



25 March 2019

(19-1850)

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Original: English

WTO NEGOTIATIONS ON TRADE-RELATED ASPECTS OF E-COMMERCE*

ELEMENTS OF A POTENTIAL APPROACH UNDER THE FRAMEWORK OF THE JOINT STATEMENT ON ELECTRONIC COMMERCE

Communication from Argentina, Colombia and Costa Rica

The following communication, dated 5 April 2018, is being circulated at the request of the delegation of Argentina.

1.1. The adoption of the Joint Statement, at MC11, aiming at WTO negotiations on trade-related aspects of e-commerce, presents a new and welcome opportunity to deliver meaningful results in one of the most dynamic areas of trade. The Joint Statement is also a milestone on the road toward reviving the negotiating function of the WTO and underlining its essential role in this increasingly important facilitator of global trade.

1.2. The success of this initiative depends on the political will of participants and their vision of potential outcomes. The range of potential outcomes should be set out and clarified as early as possible in order to guide Members' engagement, focus attention on substantive issues and avoid getting lost in procedure. The purpose of this submission is to provide elements of a framework for WTO negotiations on the trade related aspects of e-commerce. It is not intended in any way to prejudge the outcome of future negotiations but rather to present a range of options.

1.3. Therefore, at this initial stage, participants are invited to consider the following elements of a possible approach to a negotiating agenda:

1. The focus on "trade related aspects" means that discussions and negotiations should concern the "trade" agenda that the WTO was designed to address in its central functions. That is, trade in goods, trade in services and TRIPS. However, given the multifaceted nature of e-commerce and its cross-cutting issues, Members should ensure **a comprehensive and coherent negotiating agenda** encompassing all relevant aspects of e-commerce. Likewise, the **negotiated outcome should encompass all relevant WTO disciplines**.
2. Members shall reaffirm existing WTO disciplines that apply to e-commerce. Negotiations should then focus on **clarifying existing WTO disciplines** and on **establishing new rules** where necessary to address new developments or lacunae in the system.
3. The negotiations should result in bindings of **market opening** in e-commerce-related sectors of trade in goods and services. This would not be with the aim of entering into comprehensive market access negotiations but rather focusing on issues and sectors that expand trade in goods and services directly related to e-commerce activities.
4. The negotiations should also address **regulatory issues** related to trade in goods and services. A number of such issues have already been identified in previous discussions and negotiations. For example, participants shall re-confirm Members' right to regulate

* This document was originally circulated as JOB/GC/174 dated 6 April 2018.

with a view to ensuring the **protection of the privacy of individuals** and the **security and confidentiality of information**, consistent with existing rules that apply to the movement of information within and across borders.

5. More specifically, on trade **in goods**, the agenda should encompass access issues (e.g. tariffs) as well as regulatory issues building of the TFA (e.g. simplified processing of low value shipments, simplified return process, etc.).
 6. In **trade in services**, the agenda should address **specific commitments** in sectors which form the **enabling infrastructure** for e-commerce activities as well as those sectors of **services that are deliverable online**. An indicative list of each of these types of sectors can be developed in the negotiations with the aim that participants consider undertaking specific commitments.
 7. Members should also address **regulatory issues** related to trade in services through the development of new disciplines where necessary. Members have already made proposals regarding some of those issues. The development of new disciplines should be addressed after a review of existing rules that apply to services regulation. The negotiation of such new disciplines should be based on the **clarification of existing** disciplines in the GATS as well as other WTO instruments. Participants should also be guided, to the extent possible, by **relevant international standards** where they exist.
 8. Particular attention should be given to trade-related initiatives that can be used to advance the **interests of developing countries and LDCs** in relation to **promoting connectivity and bridging the digital divide**. Participants should explore how developing countries and LDCs could have access to assistance in the introduction of regulatory reforms once they undertake commitments. In this respect, participants should consider possible synergies with the Aid for Trade initiative. Participants could also borrow from the TFA experience in this regard.
 9. The negotiations should aim at **securing commercial opportunities for businesses of all sizes**.
 10. At the same time developing countries should have flexibility in binding market opening and undertaking new commitments on regulatory issues.
 11. These negotiations are open to all WTO Members who share the same objectives and subject to the satisfactory conclusion of the negotiations, the outcome shall be applied in accordance with WTO provisions and the most-favoured-nation principle.
 12. While it is important to consider the views of all Members and not prejudge specific outcomes, Members must start charting a course with a clear sense of purpose and direction to ensure progress. Therefore, Members need to converge on guiding elements, to which more detail would be added as the negotiations proceed.
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