

PACIFIC E-COMMERCE TRAINING WORKSHOP: INTRODUCTION TO E-COMMERCE RULE-MAKING : THE WORK ON E-COMMERCE RULES AT THE WTO – 29 March 2022

Presentation Summary – Kim Kappel, Trade Adviser, CSSO¹

Multilateral Track: 1998 Work Programme and Moratorium (MC2)

- Establishes a comprehensive work programme to examine all trade-related issues relating to global electronic commerce. Mandates members to continue current practice of not imposing customs duties on electronic transmissions (Moratorium on E-Transmissions).
- WTO Fora: CTS, CTG, Trips Council, CTD, overseen by General Council

Plurilateral Track: launched MC11, Buenos Aires in 2017: Joint Statement Initiative on Electronic Commerce (JSI)

- 71 members: initiate exploratory work towards future WTO negotiations on trade-related aspects of electronic commerce.

State of Play 2022: Moratorium and Work Programme

- 2X Ministerial Decisions sent to MC12 as at November 2021:
 - Canada, Swiss et al: Extend Moratorium to MC13 + WP
 - India, South Africa and Indonesia: extend WP only
- Contentious: extend moratorium temporarily/extend only WP/ moratorium and WP linked. In members' hands. Political impasse?

State of Play 2022: JSI

- Participants: 86 members (90% world trade)². No Pacific developing country or SID.
- Basis of negotiations: Updated Consolidated Text (September 2021)
- Further streamlining in small groups: 'Clean' text on 7 issues (as at March 2022)
- Joint Convenor's Ministers' Statement – December 2021 (political momentum)
- Fast process until February 2022 and Russia/Ukraine crisis

Specific **Contentious** Issues in the JSI E-commerce Text

- Section A: Enabling E-commerce
- Section B: Openness and E-Commerce (**Data flows v data localisation requirements; Customs Duties on E-Transmissions**)
- Section C: Trust and E-Commerce (**Access to Source Code**)

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² As at 18 March 2022: Albania; Argentina; Australia; Austria; Bahrain, Kingdom of; Belgium; Benin; Brazil; Brunei Darussalam; Bulgaria; Burkina Faso; Cameroon; Canada; Chile; China; Colombia; Costa Rica; Côte d'Ivoire; Croatia; Cyprus; Czech Republic; Denmark; Ecuador; El Salvador; Estonia; Finland; France; Georgia; Germany; Greece; Guatemala; Honduras; Hong Kong, China; Hungary; Iceland; Indonesia; Ireland; Israel; Italy; Japan; Kazakhstan; Kenya; Korea, Republic of; Kuwait, the State of; Lao People's Democratic Republic; Latvia; Liechtenstein; Lithuania; Luxembourg; Malaysia; Malta; Mexico; Moldova, Republic of; Mongolia; Montenegro; Myanmar; Netherlands; New Zealand; Nicaragua; Nigeria; North Macedonia; Norway; Panama; Paraguay; Peru; Philippines; Poland; Portugal; Qatar; Romania; Russian Federation; Saudi Arabia, Kingdom of; Singapore; Slovak Republic; Slovenia; Spain; Sweden; Switzerland; Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; Turkey; Ukraine; United Arab Emirates; United Kingdom; United States; Uruguay.

- Section D: Cross-Cutting Issues (**Development-related issues**)
- Section E: **Telecommunications**
- Section F: **Market Access issues (goods + services)**
- Annex 1: Scope and General Provisions (**Legal Architecture**)

Points for Consideration for Pacific members

- What would be your offensive and defensive interests in the JSI negotiations?
- What are the main digital /e-commerce challenges your economies currently face?
- Have you been able to map the extent of national ministries/agencies/bodies who would potentially be responsible for implementation of these rules?

Overview of TA/CB support provided by CSSO

- Trade Adviser CSSO conducts legal analysis of the provisions of the JSI texts and other trade agreements and provides overview of their implications for your economies, including how new trade rules could potentially impact your e-commerce landscape and development priorities.
- Trade Adviser CSSO project further provides platform for collaboration, informal brainstorming, sharing experiences, lessons learnt and engagement with various stakeholders, including other Commonwealth and WTO members.
- Through the Commonwealth Secretariat in London, support is also provided to conduct national or regional e-commerce readiness assessments; analytical and research support on bridging the digital divide, including on Aid for Digital Trade.