

WORLD TRADE ORGANIZATION

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WORK PROGRAMME ON ELECTRONIC COMMERCE

Objectives for Treatment of Electronic Commerce

Communication from Australia

The following communication, dated 5 July 1999, has been received from the Permanent Mission of Australia with the requested that it be circulated to Members.

Multilateral trade rules should encourage electronic commerce development while discouraging burdensome, trade-restrictive regulation and anticompetitive practices. Australia set out its detailed position on the various elements of the Work Programme in S/C/W/108, of 18/5/99; four broad principles flow from that analysis. Members now need to consider whether and to what extent these principles need to be examined in appraising the work program and preparing for the Seattle ministerial meeting.

Principle 1: That WTO members express support for a minimalist, industry-led regulatory approach.

It is possible to address privacy concerns to ensure protection and respect for personal data, while at the same time avoiding unnecessary burdens to business and trade. Australia supports and encourages self-regulation and would note the need for WTO work to draw on progress in the OECD Working Party on Information Security and Privacy.

Electronic commerce will deliver the expected trade benefits only with widespread, equitable, cost-effective access to the infrastructure supporting electronic transactions. It is important to identify and curb anticompetitive practices that might inhibit e-commerce development. These may occur in packaging and delivery of products and services (including internet services), in access arrangements, in market conduct, and in monopoly or other trade-restrictive situations. For example, current GATS provisions on anticompetitive practices may need to be strengthened to be fully effective in sectors where a few suppliers have substantial market power.

Principle 2: That electronic transmissions remain duty-free.

Australia supports the indefinite extension of the May 1998 Ministerial Decision not to impose customs duties on electronic transmissions. Expanding tariff regimes to cover electronic transmissions would be administratively burdensome, as well as potentially distortionary and discouraging to trade. The costs would outweigh the benefits.

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Principle 3: That existing WTO rules, which are consistently technology-neutral, be applied to electronic commerce as far as possible, thereby obviating the need to classify it as a distinct regulatory domain in international trade.

Electronic commerce is simply another means of transacting commerce and therefore should be subject to the same principles of free and fair trade that apply to all commerce. In the great majority of cases, existing WTO rules cover electronic commerce transactions. Those rules should continue to be applied, as far as possible and for as long as possible. When gaps and limits arise in coverage of the existing rules, practical common-sense approaches should be adopted to address those specific issues.

Australia encourages members to support the UN Commission on International Trade Law's Model Law on e-commerce. Draft Australian legislation to facilitate electronic transactions is consistent with UNCITRAL's model law and is based on two principles: functional equivalence (media neutrality) and technological neutrality, providing in both cases equal treatment under the law, regardless of whether transactions are conducted electronically or not.

In order to overcome structural and cost impediments to electronic commerce development, WTO members should give priority to reaching agreement on the nature of the internet data services (as an important element of e-commerce) and on the applicability of GATS rules to these services.

Principle 4: That the WTO assist developing countries to take advantage of the potential of e-commerce as a trade facilitation tool, devoting particular attention to development of and access to infrastructure; access to technology; technical assistance; and trade policies/commitments relating to services, investment, and tariff and nontariff measures.

A number of developing countries are already effectively using e-commerce to develop new trade opportunities. These cases need to be highlighted and lessons drawn from them.

In addition, implementing the package of tariff reductions negotiated in the ITA would immediately benefit electronic commerce, as this package is designed to help develop competitive domestic information technology industries.
