

## Introduction to the 1998 WTO Work Programme on E-commerce and Moratorium

- At the Second WTO Ministerial Conference (MC2) in 1998, Ministers adopted a Declaration on Global Electronic Commerce. **The Declaration contained two elements:** a mandate to **establish a Work Programme (WP)** on Electronic Commerce and a **provisional Moratorium** on customs duties on electronic transmissions.
- Adopted in September 1998<sup>1</sup>, the WP instructs Members to **explore the relationship between e-commerce and WTO Agreements**, as well as the economic, financial, and development needs of developing countries.
- Work is conducted under the overall guidance of the General Council (GC) and in the Councils for Services, Goods, and TRIPS, and in the Committee on Trade and Development (CTS, CTG, TRIPS Council and the CTD). Specifically, the **General Council plays a central role**; keeps work under continuous review; considers any issue of a cross-cutting nature; and **examines all aspects concerning the non-imposition of customs duties on electronic transmissions** (the Moratorium).
- Since 1998, Ministers have adopted decisions on the WP. The most recent one was adopted by the GC in December 2019. It calls for the **reinvigoration of the Work Programme** and for **structured discussions on any trade-related topic**, including issues related to the Moratorium. The Decision also extends the Moratorium until MC12 and instructs the General Council to report to MC12.
- Substantive discussions were carried out in the early years of the Work Programme but Members **never reached formal conclusions and the level of engagement decreased over time**. Work has continued in the regular bodies, particularly in the CTS. Some discussions have also taken place in the CTG; the TRIPS Council; and in the CTD, although the level of engagement across the bodies has been uneven. Some delegations have stressed the **need to reinvigorate work**, including to **address development-related concerns** and to focus on the challenges faced by developing countries.
- Following MC11 in 2017, much of the General Council's discussions on the Work Programme were on the moratorium. Specifically, Members broadly focused on the **scope and definition of electronic transmissions**; the **revenue implications** of the Moratorium; the **technical feasibility of imposing customs duties** on electronic transmissions; and the broader **impact of the Moratorium on trade and development**. The discussions were based on Members' submissions as well as studies/reports by various organisations and institutions. To facilitate the discussions, several workshops and informal discussions were organised.
- *MC12 preparations:* Delegations have expressed willingness to deepen discussions particularly given the impact of, and recovery from, the pandemic. However, **views remain divergent on both the Work Programme and the future of the moratorium**. On the moratorium, some Members are questioning its value and raising concerns about the potential revenue losses for developing countries. Other Members attach great value to the moratorium and want to make it permanent or at the very least ensure its renewal until the next ministerial. Given the differences, prior to the postponement of MC12 in 2021, **two separate draft Ministerial decisions were to be forwarded to Ministers for their consideration**.

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<sup>1</sup> <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/L/274.pdf&Open=True>

