

Government/Authorities Meeting on Semiconductors

Chairman's Summary
Jeju, Korea
September 26, 2013

1. The Government/Authorities Meeting on Semiconductors (GAMS) took place on September 26, 2013 in Jeju, Korea, chaired by Korea. In attendance were delegations of China, Chinese Taipei, the European Commission, Japan, Korea, and the United States.
2. Based on the report of the World Semiconductor Council (WSC) meeting held in Lisbon, Portugal on May 23, 2013 and its recommendations to the GAMS, the GAMS discussed: the definition of multi-component integrated circuits (MCOs); implementation of the MCP agreement; encryption standards and regulation; trade and innovation policy; worldwide customs and trade facilitation; the Information Technology Agreement; environmental safety and health; critical materials; anti-counterfeiting enforcement efforts; patent quality; utility model patents; trade secrets; NPEs; regional stimulus; and other issues of interest to the worldwide semiconductor industry.
3. GAMS reiterated its commitment to trade liberalization for new types of semiconductors, including multi-component ICs (MCOs). GAMS notes that it previously has welcomed the consensus definition of MCOs proposed by the WSC on May 24, 2012, to which five out of six GAMS members have agreed. Five out of six GAMS members reiterated its commitment to further efforts to obtain consensus among all GAMS members on this definition and to work constructively with their trading partners to obtain inclusion of this MCO definition as part of an expanded ITA agreement to be concluded by the end of 2013. GAMS members note that successful conclusion of an expanded ITA by the December 2013 deadline is the most expeditious way to accomplish duty-free treatment for MCOs, and five out of six GAMS members commit to this priority. Given the impact and the relevance of the worldwide trade in MCOs, five out of six members of GAMS welcome and strongly support the submission of the MCO definition to the WCO for incorporation under HS8542 as part of the HS2017 review process. GAMS invites the member[China] which could not agree to reconsider its position and encourages WCO parties to support the incorporation of MCOs under HS8542. GAMS also invites industry at future meetings to provide regular updates on advances in semiconductor technology and to share information on tariffs on such advanced semiconductors for GAMS consideration as to appropriate next steps.
4. As regards Intellectual Property Rights (IPR), the GAMS reconfirm its commitment to fighting the phenomenon of semiconductors counterfeiting, a global issue which is increasingly affecting all parts of the world. The GAMS supports the WSC commitment

to intensify Anti-Counterfeiting work activities, with the aim of reducing and eliminating counterfeited semiconductors on the global market. Providing training and sharing relevant intelligence information with enforcement authorities are essential elements to fight this phenomenon. Raising awareness, with concrete examples of risks created to health, public safety and critical infrastructure, with not only enforcement authorities but also within the industry supply chain should be another key element of the Anti-Counterfeiting activities. On this basis, GAMS members agree to work with their customs and law enforcement authorities agencies to intensify the implementation of IPR enforcement measures, including information sharing activities, aimed at combating the trafficking of counterfeit semiconductors. GAMS also welcomes additional input from the WSC with regard to best practices in this area.

5. The GAMS reiterates its support to the continuation and deepening of cooperation between Patent Offices of the GAMS parties, in order to increase patent quality, notably by harmonizing classification and patent examination methods, exchange of information, cooperation in the training of examiners, increase coordination in the processing of patent applications and improving machine-translation systems. The GAMS welcomes and supports the cooperation between WSC and the World Intellectual Property Organization (WIPO) to improve patent quality.
6. With regard to Utility Models, GAMS takes note of the WSC's call for international harmonization of the utility model laws which would bring legal certainty and predictability to the right holders and product developers and manufacturers worldwide. GAMS further takes note of the WSC's recommendation that GAMS take the initiative to globally harmonize the utility model laws, concerning proper subject matter, registration procedure, legal enforcement and relationship between utility models and patents. GAMS welcomes the WSC's commitment to provide more specific substantive and procedural recommendations to GAMS on this subject in the future.
7. GAMS takes note of the WSC's concern that the theft 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 further notes the WSC's concerns with regard to difficulties in enforcing trade secrets. Taking into account these concerns, GAMS will endeavor to find ways to advocate for enhanced trade secret protections in trade agreements and domestic laws. GAMS requests that the WSC provide additional information and a report on examples and cases of trade secret infringement to be considered at the next GAMS meeting.
8. GAMS welcomed the report by the US delegation on developments concerning proposals to address the problems caused by NPE/PAE and the developing focus on abusive patent litigation. GAMS heard and asked questions on a recent report from the US General Accountability Office, as well as a White House report and study on PAEs, and

encourages further updates from the US side and exchanges on this topic, as other GAMS Members examine the potential effects in their respective regions. GAMS acknowledged that the subject of NPE/PAE is a complex issue. Addressing concepts of cost asymmetry in patent litigation, preserving the ability of patent owners to protect their intellectual property, clearer identification of patent portfolios and ownership are seen by GAMS as some of the emerging elements to reduce abusive litigation practices. In addition, GAMS expects the WSC to continue its work on this important issue and looks forward to receiving recommendations of the WSC, including proposed policies and legislative measures to regulate abusive litigation by patent holders including NPE/PAE in particular.

9. GAMS agrees it should encourage all GAMS members and governments in general to observe the Encryption Principles that the WSC has developed since 2009 and to which GAMS members have committed. Those Encryption Principles make it clear that in order to avoid negative impact on the industry's competitiveness, it is important to prevent unnecessary restrictions to trade. Therefore, whenever laws, regulations or administrative procedures on the importation or use of commercial encryption are created or revised by any Governments/Authorities or Certification Bodies, the principles of transparency, accessibility, and timely information on related regulatory developments and requirements, including on procedures to access relevant algorithms, and including in countries not participating in GAMS, should be consistently applied. GAMS notes the WSC's emphasis on timely and meaningful open consultations with international stakeholders. In this context, GAMS agrees with WSC recommendation that structured dialogue on encryption be set up in order to discuss any specific concerns raised by the WSC and enhancing the cooperation and exchange of experience between officials in the field of information security and trade and other relevant experts for instance through a seminar or ad-hoc meeting to be held back to back to the 2014 GAMS meeting. The seminar will take place based on an agenda proposal to be developed in 2014 WSC recommendations, and build on concrete issues and best practices solutions.
10. GAMS welcomes WSC work on innovation, as innovation is and innovation policy can be a key element which can foster the growth of semiconductor industry. GAMS takes note of the innovation principles presented by WSC.
11. Recognizing the key importance of trade facilitation in achieving free and open markets and reducing barriers to trade, GAMS supports the conclusion of a Trade Facilitation Agreement in the World Trade Organization this year, and will urge its negotiators to seek an outcome that embodies the WSC's Trade Facilitation Principles. GAMS further supports the adoption of national, regional, and multilateral trade facilitation procedures and related customs regulations that implement the WSC's Trade Facilitation Principles. GAMS takes note of the WSC's work on the subject of export/import regulatory restriction and encourages industry to continue to engage in dialogues and activities

relating to this subject to timely reflect industry's concerns for GAMS consideration.

12. With respect to environment, safety and health issues, GAMS welcomes the substantive work achieved so far by the industry to improve energy efficiency and to reduce emissions of greenhouses gases and in particular the new agreement on Perfluorinated compounds (PFCs) at a global level looking towards 2020 that now also includes all GAMS members. GAMS stresses the importance of adequate monitoring, and more detailed reporting by industry, and where appropriate independent verification of data in order to improve the credibility and transparency of the PFC voluntary approach.
13. GAMS takes note of WSC's concern that when GAMS members adopt regulatory approaches to greenhouse gases, governments and authorities should recognize the WSC's longstanding responsible efforts to manage and reduce greenhouse gas emissions, the small quantities of these gases used in the semiconductor manufacturing process, and the essential nature of these gases in the manufacturing process. GAMS commits to careful consideration to ensure that, when adopting regulatory measures, these measures do not have a disproportionate impact on the semiconductor sector as against other industrial sectors where the use of substitutes for these gases is possible.
14. GAMS appreciates that WSC acknowledges public concerns and recent governmental actions to address conflict minerals. GAMS further welcomes the WSC's adoption of a Conflict-Free Supply Chain Policy. As governments and authorities consider additional legislation and regulation to address concerns associated with conflict minerals, GAMS supports the promotion of coordinated and harmonized approaches to compliance across geographies. Where such regulations exist or are being developed, GAMS will endeavor to embrace global, industry-led initiatives to identify conflict-free smelters and promote common compliance tools, methods, and standards.
15. Regarding regional stimulus, the GAMS recognizes that government action should be guided by market-based principles and that competitiveness of companies and their products and not the interventions of government and authorities should be the principal driver of industrial success and international trade. GAMS advocates transparency among governments and authorities. In this context, the GAMS notes the continuation of discussions within the WSC on regional stimulus issues, including a notification and consultation mechanism and on the means to exchange appropriate information on relevant government support programs in the semiconductor sector, especially with reference to the WTO agreement on subsidies and countervailing measures. GAMS understands that consensus has not been reached at the WSC. GAMS invites the WSC to continue its discussion and report back on the progress achieved.