

General Council
30 November - 1 December 2011

WORK PROGRAMME ON ELECTRONIC COMMERCE

Dedicated Discussions under the auspices of the General Council

Report to the 30 November - 1 December 2011 meeting of the General Council

1. At the Seventh Session of the Ministerial Conference in Geneva in December 2009, Ministers decided to intensively reinvigorate the examination of issues under the Work Programme on Electronic Commerce, based on the Work Programme and guidelines given in the General Council Decision of 25 September 1998.¹ They instructed 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 which would be taken into consideration during their next session, and that the Work Programme shall include development-related issues, basic WTO principles including, among others, non-discrimination, predictability and transparency, 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 their current practice of not imposing customs duties on electronic transmissions until their next session.
2. The present report covers the work undertaken under the Work Programme on Electronic Commerce that has been carried out since the 2009 Geneva Ministerial Conference.
3. A number of initiatives under the Work Programme were undertaken in the Council for Trade in Services. In response to a request by the United States in May, the Secretariat produced a compilation of elements related to the electronic supply of services drawn from 23 Secretariat Background Notes issued on a number of sectors and modes of supply, as well as on statistics on trade flows in services (JOB/SERV/78). In July, the European Union and the United States made a joint proposal (S/C/W/338) on trade-related principles to support the expansion of information and communication technology (ICT) networks and services and to enhance the development of e-commerce. In September, the United States also submitted a communication (S/C/W/339) entitled "Work Program on Electronic Commerce: Ensuring that trade rules support innovative advances in computer applications and platforms, such as mobile applications and the provision of cloud computing services".
4. Five Members (Cuba, Ecuador, Nicaragua, the Plurinational State of Bolivia and the Bolivarian Republic of Venezuela) made a joint submission to the General Council, the Council for Trade in Goods and the Committee on Trade and Development (triple-symbol document WT/GC/W/635, G/C/W/650, WT/COMTD/W/179) entitled "Effective Participation of Developing Countries in Electronic Commerce as a Means to Combat Poverty", which was discussed in these three bodies. The submission also contained a proposal for a decision on electronic commerce by Ministers at the upcoming Eighth Ministerial Conference.

¹ WT/L/274 dated 30 September 1998.

5. The eighth 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 20 and 28 October and 9 and 16 November 2011. A number of informal meetings were also held. The summary prepared by the Secretariat of the issues raised at this Dedicated Discussion is contained in document WT/GC/W/644.

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 and to prepare the draft text on E-Commerce to be forwarded to Ministers by the General Council. Delegations noted the various proposals and background documents made in the relevant bodies and that work on electronic commerce had been reinvigorated. They expressed their interest in taking it forward on the basis of existing proposals and other submissions that might be made subsequently. The Dedicated Discussion noted that substantive work would continue in the relevant bodies of the Work Programme.

7. During the course of the four meetings that comprised the eighth Dedicated Discussion, Members discussed in detail the elements of the text that would be forwarded to Ministers in December 2011 through the General Council. These discussions had, as a starting point, the draft decision contained in the submission by Cuba, Ecuador, Nicaragua, Bolivia and Venezuela in triple-symbol document WT/GC/W/635, G/C/W/650, WT/COMTD/W/179. Many Members suggested that the 2009 Ministerial Decision on electronic commerce could also be seen as a basis for taking the discussions forward.

8. From the outset and throughout the drafting process, all Members showed a very high level of flexibility, cooperation and willingness to work towards a consensus text. A number of delegations said the proposed draft decision by Cuba and other co-sponsors contained a number of important elements that should be reflected in the text, particularly with regard to the emphasis on development and the reference to micro, small and medium sized enterprises, including small producers and suppliers. In the context of the emphasis on development, the particular role of the Committee on Trade and Development was stressed. It was emphasised that the draft decision should succinctly capture these and other relevant points.

9. Emphasizing the importance of development and small-scale industries, several Members noted that the development aspects of electronic commerce were cross-cutting issues in other bodies under the Work Programme, and that the text should take account of this. On the issue of the extension of the moratorium on customs duties on electronic transmissions, most Members were in favour of an extension to the Ninth Ministerial Conference in 2013. In general, both developed-country and developing-country Members stressed the importance of electronic commerce to their economies.

10. During the course of the four meetings of the Dedicated Discussion, Members' views steadily evolved towards greater consensus on the outstanding points. Members agreed that the following text should be sent to the General Council:

The Ministerial Conference,

Recalling the "Work Programme on Electronic Commerce" adopted on 25 September 1998 (WT/L/274), and pursuant to the mandate assigned by Members in the Seventh Session of the Ministerial Conference (WT/L/782) to intensively reinvigorate that work with a view to the adoption of decisions on that subject at its next session, to be held in 2011,

Decides:

To continue the reinvigoration of the Work Programme on Electronic Commerce, based on its existing mandate and guidelines and on the basis of proposals submitted by Members, including the development-related issues under the Work Programme and the discussions on the trade treatment, *inter alia*, of electronically delivered software, and to adhere to the basic principles of the WTO, including non-discrimination, predictability and transparency, in order to enhance internet connectivity and access to all information and telecommunications technologies and public internet sites, for the growth of electronic commerce, with special consideration in developing countries, and particularly in least-developed country Members. The Work Programme shall also examine access to electronic commerce by micro, small and medium sized enterprises, including small producers and suppliers,

To instruct the General Council to emphasize and reinvigorate the development dimension in the Work Programme particularly through the CTD to examine and monitor development-related issues such as technical assistance, capacity building, and the facilitation of access to electronic commerce by micro, small and medium sized enterprises, including small producers and suppliers, of developing countries and particularly of least-developed country Members. Further, any relevant body of the Work Programme may explore appropriate mechanisms to address the relationship between electronic commerce and development in a focused and comprehensive manner,

To further instruct the General Council to hold periodic reviews in its sessions of July and December 2012 and July 2013, based on the reports submitted by the WTO bodies entrusted with the implementation of the Work Programme, to assess its progress and consider any recommendations on possible measures related to electronic commerce in the next session of the Ministerial Conference,

We decide that Members will maintain the current practice of not imposing customs duties on electronic transmissions until our next session, which we have decided to hold in 2013.
