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E-commerce discussions at the WTO

WCO Permanent Technical Committee

225th/226th Session

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Content

- Origins of discussions at WTO - Definition
 - Work Programme and WTO Bodies
- Joint Statement Initiative

E-commerce at the WTO

Since 1998

- **MC2 – Ministerial Declaration on Global E-Commerce**

- **MC11: - Reinvigoration of the WP + Moratorium
- Joint Statement Initiative**

*“the production, distribution, marketing,
sale or delivery of goods and services by
electronic means”*

WT/L/274 Par. 1.3



Where do discussions on the WP on e-commerce take place in the WTO?

At the General Council and its subsidiary bodies (WT/L/274):



- The **CTG**
- The **CTS**
- **TRIPs** Council
- The **CTD**



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E-Commerce at the CTG

CTG entrusted to **examine and report on aspects of electronic commerce relevant to the provisions of:**

- GATT 1994
- the WTO multilateral trade agreements on goods (Annex 1A of the WTO Agreement)



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GATT and E-commerce

The GATT 1994 is technology-neutral

NO specific provisions in the current rules
concerning **physical products traded electronically.**

GATT rules do not currently allow Members to provide different treatments to goods
based on the manner in which products are sold, purchased or traded.



GATT and E-commerce

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Underlying issue the CTG's discussion:

Characterization of certain **electronic transmissions of products that can be provided in either physical or electronic form**, e.g. books, software, films, magazines, newspapers, etc.

Whether they are **goods** or services **has practical consequences for market-access related issues**

WTO provisions in the goods area would be relevant for electronic transmissions where and insofar as the content of these transmissions could be qualified as goods



GOODS AGREEMENTS (Annex I A of the Marrakesh Agreement)

Technology-neutral

Apply equally to all goods **irrespective of how these were sold, purchased, marketed** (online or offline)

Applies to all goods irrespective of how these were DELIVERED (means of transport)



GOODS AGREEMENTS (Annex I A of the Marrakesh Agreement)

- Agriculture
- Technical Barriers to Trade (TBT)
- Sanitary and Phyto-sanitary (SPS)
- Rules of Origin (ROO)
- Customs Valuation (CVA)
- Import Licensing Procedures (ILPs)
- TRIMs
- Pre-shipment Inspection (PSI)
- Trade Remedies (anti-dumping, Safeguards, Subsidies CV Measures)
- Trade Facilitation Agreement (TFA)
- Others : ITA



ONGOING MULTILATERAL DISCUSSIONS UNDER THE WP

THE MORATORIUM

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- **2018:**
- **Submission by India and South Africa to “rethink” the moratorium**
- **Informal consultations by the GC Chair (Japan)**
- **Informal open ended GC meeting in November 2018**
 - **Revenue implications**
 - **Scope and definitions of e-transmissions**
 - **Technical feasibility of imposing customs duties**
 - **Broader impact of moratorium**



ONGOING MULTILATERAL DISCUSSIONS UNDER THE WP

THE MORATORIUM

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- **2019:**
- **April - Workshop** (with participation of academics, IOs, private sector and Members)
- **June - India and SA submission “The E-commerce Moratorium, Implications for Developing Countries” and Informal open ended GC meeting**
- **July – Progress review**
- **October - Informal open ended GC meeting**
- **Proposal** (Australia, Chile, Colombia, Costa Rica, Georgia, HKC, Iceland, Israel, Mexico, NZ, Norway, Panama, Paraguay, Singapore, Switzerland)
- **December GC meeting**
- **June 2020: MC12 Nour Sultan**



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Joint Statement Initiative on Electronic Commerce

71 WTO Members in BsAs:

Shared the goal of **advancing electronic commerce work** in the WTO in order to better harness these opportunities

Recognized the opportunities and challenges faced by **developing countries, LDCs, and MSMEs**, in relation to **electronic commerce** and the important role of the WTO in promoting **open, transparent, non-discriminatory and predictable regulatory environments in facilitating electronic commerce**

Agreed to **initiate exploratory work** together **toward future WTO negotiations on trade-related aspects of electronic commerce open to all WTO Members** without prejudice to participants' positions on future negotiations

The work will build on WTO rules and without prejudice to existing WTO agreements and mandates



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Joint Statement on E-commerce initiative – Discussions

- 2018 - **Exploratory discussions** towards future WTO negotiations
- **Open to ALL Members** but not all attend
- Co-convened by Australia, Japan and Singapore
- Discussions in 2018 organized under 4 themes/clusters
 - ▶ Enabling digital trade/e-commerce
 - ▶ Openness and digital trade/e-commerce
 - ▶ Trust and digital trade/e-commerce
 - ▶ Cross-cutting issues including development, transparency & cooperation



Joint Statement on E-commerce initiative – Negotiations

- 2019 - **Negotiations** launched during the WEF
- 76 WTO Members - (new Members- China, UAE, Mongolia)
- 80 Members today
- Statement confirms the group's **“intention to commence WTO negotiations”** on e-commerce
- 2 Objectives:
 - ▶ **“will seek to achieve a high standard outcome” ..**
 - ▶ **“with the participation of as many WTO Members as possible”**
- After Davos - Saudi Arabia, Benin, Cote D'Ivoire, Kenya joined



Joint Statement on E-commerce initiative – Negotiations

Ongoing negotiations under **6 focus groups**:

- ▶ **A: Enabling Digital Trade/E-commerce**
- ▶ B: Openness and Digital Trade/E-commerce
- ▶ C: Trust and Digital Trade/E-commerce
- ▶ D: Cross-cutting issues
- ▶ E: Telecommunications
- ▶ F: Market Access



Joint Statement on E-commerce initiative – Negotiations

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Group A - Enabling Digital Trade/E-commerce:

- Customs digital trade facilitation and logistics
- **Facilitating electronic transaction**
- Customs duties on electronic transmissions
 - **Specific issues explored include:**
 - Paperless trading
 - De minimis exemption
 - Improved customs procedures
 - Market access for logistics and delivery services
 - Online payment solutions and security
 - Returns processes
 - E-transactions framework (e-signatures, e-contracts trust services, moratorium, revenue and taxation implications)



Joint Statement on E-commerce initiative – Negotiations 22-25 October 2019

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Group A - Enabling Digital Trade/E-commerce:

- Paperless trading / electronic trade administration documents
- Electronic transferrable records
- Customs procedures
- Improvements to trade policies
- Enhanced trade facilitation
- SW data exchange and system interoperability
- Electronic availability of trade related information
- Use of technology for the release and clearance of goods
- Logistics services



14-27 September 2019	22 – 25 October 2019	19-22 November 2019
<p>Focus Group A: Facilitating electronic transactions</p> <ul style="list-style-type: none"> - Electronic transaction frameworks - E-authentication and e-signatures - Electronic contracts - Electronic invoicing - Facilitation of e-payments 	<p>Focus Group A: Digital trade facilitation and logistics</p> <ul style="list-style-type: none"> - Paperless trading - Electronic transferrable records - Customs procedures - Deminimis 	<p>Focus Group A: Customs duties</p> <ul style="list-style-type: none"> - Customs duties on electronic transmissions
<p>Focus Group B: Non-discrimination and liability</p> <ul style="list-style-type: none"> - Non-discriminatory treatment of digital products - Interactive computer services (limiting non-IP liability for suppliers and users and infringement of persons' rights) 	<p>Focus Group B: Flow of information</p> <ul style="list-style-type: none"> - Cross-border transfer of information by electronic means - Location of computing facilities - Location of financial computing facilities 	<p>Focus Group B: Access to internet and data</p> <ul style="list-style-type: none"> - Open government data - Access to the internet - Access to online platforms/competition
<p>Focus Group C: Consumer protection</p> <ul style="list-style-type: none"> - Online consumer protection <p>Unsolicited commercial electronic messages/spam</p>	<p>Focus Group C: Privacy</p> <ul style="list-style-type: none"> - Protection of personal information/privacy 	<p>Focus Group C: Business trust</p> <ul style="list-style-type: none"> - Source code - ICT products that use cryptography
<p>Focus Group D: Transparency</p> <ul style="list-style-type: none"> - Publication of laws and regulations - Mechanisms for reporting and notifications <p>Focus Group D: Cooperation</p> <p>Cooperation between stakeholders, agencies and international organisations</p>	<p>Focus Group D: Cybersecurity</p> <ul style="list-style-type: none"> - Cybersecurity 	<p>Focus Group D: Capacity building</p> <ul style="list-style-type: none"> - Options for capacity building and technical assistance <p>Focus Group D: Legal issues</p> <ul style="list-style-type: none"> - Exchange of views on legal issues
	<p>Focus Group E: Telecommunications</p> <ul style="list-style-type: none"> - Updating the telecommunications reference paper 	<p>Focus Group F: Market Access</p> <ul style="list-style-type: none"> - Services market access - Goods market access



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The WTO and the WCO

WTO's participation in the meetings of WCO Working Group on E-commerce

WCO's participation in the WTO Global Forum meetings – Sessions related to E-commerce

WCO's active role and participation in meetings with the IOs organized by the WTO on e-commerce issues and activities

WCO participation in the April 2019 workshop on the moratorium

WCO invited to the next work session of the JSI for a side event

High level meetings and visits: WTO's DG and DDGs with the WCO's SG and DSG



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Thank you !