue of increasing sophistication that impacts consumer health and safety. GAMS welcomes the WSC's continued commitment to work with GAMS members on anti-counterfeiting work activities, as well as additional initiatives such as those undertaken within the WSC's Anti-Counterfeiting Task Force. GAMS reaffirms its commitment to work with their customs and law enforcement authorities agencies to intensify the implementation of semiconductor anti-counterfeiting enforcement measures, including

information-sharing activities. GAMS also noted the WSC's recommendation to continue to implement appropriate measures (including at domestic, bilateral and multilateral levels) in coordination with industry to stop counterfeits at the borders and appropriately prosecute those who make and distribute counterfeits, and invites reports at the next GAMS meeting. GAMS encourages the WSC to develop additional ideas for collaboration with customs administrations.

19. With respect to **environment, safety and health issues**, GAMS appreciates the ongoing work by the industry to reduce emissions of potent and persistent greenhouse gases and urges WSC to provide transparent and objective reporting to stakeholders in particular by making independently verified data publicly available on the WSC website.
20. GAMS welcomes the G20 Summit Statement to conclude an ambitious, future-oriented **Environmental Goods Agreement (EGA)** to eliminate tariffs on a broad range of environmental goods by the end of 2016. GAMS agreed that its members would work with their EGA negotiators to cover semiconductor-enabled technologies that promote energy efficiency.
21. Recognizing the importance of addressing the issue of **conflict minerals** (tin, tantalum, tungsten, and gold) and acknowledging the substantial effort already made by industry, GAMS commends the work of governments and authorities who have established mandatory due diligence schemes for key operators in the minerals supply chain, based on OECD guidance, and encourages the establishment of additional measures promoting transparency and reporting throughout the supply chain.
22. GAMS also discussed three **additional topics of WSC interest**: regulatory restrictions on certain chemicals; the necessary respect of confidentiality in the context of OECD BEPS; and growth initiatives.
23. GAMS appreciates the WSC's comprehensive work and further suggests that it streamlines the topics for discussion at GAMS in future years to better prioritise work and ensure that key issues are effectively addressed. This is without prejudice to the continuation of comprehensive work in the WSC.
24. GAMS reviewed the GAMS Joint Statement, agreed not to modify it in view of its comprehensive coverage, and called for its full implementation.