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General Council

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IDEAS TO REINVIGORATE THE WORK PROGRAMME ON ELECTRONIC COMMERCE

COMMUNICATION FROM AUSTRALIA; CANADA; CHILE; COLOMBIA; COSTA RICA; GUATEMALA;
HONG KONG, CHINA; KOREA, REPUBLIC OF; MEXICO; NEW ZEALAND; NORWAY; PERU;
PHILIPPINES; SINGAPORE; SWITZERLAND; SEPARATE CUSTOMS TERRITORY OF TAIWAN,
PENGHU, KINMEN AND MATSU; THAILAND; UNITED KINGDOM; UKRAINE AND URUGUAY.

*Revision**

The following communication, dated 09 December 2022, is being circulated at the request of the above-mentioned delegations.

1 INTRODUCTION

1.1. At the 12th WTO Ministerial Conference, Members adopted a multilateral decision on the extension of the E-Commerce Moratorium and Work Programme.¹ The decision calls for the reinvigoration of the work under the Work Programme on Electronic Commerce, based on the mandate as set out in WT/L/274 and particularly in line with its development dimension; as well as intensifying discussions on the issues specific to the moratorium.

1.2. This decision provides an opportunity for Members to refocus the existing discussions under the General Council to pay specific attention to the trade-related aspects of the development dimension of digital trade. Through this communication, the co-sponsors wish to present possible topics relevant to the development dimension and to the moratorium that Members could discuss in the dedicated e-commerce sessions under the General Council, in support of the implementation of the MC12 Decision. Such discussions would help to deepen understanding of Members' views on key issues, share best practices and increase the overall understanding of relevant trade-related aspects of e-commerce and the moratorium. The global economic recovery will depend on inclusive and sustainable cooperation and collaboration on trade, including digital trade. The co-sponsors are looking forward to engaging constructively and actively on the discussion related to the E-Commerce Work Programme and the Moratorium. The following is presented without prejudice to the respective positions of co-sponsors with regards to the specific issues referred to in the communication.

2 DISCUSSION ON THE DEVELOPMENT DIMENSION OF ELECTRONIC COMMERCE

2.1. The expansion of digital trade has helped reduce the costs of engaging in international trade, facilitated the integration to global value chains (GVCs), and connected a greater number of businesses and consumers globally. More specifically, it has offered the potential to help micro, small, medium enterprises (MSMEs) overcome the challenges of scale and distance, selling products directly to consumers online, and facilitate business-to-business transactions. Thereby, the development of digital trade has presented particular opportunities for those who may have been disadvantaged or under-represented under traditional trading models, including women, indigenous peoples and those in isolated, rural areas. At the same time, the digital transformation of trade is posing various challenges to policy makers to provide conducive and secure digital trade environment, for both businesses and consumers. It is important to recognize that the level of

* This revision is to add Mexico, Philippines and the United Kingdom as co-sponsors to the communication.

¹ WT/MIN(22)/32.

readiness in electronic commerce varies greatly among WTO Members. The COVID-19 pandemic has exacerbated these challenges, particularly for developing Members, including LDCs, and *"has highlighted the crucial importance of the digital economy and the urgent need to bridge the digital divide both within and across countries. The pandemic has accentuated existing questions about the extent to which small producers, sellers and consumers in developing countries, particularly in LDCs, can benefit from the opportunities that e-commerce provides"*.² It has further demonstrated the importance of open and resilient supply chains and a strong rules-based multilateral trading system.

2.2. Trade will continue to play an important role as a driver not just of economic recovery, but also of poverty alleviation. The 2030 Agenda for Sustainable Development recognizes international trade as an engine for inclusive economic growth and poverty reduction, and an important means to achieving the Sustainable Development Goals (SDGs). The WTO is contributing to the delivery of the SDGs and on development more broadly by fostering a rules-based, open, non-discriminatory, transparent, predictable, and equitable multilateral trading system. In that context, the WTO, including through its agreements, plays a key role in supporting developing Members' better integration into the multilateral trading system and in reducing the digital divide.

2.3. The use of digital tools is now prevalent in all sectors of the economy and affects all trade. The impact of WTO rules and commitments, such as the e-commerce moratorium, but also rules contained in other agreements such as the GATS and the TFA, is therefore not limited to a particular sector or subsector of the economy, but rather contributes to an overall enabling environment for trade and economic development.

2.4. The mandate of the Work Programme on E-Commerce offers a suitable framework for Members to exchange views and information on key trade-related aspects of the development dimension of digital trade. Within this framework and in alignment with paragraph 13 of the MC12 Outcome Document,³ attention should also be given to how digital trade can foster opportunities for women's economic empowerment and for MSMEs. Based on interests expressed through consultations as well as past discussions and communications under the Work Programme on E-Commerce, WTO regular bodies and the WTO Aid for Trade Global Review, the discussions under the development dimension could focus around the following thematic areas:

- Reducing trade-related barriers faced by MSMEs and under-represented groups, to strengthen participation in digital trade, particularly in developing Members, including LDCs;
- Best practices on how trade and relevant regulatory measures can enhance digital connectivity and inclusion;
- Best practices on how digitalization can support further trade facilitation;
- Building digital capability and skills to harness digital trade opportunities.

2.5. This list does not constitute an exhaustive list of topics that the co-sponsors could engage on further understanding how digital trade can be a valuable tool for Members' sustainable economic growth. Recognizing other interests expressed by Members, engaging on key elements that contribute to build consumers trust such as online consumer protection, and inviting the WTO secretariat to present on initiatives to bridge the statistical data gap on electronic commerce, particularly for LDCs, could complement the thematic areas proposed in this communication.

3 DISCUSSION ON THE MORATORIUM

3.1. Since 1998, WTO Members have periodically taken decisions to continue their practice of not imposing customs duties on electronic transmissions. This has contributed to ensuring certainty and predictability for businesses and consumers. As Members seek to intensify discussions on the moratorium, the co-sponsors reaffirm the importance of basing these discussions on evidence and facts, including inputs from other relevant international organizations and academia, and continuing to engage in a holistic approach that takes into consideration the economic impact of electronic

² WTO Secretariat Information Note on E-Commerce, Trade and the COVID-19 Pandemic.

³ WT/MIN(22)/24.

transmissions and the non-imposition of customs duties on such transmissions. In this context, the co-sponsors would like to draw Members' attention to the communication "Broadening and Deepening the Discussions on the Moratorium on Imposing Customs Duties on Electronic Transmissions" submitted on 29 June 2020.⁴

3.2. The co-sponsors note that some Members have raised concerns regarding the potential loss of government revenue associated with the digitization of goods and the non-application of customs duties on their cross-border trade. The co-sponsors would welcome further exchanges of best practice among interested Members on specific internal WTO-consistent taxes that are also compatible with the moratorium. Several Members, including through the LDC communication,⁵ have signalled an interest to further understand "the ability [...] to apply internal taxes".

3.3. In this respect, discussions on the moratorium could cover the following areas:

- The impacts of the moratorium, which offer the possibility for Members to share views on its scope and definition;
- Lessons learned from businesses, particularly from MSMEs in developing country Members, including their views on the potential pitfalls of digital regulatory fragmentation;
- Continuation of the exchange of best practices in establishing and implementing internal non-discriminatory, WTO-consistent taxes on electronic transmissions.⁶

4 STRUCTURE OF THE DISCUSSIONS

4.1. The existing discussions under the General Council offer the best structure to explore the horizontal and broad trade-related aspects of the moratorium and digital trade. To enrich discussions based on Members' proposals, various configurations (e.g., workshops, seminars, informal open-ended meetings, etc.) under the GC dedicated sessions should be considered in order to encourage the participation of relevant subject-matter experts, the private sector, and other international organizations. The co-sponsors recognize that the mandated WTO regular bodies under the Work Programme on E-Commerce can complement this dialogue by focusing on specific elements of digital trade relevant to the work of the respective bodies, other than the moratorium.

4.2. Mindful of the objective to intensify the discussion ahead of MC13, the co-sponsors encourage holding dedicated sessions on a quarterly basis, based on Members' submissions, and with sufficient time to allow for proper preparation.

⁴ WT/GC/W/799/Rev.1.

⁵ WT/GC/W/787.

⁶ https://www.wto.org/english/tratop_e/ecom_e/ecom_5july21_e.htm.