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**Council for Trade in Services**

**WORK PROGRAMME ON ELECTRONIC COMMERCE**

**REPORT BY THE CHAIRMAN OF THE COUNCIL FOR TRADE IN SERVICES  
TO THE GENERAL COUNCIL**

1.1. Pursuant to the 2017 Ministerial Decision<sup>1</sup> instructing the General Council to hold periodic reviews of work under the Work Programme on Electronic Commerce in its session of July 2018, the Council for Trade in Services agreed on 30 May 2018 that I should report to the General Council, on my own responsibility.

1.2. The Council for Trade in Services discussed the Work Programme on Electronic Commerce at both of its formal meetings, on 2 March and 30 May 2018, in accordance with the Ministerial mandate to continue the work under the Work Programme and endeavour to reinvigorate work by the Members.

1.3. At the March meeting, delegations generally welcomed the Ministerial Decision on the Work Programme adopted at MC-11 and expressed support for multilateral discussions on e-commerce. Members considered two new non-papers by Chinese Taipei, on cyberspace trade barriers (CTB) and the impact of changes in the digital era.<sup>2</sup> The documents generated considerable discussion, with about twenty delegations intervening. All delegations welcomed the non-papers as being in line with the relevant MC11 Decision and a useful step towards reinvigorating our work.

1.4. Views differed with respect to some of the specific elements contained in the non-papers. Many Members stressed that internal taxation issues and non-trade matters did not belong in the WTO. Others disagreed with the suggestion that Members develop non-binding principles, to identify the scope of legitimate policy objectives that justified CTBs, and to clarify the application of existing WTO rules and commitments related to CTBs. Some of these Members believed this might give the impression that the GATS did not already cover CTBs affecting trade in services. Other Members questioned the document's assertion that landlocked developing countries and SMEs were benefitting more from the internet than developed countries or large multinationals, that the GATS was technologically neutral, and that Members' regulation of cross-border data flows might cause trade concerns, noting that government interventions in this area were motivated by non-trade objectives. Some delegations underscored the need to strike a balance between allowing the free flow of data and ensuring that governments could respond to legitimate public policy concerns.

1.5. Both at the March and May meetings, several Members referred to issues that they felt were relevant for exploratory discussions under the Work Programme. Among the most often mentioned were the applicability of existing WTO rules and commitments to e-commerce, the infrastructural and regulatory challenges limiting developing countries' participation in the digital economy, the fiscal implications of the Moratorium, concerns related to competition and market structure, and questions related to classification, technological neutrality and statistical measurement. A number of delegations believed that, until such issues had been discussed in-depth and clearly understood, any rule-making suggestions were premature, asserting that the Work Programme did not contain a negotiating mandate.

1.6. At the May meeting, the representative of China briefed the Council on a two-week workshop, organized in China in May, on "E-commerce for Development under the Multilateral Trading System". The workshop included thematic discussions and field trips, to enable participants to interact with stakeholders in the e-commerce environment in China. Representatives of several developing and least-developed countries who had participated in the

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<sup>1</sup> Document WT/L/1032.

<sup>2</sup> JOB/SERV/277 and 278, respectively. The documents were submitted to the Council as well as the other relevant bodies entrusted with the Work Programme.

workshop intervened to share their impressions and generally underline the usefulness of the event in bridging the knowledge gap and showcasing aspects of relevance for developing countries. The representative of Pakistan announced that the Friends of E-commerce for Development would be organising, in partnership with China, a joint seminar on e-commerce in Geneva, particularly for the benefit of those delegations which had not attended the workshop in China.

1.7. The representative of India informed the Membership that it was working on submitting papers in the relevant bodies, addressing the issues of the e-commerce Moratorium and technological neutrality; a number of delegations welcomed the announcement.

1.8. The representative of Bangladesh put forward a suggestion for the Secretariat to update its 1998 Note on the treatment of e-commerce in the GATS legal framework.<sup>3</sup> While some delegations supported the suggestion, others sought more time to reflect on the proposal, noting that the GATS had not changed and hence the need for an update was unclear.

1.9. Recalling that, in 2017, the Council had decided in principle to hold a thematic seminar on e-commerce, pending an agreement on the programme, the representative of Chinese Taipei invited the Council to take up the issue once more. Delegations were generally supportive of the Council holding such a seminar and expressed interest in reconsidering the programme for the event.

1.10. With regard to both the suggestion on the Secretariat Note and on the seminar, I encouraged the delegations directly concerned to consult with each other. It was agreed that I would also be in contact with delegations, to find a way forward that would be acceptable to all Members.

1.11. A number of Members expressed concern with regard to the plurilateral initiative on e-commerce being pursued in parallel to the multilateral Work Programme discussions. These delegations said they could not support an approach for which there was no mandate, which had a rule-making objective that ran contrary to the exploratory mandate of the Work Programme and which could lead to the fragmentation of the multilateral trading system. They underscored the Membership's shared responsibility to reinvigorate multilateral discussions under the Work Programme.

1.12. The representative of UNCTAD reported on UNCTAD's E-commerce Week and on-going measurement work and the representative of the ITU informed delegations of the features of the upcoming ITU Global Symposium for Regulators on "New regulatory frontiers".

1.13. The Council for Trade in Services will revert to the Work Programme at its next formal meeting in October.

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<sup>3</sup> Document S/C/W/68.