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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 2019, the Council for Trade in Services agreed on 27 June 2019 that I should report to the General Council, on my own responsibility, regarding work carried out since the most recent report presented in December 2018.<sup>2</sup>

1.2. The Council for Trade in Services discussed the Work Programme on Electronic Commerce at both of its formal meetings, on 21 March and 27 June 2019, 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, China presented information on the provisions on consumer protection and the liability of e-commerce platforms in its new Electronic Commerce Law, which entered into force at the start of 2019. The United States provided information about a year-long initiative between the governments of the United States and of Lao PDR and their respective private sectors on digital economy issues, highlighting the cooperation activities undertaken and the lessons learnt. Lao PDR indicated that the US initiative had been appreciated, and that it had been helpful and timely in light of the e-commerce work ongoing in the WTO. Australia shared information about its "Tech Future" digital economy strategy of December 2018, which illustrated its experience in addressing the opportunities and challenges of e-commerce.

1.4. All delegations that intervened expressed appreciation for the information and experiences shared. One delegation sought additional clarifications on the US-Lao PDR cooperation initiative, while another suggested that a 'needs assessment', similar to the one undertaken for the TFA, be carried out with regard to e-commerce. Many Members called for work under the Work Programme to continue and be intensified, stressing the importance of examining the particular challenges that developing countries and LDCs faced in the digital sphere and highlighting the specific issues that they wished to see addressed. Several Members were of the view that it was premature to consider negotiating rules on e-commerce; one delegation reiterated its serious concerns with the parallel discussions on e-commerce, aimed at rulemaking, under the Joint Statement Initiative (JSI). After expressing support for the one-day workshop on the Moratorium to be held in April, several delegations requested that UNCTAD's Research Paper No. 29 be addressed at the event.

1.5. At the June meeting, the United States introduced a submission on "The Economic Benefits of Cross-Border Data Flows".<sup>3</sup> The US representative indicated that the submission was intended to reinvigorate work under the Work Programme and to complement on-going efforts to reach an ambitious outcome in the JSI negotiations. All delegations that intervened expressed appreciation for the US submission as a welcome contribution to discussions under the Work Programme and given the prominence of the issue it addressed. Several Members said that the communication usefully illustrated the importance of data flows for digital trade and for commercial activities in nearly all economic sectors. A couple of delegations noted that, by enabling the digital economy, data flows contributed to improving the economic participation of under-represented or disadvantaged groups such as MSMEs, women or youths, and a few others observed that, as noted

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

<sup>2</sup> Document S/C/56.

<sup>3</sup> Document S/C/W/382.

in the US submission, obligations were increasingly being placed on companies in relation to data flows.

1.6. A number of Members underscored the point made in the submission about the importance of finding a balance between the free cross-border flow of data and the pursuit of public policy objectives, mentioning, for example, the protection of privacy and personal data, national security, law enforcement, industrial development. Certain delegations expressed the view that the paper focused excessively on the benefits of data flows and did not adequately discuss the complex and diverse risks associated with cross-border data flows. They remarked that the economic benefits of data accrued only to a handful of companies, mostly in developed countries, which enjoyed significant market power and a competitive advantage. Noting that data was a critical asset, these delegations said that data ownership and localisation were crucial for developing countries' economic development. The LDC Group called for discussions to focus on the benefits and costs of e-commerce for LDCs and enumerated a set of challenges that LDCs faced in the digital economy/utilisation of e-commerce.

1.7. Some delegations were supportive of the suggestion in the US submission that international groups having carried out work on the issue of data flows, like the OECD or APEC, be invited to share information and experiences with the Council. Other delegations called for UNCTAD to be invited to contribute as well. One delegation cautioned against the WTO discussing privacy regimes, underscoring that privacy was not a trade issue but a fundamental right.

1.8. Also at the June meeting, several delegations shared experiences and information on matters relevant to the Work Programme. China presented two case studies that demonstrated how e-commerce could help promote industrial development and international trade, contributing to inclusive and sustainable growth. Canada shared information about relevant activities of its Trade Facilitation Office. Egypt gave an overview of its new Consumer Protection Law and presented information about the key areas of priority identified in its e-commerce strategy. New Zealand provided examples of the role of digital technologies and data flows in the agritech and gaming and apps sectors.

1.9. The Council for Trade in Services will revert to the Work Programme at its next formal meeting in 2019.

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