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**General Council
21 November 2013**

WORK PROGRAMME ON ELECTRONIC COMMERCE

DEDICATED DISCUSSIONS UNDER THE AUSPICES OF THE GENERAL COUNCIL

Report to the 21 November 2013 meeting of the General Council

1. At the Eighth Session of the Ministerial Conference in Geneva in December 2011, Ministers adopted a Decision that called, *inter alia*, for continued reinvigoration of work under the Work Programme on Electronic Commerce, based on its existing mandate and guidelines and on the basis of proposals submitted by Members. They instructed the General Council to hold periodic reviews of progress on the Work Programme at 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.¹ They also agreed to maintain the current practice of not imposing customs duties on electronic transmissions until their next session. The present report covers the work undertaken since the 2011 Geneva Ministerial Conference.
2. A number of initiatives under the Work Programme were undertaken in the Council for Trade in Services (CTS). In the course of 2012, discussions focused on submissions by Members namely: by the EU and the US on certain trade related principles to enhance networks and develop E-commerce (S/C/W/338); by the US on trade rules supporting innovative advances in computer application and platforms (S/C/W/339); by Switzerland on E-commerce by small and medium enterprises (S/C/W/345); by the EU focusing on an information and communication technology trade principle relating to authorizations and licences (S/C/W/348); and, by Australia suggesting three further ICT trade principles for consideration (S/C/W/349).
3. In March 2013, the CTS considered a submission by the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu entitled "Protection of Personal Information and the Development of Electronic Commerce" (JOB/SERV/140). Following discussions at various meetings, Members agreed that a public workshop to examine services-related issues for the development of e-commerce be organised under the auspices of the CTS on 17 and 18 June 2013. The workshop featured representatives from international organizations, the private sector, government ministries and regulatory agencies. At the June 2013 meeting of the CTS, Members expressed their satisfaction in particular with the diversity of the presenters, presentations and issues raised, and took the view that the workshop was a positive contribution to the Work Programme.
4. Similarly, a number of initiatives on e-commerce were undertaken in the Committee on Trade and Development (CTD). This was in line with the 2011 Ministerial Decision on E-commerce which had instructed the General Council, *inter alia*, to emphasise and reinvigorate the development dimension in the Work Programme, particularly through the CTD. Following the proposal by Ecuador and Cuba (WT/COMTD/W/189) and the CTD's formal approval, a Workshop on E-Commerce, Development and SMEs was held on 8 and 9 April 2013. Prior to that workshop, the Secretariat had prepared a background document entitled "Electronic Commerce, Development and Small, Medium-Sized Enterprises" (WT/COMTD/W/193). The workshop brought together experts from international organisations, business, civil society and academia and heard personal experiences of representatives from SMEs as well as from

¹ Council for Trade in Goods; Council for Services; Committee on Trade and Development and the Council for TRIPS.

regulators in developing countries and LDCs. A detailed report of the workshop is contained in document WT/COMTD/W/198.

5. Regarding work in the Council for Trade in Goods, several issues were discussed in the course of 2012. These included the moratorium and the importance of keeping the electronic delivery of digital products free of customs duties, the relationship between e-commerce and development and the full participation of developing countries and LDCs in e-commerce as a means to combat poverty. In 2013, Members reiterated their support to the reinvigoration of the Work Programme and welcomed the two workshops held under the auspices of the CTD and the CTS. They welcomed the positive results of these workshops which contributed towards identifying some non-tariff barriers and other elements having an impact on trade in goods.²
6. Since MC8, there was no activity under the Work Programme in the Council for TRIPS.
7. As instructed by Ministers, the General Council reviewed progress on the Work Programme on E-commerce at its meetings in July and December 2012 and in July 2013. In preparation for the General Council meetings, a number of informal meetings were held in 2012 and 2013. During the 2012 informal meetings, some Members stressed the need to have a holistic and coordinated approach on E-commerce given that it was a cross cutting issue covering goods, services and development.
8. The Ninth Dedicated Discussions under the auspices of the General Council relating to the Work Programme on E-commerce took place on 18 July, 25 September (informal) and 18 October 2013. The purpose of the Dedicated Discussion was to consider the current situation of the Work Programme on Electronic Commerce in the context of preparation for the Ninth Ministerial Conference and to prepare a draft text on E-commerce to be forwarded to Ministers by the General Council. At the 18 July meeting, based on the informal consultations held in preparation for that meeting, DDG Singh presented a room document containing a draft working text for the consideration of Members.
9. The draft working text was based on the 2011 Ministerial Decision on E-commerce and Members, overall, agreed that it was a good basis for further work. Delegations noted that compared to previous years, work on e-commerce had been substantively addressed in 2013. In that regard, delegations expressed the need for the text to acknowledge and reflect the positive work done this year in particular the two complementary workshops held under the aegis of the CTD and the CTS. Many delegations noted that the two workshops were complementary and aimed at advancing the WTO's work in the area of E-commerce. Furthermore, delegations underscored the need for the text to reiterate the importance of adhering to the WTO's basic principles in the on-going discussions on e-commerce. They also stressed the need for the Work Programme to continue to examine the trade related aspects of various issues including, enhancing internet connectivity, the growth of mobile telephony, electronically delivered software, cloud computing, the protection of confidential data, privacy and consumer protection.
10. Delegations also emphasised the importance of giving special consideration to the situation of developing countries and to continue to examine opportunities and challenges for access to electronic commerce by micro, small and medium sized enterprises. On the issue of the extension of the moratorium on customs duties on electronic transmissions, some Members wanted a permanent moratorium while others were of the view that the moratorium should be extended up to the next Ministerial Session. A number of informal meetings were held to try to reach consensus on this issue.
11. Throughout the discussions on the draft text, delegations demonstrated a high level of willingness to work towards a consensus text. Many showed flexibility and provided constructive comments and drafting suggestions. During the course of the meetings, Members' views evolved towards greater consensus on the outstanding issues. Members agreed that the following text should be sent to the General Council:

² G/C/53.

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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 Eighth Session of the Ministerial Conference (WT/L/843) to continue the reinvigoration of that work with a view to the adoption of decisions on that subject at its session in 2013,

Decides:

To continue with the positive work under the Work Programme on Electronic Commerce since our last session, based on its existing mandate and guidelines and on the basis of proposals submitted by Members in the respective WTO bodies. In that regard, we instruct the General Council and its relevant bodies to continue substantially invigorating this work, especially under the initiatives taken in relation to commercial issues, development and evolving technology addressed in the discussions and the two complementary workshops held under the auspices of the CTD and CTS on electronic commerce. 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 reiterate the importance of adhering to WTO's basic principles in the on-going discussion on e-commerce including non-discrimination, predictability and transparency. In that regard, the Work Programme should continue to examine the trade related aspects of, *inter alia*, enhancing internet connectivity and access to information and telecommunications technologies and public internet sites, the growth of mobile telephony, electronically delivered software, cloud computing, the protection of confidential data, privacy and consumer protection,

To further reiterate that the Work Programme shall take forward the issues emerging in the discussions and the evolving application of e-commerce to enhance economic/development opportunities, with special consideration of the situation in developing countries, particularly in least-developed country Members and least connected countries. It shall continue to examine opportunities and challenges for access to electronic commerce by micro, small and medium sized enterprises, including small producers and suppliers,

To instruct the General Council to hold periodic reviews in its sessions of July and December 2014 and July 2015, 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,

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 2015.
