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Committee on Trade and Development

CONTRIBUTION BY THE COMMITTEE ON TRADE AND DEVELOPMENT TO THE WTO WORK PROGRAMME ON ELECTRONIC COMMERCE

Communication from the Chairperson

The following communication, dated 13 July 1999, addressed to the Chairperson of the General Council by the Chairperson of the Committee on Trade and Development is circulated to Members.

Pursuant to the understanding reached at the 26th Session of the Committee on Trade and Development, 7-8 July 1999, I am pleased to forward herewith the contribution of the Committee to the Work Programme on Electronic Commerce. This contribution complements my initial communication in an Interim Report on the subject which is contained in the document entitled: "Interim Review of the Progress in the Implementation of the Work Programme on Electronic Commerce" (WT/GC/23). The attached contribution should also be read in conjunction with the relevant Minutes of the Committee (documents WT/COMTD/M/19-26).

The Committee has requested the Secretariat to present proposals as to how it would carry on with future work (beyond the Seattle Ministerial) on the development aspects of e-commerce, as suggested in Section E of the attached document.

ELECTRONIC COMMERCE AND DEVELOPMENT

Progress Report

Points raised in the Committee on Trade and Development

The points listed below have been compiled by the Secretariat from statements made by individual Members during the course of discussions within the CTD. They do not necessarily reflect agreed positions. It is hoped that this compilation of points will be helpful to the General Council in considering developmental aspects of electronic commerce.

It should also be noted that a Seminar on Electronic Commerce and Development, was held at the request of the Committee on 19 February 1999 and attended by participants from WTO Members, observers and the private sector. A summary report by the Secretariat is contained in document WT/COMTD/18.

A. ELECTRONIC COMMERCE AND THE MULTILATERAL TRADING SYSTEM

1. It was generally recognized that electronic commerce has numerous effects on the multilateral trading system. Among the aspects noted by Members were issues such as market access for goods and services, intellectual property rights, customs valuation, application of technical standards and other regulations and Article XX exceptions.

2. In that context, Members felt that the WTO has an important role to play. Some Members stated that stronger organic links and a more coordinated approach should be established among the areas of WTO competence which are of immediate relevance to discussions on electronic commerce. Others stated that the expression of this view was premature until the General Council had fully addressed all issues relating to electronic commerce including its developmental aspects.

3. Aspects of electronic commerce were seen as relevant under a number of the Multilateral Trade Agreements, such as the GATT, the GATS (including the Annex on Basic Telecommunications) the Agreement on Technical Barriers to Trade, and the Agreement on TRIPS. Some Members also referred to plurilateral agreements such as the Agreement on Government Procurement and the ITA.

4. Many Members stressed that the development of e-commerce was irreversible, with a rapid pace of evolution. In this connection, the point was made that the pace of evolution and its technological dynamism was beyond the capacity of many developing countries; it was therefore imperative to address the issue of how developing countries, including the least developed, can benefit effectively from e-commerce.

B. PROSPECTS FOR DEVELOPING COUNTRIES

5. It was recognized that developments in the area of electronic commerce have fundamental effects on the way in which business transactions and trade are carried out. The development perspective was seen as a prerequisite for any discussion on the subject of electronic commerce. It was recognized that, while not all trade problems of developing countries could be solved by e-commerce, electronic commerce could have positive effects on growth and development by

contributing to the efficiency of economic activities and promoting a balanced development of the global economy.

6. Members noted that information technology in general, and e-commerce in particular, could be instrumental in enhancing the participation of developing countries in the multilateral trading system. However, it was emphasised that if the necessary steps were not taken, e-commerce might remain beyond the reach of many developing countries. Narrowing that gap was seen as both important and urgent and would be beneficial to both developed and developing countries alike.

7. Benefits accruing to developing countries from electronic commerce were seen as including: reducing the physical distance between buyers and sellers; reducing the need to maintain establishments abroad, reducing the need for middlemen, and increasing efficiency in public procurement. At the same time, Members emphasised the need to build up capacity in developing countries in order to use effectively the opportunities presented by information technology as a means of conducting and facilitating trade.

8. Members recognized that the development of e-commerce could have varying consequences for the movement of natural persons. Some emphasised benefits that could accrue to developing countries through the exploitation of advantages arising from and through e-commerce, particularly the advancement of skills in a country and overall income benefits. Others emphasised that e-commerce, while it might in some cases substitute for the movement of natural persons, should not be used as a pretext for avoiding liberalization in this important area.

9. A Member noted that electronic commerce may empower less developed countries in the same way it empowers individual consumers with increased bargaining power through greater access to information and the ability to better judge market conditions.

C. CONSTRAINTS FACED BY DEVELOPING COUNTRIES

10. A number of specific challenges were identified as facing developing countries in general, and poorer countries in particular. These included weaknesses in human and physical infrastructure including telecommunications, information technology and financial and fiscal resources.

11. One of the largest problems facing developing countries, especially LDCs, was seen as poor physical infrastructure, most notably weaknesses in energy and telecommunications resources. Generally, advanced telecommunications, including fax and internet facilities, were scarce, concentrated in urban areas, unreliable and expensive. Problems of access to infrastructure and equipment were even more acute in rural areas. There was thus a vital need for infrastructural development in developing countries. The absence of competition laws and policies in many developing countries was seen by some as an impediment to progress in this area. Some Members suggested that such infrastructure needs should be met by private investment, domestic and foreign. Others saw the need to maintain a balance between public and private sector participation and suggested that development assistance funds would complement private sector participation.

12. Some Members emphasised the role of development assistance, including technical assistance, in improving provision of and access to infrastructure, technology and technical know-how, and in empowering developing countries in the area of e-commerce. In this connection, training of human resources was also seen as an essential element.

D. POLICY CHALLENGES AND RESPONSES

General

13. One challenge identified as facing developing countries in relation to electronic commerce was how to create a policy environment that can maximize the benefits of e-commerce without compromising legitimate public policy objectives. Members recognized that enhancing developing countries' interest for and participation in electronic commerce would require concerted efforts at the policy, analytical and technical levels.

14. Many Members stressed the need to establish a conceptual and policy framework, reflecting the interests and specificities of developing countries, in a global framework for electronic commerce.

15. Some Members stated that e-commerce in developing countries would be encouraged by an environment favourable to foreign investment and to competition in their domestic markets, and which would facilitate access to IT goods and services. They expressed the view that appropriate policies to minimize tariff and non-tariff barriers (including duty free treatment of electronic transmissions) as well as a liberal structure of government regulations would assist the process, that investment was attracted by hospitable policy environments where competition led to growth and government rules were minimal, and that participation in the ITA and specific commitments under the GATS could be positive elements. Others, while agreeing with the need for an appropriate macroeconomic and structural framework, emphasised that investment policy was not an issue for the WTO and that, as shown in the Working Group on Trade and Investment, the determinants of foreign investment growth were more complex than this one aspect alone. They also emphasized that access to the relevant technologies at fair and reasonable terms was relevant for the participation of developing countries in electronic commerce. Some also stressed that the structure of taxation was a question of national economic policy. One Member requested a study of the developmental implications of duty free treatment for electronic transmissions.

16. It was noted that aspects of electronic commerce are being addressed in a number of multilateral or plurilateral fora: developmental issues in UNCTAD, legal issues in UNCITRAL, certain issues relating to trade facilitation in the UN/ECE, taxation matters in the OECD, electronic payment systems in the Basel Committee on Banking Supervision, a uniform commercial code in the International Chamber of Commerce, domain names and other relevant aspects of intellectual property protection in WIPO, privacy and security matters in the OECD and APEC, access to infrastructure, telecommunication and issues of inter-operability in ITU and OECD, and technical standards in OECD, ISO and ITU. Members recognized that increased cooperation and coordination among international institutions dealing with issues related to electronic commerce is necessary. Guiding principles should be coherence, transparency, coordination and the avoidance of duplication; however, some also emphasised that sufficient resources should be devoted to the issues to cover the real needs of developing countries.

Human and Physical Infrastructure

17. It was generally recognized that, to enhance the use of e-commerce, developing countries should focus on enhancing physical infrastructure. Assistance from the international community would be required in the development and improvement of human and physical resource requirements for e-commerce and in technology transfer. Some Members emphasised that investment in infrastructure would be encouraged through regimes that guarantee non-discriminatory treatment among investors.

18. A number of Members stated that resolution of the problem of infrastructural shortages for electronic commerce would depend on government participation combined with technical assistance

from and cooperation with the WTO and other international organizations such as the ITU and UNCTAD. They noted that technical assistance should be focused on improving productivity and trade viability.

19. It was also noted that international cooperation would be necessary to facilitate access to information and to the global information infrastructure, to promote the transfer of information technology, to encourage the participation of developing countries in research and development activities and to foster dialogue and partnerships between developing and developed countries, both governmental and private, in the area of electronic commerce.

Laws and Regulations

20. The view was expressed that, to enhance the use of e-commerce, developing countries should proceed with regulatory reform in the telecommunications sector; allow increased private competition in the sector; develop supportive domestic legislation and regulations; ensure low - or zero - duty access for computer and telecommunications equipment; and invest in education, including primary education. It was also stated that developing countries would require assistance in establishing the regulatory framework conducive to the development of the information society and raising awareness in the public and the private sectors of the significance of electronic commerce. Some Members noted that these reform proposals touched on national policy objectives and priorities which should be determined in the light of Governments' own concerns.

21. It was suggested that major trading partners should consider the role that they could play to enable developing countries to benefit from electronic commerce and thus enhance their participation in international trade in goods and services.

22. One Member emphasised the role of promoting market access and competition in order to reduce the price of bandwidth and increase the variety of services relevant to electronic commerce. Governments should not underestimate the potential demand for bandwidth. This Member suggested that evidence showed that Members that had committed themselves to broad market access, a competitive basic telecom regime, and low tariff in IT were reaping the greatest benefits from e-commerce.

23. Other suggestions made included the need to enhance the role of small- and medium sized enterprises in electronic commerce; and the need for internationally compatible approaches to ensure legal security and privacy. Importance should also be attached to the governance of the Internet. In these regards, it would be useful for WTO to cooperate more closely with other international organizations working in these areas, such as UNCITRAL and UNCTAD, and to identify a particular role for WTO.

E. ILLUSTRATIVE LIST OF POINTS FOR WHICH FURTHER STUDY HAS BEEN PROPOSED

24. What human resource development requirements are needed to address the needs of developing countries in e-commerce?

25. Innovative solutions and success stories should be found and documented as case studies.

26. Further work on the issue of infrastructure development should be undertaken. The need and possibilities for technical assistance should be investigated.

27. What will be the effects of e-commerce on modes of supply such as commercial presence and the movement of natural persons?

28. Would unrestricted, unregulated electronic commerce provide increased market access for enterprises in developing countries?
 29. How can developing country enterprises compete in e-commerce? What will be the impact of e-commerce on domestic producers in specific sectors?
 30. How will supply and demand for particular goods and services be affected by electronic commerce on a disaggregated level? What are the substitution effects of e-commerce in trade? What effects will e-commerce have on competition in different sectors?
 31. What are the effects of inter-firm relations in e-commerce?
 32. How will e-commerce affect Members' obligations and commitments in the WTO Agreements?
 33. What impact is electronic commerce likely to have on customs revenue in developing countries? How significant are the duties on particular products traded electronically in specific countries? What is the likely effect of liberalization on revenues? How should fiscal policies relating specifically to customs duties be established in relation to e-commerce?
 34. What would be the relevant approach in the WTO if there is no importation for tariff purposes?
 35. Other issues to be examined further include the treatment of intellectual property protection, including domain names, and regulatory regimes.
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