



JOINT STATEMENT ON ELECTRONIC COMMERCE

COMMUNICATION FROM CHINA

The following communication, dated 23 April 2019, is being circulated at the request of the delegation of China.

1 JOINT STATEMENT ON ELECTRONIC COMMERCE IN DAVOS

1.1. On 25 January 2019, following an informal meeting of Ministers on electronic commerce, held in Davos in Switzerland, China, together with 75 other WTO Members, issued a Joint Statement on Electronic Commerce confirming their intention to commence WTO negotiation on trade-related aspects of electronic commerce, building on the existing WTO Agreements and frameworks. In the statement, Members emphasize that they recognize and will take into account the unique opportunities and challenges faced by Members in relation to electronic commerce and encourage all WTO Members to participate in the negotiation.

2 CHINA'S POSITION

2.1. China has elaborated on its position regarding WTO negotiation on trade-related aspects of electronic commerce in various occasions, including the open-ended meetings of the exploratory work in 2018, consultations on the Davos Joint Statement, and the informal meeting of Ministers on electronic commerce held in Davos. China would like to reiterate its position from four perspectives as below:

2.1 Objectives of the negotiation

2.2. WTO negotiation on electronic commerce should be committed to tapping into the great potential of electronic commerce, helping Members, particularly developing Members and LDCs, to integrate into global value chains, bridge the digital divide, seize development opportunities and benefit from inclusive trade, and hence better participating in the economic globalization.

2.2 Relationship between the negotiation and multilateral discussion

2.3. The negotiation should be complementary to the electronic commerce discussion in relevant subsidiary bodies of the WTO. The aforesaid bodies should be informed of negotiation progress periodically. Meanwhile, the negotiation should be conducive to supporting the multilateral trading system, contribute to the revitalization of the WTO negotiating function, respond to the industry, keep WTO rules relevant and ultimately achieve a multilateral outcome.

2.3 Negotiation process

2.4. The negotiation should be open, inclusive and transparent, ensuring the participation of interested Members in the overall process through well-designed frameworks and flexible approaches on the implementation of negotiation outcomes. The negotiation should set a reasonable level of ambition with full consideration of Members' right to regulate, strike a balance among

technological advancement, business development and legitimate public policy objectives of Members, such as internet sovereignty, data security, privacy protection, etc., and reach a balanced, pragmatic outcome reflecting all Members' interests through equal consultation.

2.4 Direction and focus of the negotiation

2.5. Based on the existing WTO Agreements and frameworks, the negotiation should uphold the development dimension, fully take into account the difficulties and challenges faced by developing Members, including those who have not joined the negotiation by now, especially LDCs. The negotiation should focus on the discussion of cross-border trade in goods enabled by the internet, together with relevant payment and logistics services while paying attention to the digitalization trend of trade in services, and explore the way to develop international rules for electronic commerce centering on a sound transaction environment and a safe and trust-worthy market environment.

3 ACTION AREAS

3.1. Based on its development experiences, China has submitted 3 communications under the WTO framework, sharing information on its legislations, regulatory practices and industry development. China joined the "Friends of E-commerce for Development" (FED) and sponsored the "Workshop on E-commerce for Development under the Multilateral Trading System". It's China's view that Members should build consensus through communication and cooperation, and prioritize issues reflecting their common interests in the negotiation, to promote the negotiation progressively in the spirit of solidarity.

3.1 Clarify the definition of trade-related aspects of electronic commerce and future rules' scope of application

3.2. Members should define the trade-related aspects of electronic commerce, electronic transmission, etc., and clarify the relationship between future electronic commerce rules and the existing WTO Agreements.

3.2 Establish a sound environment for electronic commerce transaction

3.3. *Facilitating Cross-Border Electronic Commerce*: Members should endeavor to further improve customs procedures; Members should, to the extent practicable, adopt or build procedures allowing the option of payment by electronic means; Members should also make use of free zones and customs warehouses to facilitate cross-border electronic commerce.

3.4. *Paperless Trading*: Members should endeavor to accept trade administration documents submitted electronically as the legal equivalent of the paper version of those documents, and endeavor to make trade administration documents available to the public in electronic form.

3.5. *Electronic Signatures and Electronic Authentication*: Members should provide interested parties with the option to use electronic signatures and data messages in accordance with Members' laws and regulations, and should not deny electronic signatures and data messages legal validity solely because they are in electronic form; Members should promote the mutual recognition of digital certificates and electronic signature.

3.6. *Electronic Contracts*: Members should provide interested parties with the option to adopt electronic contracts, and should not deny electronic contracts legal validity solely because electronic means are adopted; Members' Contract Law and other related laws and regulations should apply to electronic contracts.

3.7. *Moratorium of Customs Duties on Electronic Transmissions*: Members should continue to maintain the practice of not imposing customs duties on electronic transmissions until the next session of the Ministerial Conference.

3.3 Create a safe and trust-worthy market environment for electronic commerce

3.8. *Online Consumer Protection*: Members should, by appropriate means, provide consumers using electronic commerce with protection that is at least equivalent to that provided for consumers of other commercial forms under Members' respective laws, regulations and policies.

3.9. *Personal Information Protection*: Members should adopt measures that they consider appropriate and necessary to protect the personal information of electronic commerce users.

3.10. *Unsolicited Electronic Commercial Messages*: Suppliers of unsolicited electronic commercial messages should not send concealed or forged electronic messages on purpose, and should not send electronic commercial messages without the consent of recipients. Where recipients reject the ongoing reception of those messages after explicit consent, suppliers of unsolicited electronic commercial messages should stop sending such messages.

3.11. *Cyber Security*: Members should respect the internet sovereignty, exchange best practices, enhance electronic commerce security, deepen cooperation, and safeguard the cyber security.

3.12. *Transparency*: Members should make laws and regulations pertaining to the electronic commerce publicly available; Members should, to the extent possible, provide the original text of such laws and regulations as well as where they are published to the WTO Secretariat, and respond to reasonable enquiries from other Members regarding facilitating cross-border electronic commerce through enquiry point(s) established under the Trade Facilitation Agreement.

3.4 Promote pragmatic and inclusive development cooperation

3.13. *Bridge the Digital Divide*: Members are encouraged to adopt recommendations and practical measures that contribute to improving the electronic commerce infrastructure and technical conditions of developing Members, to help enterprises and citizens realize digital transition.

3.14. *Research, Training and Communication*: Members are encouraged to conduct information exchange, joint study and cooperative training, share best practices of electronic commerce development and implement capacity building among Members and international organizations, to promote the common development of electronic commerce.

3.15. *Electronic Commerce for Development Program*: Members should explore the way to establish an Electronic Commerce for Development Program under the WTO framework to encourage, manage and coordinate the contributions that Members voluntarily provide, with the aim of assisting developing Members, especially LDCs to improve development of electronic commerce and implement WTO rules on electronic commerce.

4 OTHER ISSUES

4.1. Along with the new opportunities provided by electronic commerce, issues such as cyber security, data safety and privacy are increasingly highlighted, bringing unprecedented security risks and regulatory challenges to Members. Members sponsoring the Davos Joint Statement include not only developed Members, but also developing Members and LDCs. They differ in national conditions and development stages, have different challenges and concerns on electronic commerce-related issues. When it comes to the entire WTO membership, the interests are even more diversified. Therefore, to advance the negotiation, differences in Members' respective industry development conditions, historical and cultural traditions as well as legal systems need to be fully understood. Bearing in mind the aforementioned differences, Members should respect each other's design of the electronic commerce development paths, and the legitimate right to adopt regulatory measures in order to achieve reasonable public policy objectives.

4.2. In the exploratory discussions, some Members mentioned digital trade rules, covering issues such as data flow, data storage, treatment of digital products, etc. In light of their complexity and sensitivity, as well as the vastly divergent views among the Members, more exploratory discussions are needed before bringing such issues to the WTO negotiation, so as to allow Members to fully understand their implications and impacts, as well as related challenges and opportunities.

4.3. It's undeniable that trade-related aspects of data flow are of great importance to trade development. However, more importantly, the data flow should be subject to the precondition of security, which concerns each and every Member's core interests. To this end, it is necessary that the data flow orderly in compliance with Members' respective laws and regulations.

4.4. China is willing to develop rules on trade-related aspects of electronic commerce with other Members, starting with issues in line with the common interests of Members, so as to promote the healthy, orderly and sustainable development of global electronic commerce, and to benefit enterprises, consumers and the global economy as a whole.
