

General Council
17 November 2009

WORK PROGRAMME ON ELECTRONIC COMMERCE

Dedicated Discussions under the auspices of the General Council

Report to the 17 November 2009 meeting of the General Council

1. At the Fourth Session of the Ministerial Conference in Doha in November 2001, 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 of the Ministerial Conference.
2. At its meeting on 15 October 2002 the General Council agreed to maintain, for the duration of the work until the Fifth Ministerial Conference, the institutional arrangements then in place for handling the Work Programme. These were 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 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 Decision of 1 August 2004 the General Council agreed that it and other relevant bodies shall report in line with their Doha mandates to the Sixth Session of the Ministerial Conference.
3. At the Sixth Session of the Ministerial Conference in Hong Kong, China in December 2005, Ministers took note of the reports from the General Council and subsidiary bodies on the Work Programme. They also took note that the examination of issues under the Work Programme was not yet complete. They agreed to reinvigorate that work, including the development-related issues under the Work Programme and discussions on the trade treatment, *inter alia*, of electronically delivered software. They also agreed to maintain the current institutional arrangements for the Work Programme, and declared that Members would maintain their current practice of not imposing customs duties on electronic transmissions until their next Session.
4. The present report covers the work undertaken under the Work Programme on Electronic Commerce that has been carried out since the Hong Kong Ministerial Conference. The Seventh Dedicated Discussion under the auspices of the General Council relating to the Work Programme on Electronic Commerce took place this year, in meetings held on 8, 13, 22 and 27 October and 2, 4 and 6 November 2009. There has been no activity in any of the other WTO bodies charged with carrying out work under the Work Programme.
5. The summary prepared by the Secretariat of the issues raised at this dedicated discussion is contained in document WT/GC/W/614.
6. The purpose of this Dedicated Discussion was to consider the current situation of the Work Programme on Electronic Commerce in the context of preparations for the upcoming Ministerial Conference. During the course of the seven meetings that comprised the seventh Dedicated

Discussion, several Members expressed concern that no work had been carried out under the Work Programme since the Hong Kong Ministerial Conference in December 2005. They emphasised the need to bolster the Work Programme with a specific plan of work. Members also discussed the possibility of having an interim review in the General Council, based on a report that would serve as a background document for the review. They discussed in detail the elements of the recommendations to be forwarded to Ministers through the General Council in November. These discussions were based on proposals from several Members, which indicated evolving convergence.

7. On the extension of the moratorium on customs duties on e-commerce, most Members were in favour of an extension to the next (post-Geneva) Ministerial. Two delegations indicated that their position was linked to the extension of the moratorium on TRIPS non-violation complaints. In general, Members stressed the importance of e-commerce to their economies. Most developing-country Members who spoke emphasised the particular importance of e-commerce activities to their economies, both through increasing opportunities and links with strategies for the future. The general view was that the extension of the moratorium would be appropriate. Discussion on this point focused more on the period of the extension, nature of the Work Programme and the possibility for Members to discuss issues of importance to them based on the elements covered by the Work Programme.

8. Some delegations said there was a need to establish a clear and specific programme of work under the Work Programme to be carried out within the briefest timeframe. This view also saw a link between the Work Programme and the moratorium. Most others, however, said that the Work Programme and the moratorium were unrelated. Many delegations said they could not support any decision that created this link or put any conditions on extending the moratorium. Several cautioned that the timeframe for completion of meaningful work under the Work Programme should be realistic, and warned against deadlines that were too short. However, all expressed their willingness to ensure that meaningful work under the Work Programme was carried out under specific deadlines for completion of this work. They also agreed to have periodic reviews of this Work Programme in the General Council meetings of July 2010, December 2010 and July 2011, with reports of these reviews prepared. Members discussed the elements to be covered by the Work Programme, and whether or not the report envisioned should contain any recommendations. They also discussed whether or not to include a reference to certain specific basic WTO principles to be covered under the Work Programme. As noted earlier, a number of meetings of the Dedicated Discussion took place, during which Members' views evolved towards greater consensus on the outstanding points.

9. Subsequently, Members agreed that the following text should be sent to the General Council for forwarding to Ministers:

We take note of the reports from the General Council and subsidiary bodies on the Work Programme on Electronic Commerce and express our concern that the examination of issues under the Work Programme is not yet complete. We decide to intensively reinvigorate that work, based on the Work Programme and guidelines given in the General Council Decision of 25 September 1998.¹

We instruct the General Council to hold periodic reviews of the progress on the Work Programme in its sessions of July 2010, December 2010 and July 2011. The reports of these reviews, including any recommendations for action, would be taken into consideration during our next session, which we have decided to hold in 2011, for decisions under this item.

The Work Programme shall include development-related issues, basic WTO principles including among others non-discrimination, predictability and transparency, and discussions

¹ WT/L/274 dated 30 September 1998.

on the trade treatment, *inter alia*, of electronically delivered software. We agree to maintain the current institutional arrangements for the Work Programme.

We decide that Members will maintain their current practice of not imposing customs duties on electronic transmissions until our next session, which we have decided to hold in 2011.
