

General Council

WORK PROGRAMME ON ELECTRONIC COMMERCE

Statements by Chairpersons at the 1-2 December meeting of the General Council under Item 12(d)(iii) of the Agenda:

"Work Programme on E-Commerce - State of Play and Reports by the Chairpersons of the Committee on Trade and Development and the Dedicated Discussions on Cross-Cutting Issues under the Auspices of the General Council"

As announced by the Chairman of the General Council at the Council meeting on 1-2 December, the statements by Chairpersons under Item 12(d)(iii) are being circulated for the information of Members.

1. Chairman of the General Council

"Members will recall that in paragraph 34 of the Doha Ministerial Declaration, Ministers agreed to continue the Work Programme on Electronic Commerce, and instructed the General Council to consider the most appropriate institutional arrangements for handling the Work Programme, and to report on further progress to the Fifth Session. Ministers also declared that Members would maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session.

"At its meeting in October 2002, the General Council agreed to maintain, for the duration of the work until the Fifth Session, the current institutional arrangements for handling the Work Programme, i.e. that the Councils for Trade in Services, Trade in Goods and TRIPS, and the Committee on Trade and Development would examine and report on aspects of electronic commerce relevant to their respective areas of competence, and that the General Council would play a central role in the entire process, would keep the Work Programme under continuous review and would consider any trade-related issue of a cross-cutting nature. Subsequently, in its July 2004 Decision, the General Council agreed that it and other relevant bodies would report in line with their Doha mandates to the Sixth Session of the Ministerial Conference.

"I would like to note that pursuant to the institutional arrangements agreed in 2002, the General Council's examination of cross-cutting issues under the Work Programme has been carried out in dedicated discussions held under the auspices of the General Council for this purpose.

"Before I request the Chairs of the Committee on Trade and Development and of the Dedicated Discussions on Cross-Cutting Issues Under the Auspices of the General Council, I would like to give a very brief overview of the state of play of the e-commerce discussions in the three sectoral Councils, namely the Councils for Goods, Services and TRIPS.

"The chairpersons of these bodies have indicated to me that since the Cancún Ministerial Conference, there have been no requests from any Members that the Work Programme on Electronic Commerce be included on the agenda of the meetings of these bodies. I understand that these bodies stand ready to revert to discussion of issues relating to the Work Programme at the request of any Member. It is also my understanding that, with regard to the state of play of the discussions in these bodies, the progress reports submitted by them in documents G/L/635, S/L/74 and IP/C/29, respectively – remain an accurate reflection of the thinking of the Members in the areas of work concerned."

2. Chairman of the Committee on Trade and Development

"I would like to present to the General Council the work on electronic commerce that has taken place in the Committee on Trade and Development since July 2003. Members may note that a report of the work on electronic commerce in the CTD from the Doha Ministerial Conference until the 45th Session of the CTD is found in document WT/COM/TD/47 of 21 July 2003.

"Even though electronic commerce was a standing item on the CTD's agenda at the 46th and 47th Sessions held in 2003 after the Cancun Ministerial Conference, Members made no interventions on the item. At the 48th Session of the CTD in February 2004, Members discussed at some length how they wished to continue with the item. At the 49th Session in May 2004, the representative of Pakistan made a lengthy statement and outlined some possible points for discussion by the Committee. He raised a number of questions on various e-commerce related issues including those relating to global governance, control of the Internet, access to technology, taxation, classification issues, issues relating to policy flexibility and capacity building and the role of SMEs. His delegation believed that those were issues on which Members needed to further reflect.

"Based on the suggestion of the representative of Tunisia, the Committee at its 50th Session in September 2004 decided to invite the Secretariat of the International Telecommunications Union (ITU) to brief the CTD on the latest developments in the preparation of the second phase of the World Summit of the Information Society that was to take place in Tunisia in November 2005. The expert from the ITU was unavailable for the 51st and 52nd Sessions of the CTD, but was able to make his presentation, which explored the role of information and communications technologies (ICTs) in development, at the 53rd Session held in May 2005. The Committee took note of the presentation.

"It was agreed to revert to the agenda item concerning electronic commerce in the future only if requested to do so by Members."

3. Chairman of the Dedicated Discussions on Cross-Cutting Issues Under the Auspices of the General Council

"The sixth Dedicated Discussion on Cross-Cutting Issues Under the Auspices of the General Council under the Work Programme on Electronic Commerce was held on 7 and 21 November. Under the agenda for this meeting, participants discussed a written submission from the United States entitled "Preparations for the 2005 Ministerial Conference – Work Programme on Electronic Commerce" circulated in document WT/GC/W/551 and also two informal papers from that delegation supporting this submission. Members also considered and approved the report of the Dedicated Discussion to the General Council in document WT/GC/W/555 and, on the basis of paragraph 14 of that report, agreed on a text to be forwarded to the General Council Chair as the input on e-commerce to the draft Ministerial text for Hong Kong.

"I would like to draw attention to a number of points in the report to the General Council.

"First, all agreed that work under the Work Programme, including the development aspects, should be reinvigorated in 2006. Generally the Members supported extending the moratorium on the imposition of customs duties on electronic transmissions until the next Session and were willing to discuss further in 2006 the proposal to make the moratorium permanent and binding, but one delegation was not in favour of this extension, and another said that there were systemic concerns regarding the extension of the moratorium, and that it was not, at the time, in a position to agree to it.

"The other issue related to trade treatment of software. Participants recognized the importance of software trade for development and economic performance, and the positive impact of liberalized trade in software. There was support for initial discussions, under the Work Programme in 2006, on the issue raised by the United States, without linkage to negotiating areas and without prejudice to Members' positions in other areas. It was also stated that any approach to the liberalization of the treatment of software had to incorporate the development dimension, fully respect non-discrimination, and that any consideration of software should not prejudice any Member's position on whether electronic deliverables were a good or a service. Further, some Members stated that the discussion should cover not only software, but all IT goods and services facilitating e-commerce.

"Lastly, on the issue of recommendations for consideration by the General Council, participants discussed this matter at some length but were unable to reach a consensus, mainly in view of the differences that I have mentioned. As a result, the entirety of the text relating to recommendations in paragraph 14 of the report remains in square brackets."
