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**General Council
Council for Trade in Goods
Council for Trade in Services
Committee on Trade and Development**

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E-COMMERCE ELEMENTS FOR MC11

COMMUNICATION FROM CHINA

The following communication, dated 18 October 2017, is being circulated at the request of the delegation of China.

WTO Members, based on the existing mandate, have conducted lively and valuable discussions on e-commerce under the auspices of the General Council and its relevant subsidiary bodies since MC10. Members generally recognize the importance of such discussions under the WTO framework, and acknowledge both the opportunities and challenges incurred from e-commerce for the trade growth and economic progress of Members at different development stages.

On the basis of these discussions, we believe a pragmatic way of the preparations leading up to MC11 is to identify the elements acceptable to Members. These elements may be reflected in the MC11 Work Programme on Electronic Commerce as key building blocks in our work beyond for a high-priority discussion in the Dedicated Session of the General Council or a body to be agreed upon by all Members. We believe that this will help the WTO maintain its relevance and respond to the calls from the business communities. We therefore call upon Members to take a constructive attitude and strive to build consensus related to e-commerce at MC11 and beyond. Those specific elements that may be positively considered are as follows:

1 ON THE MORATORIUM OF CUSTOMS DUTIES ON ELECTRONIC TRANSMISSIONS

1.1. E-commerce has provided the WTO Members with brand new ways of trade and unprecedented business opportunities, particularly for developing Members, the micro, small and medium-sized enterprises (MSMEs) and vulnerable groups. With a view to making full use of the convenience that e-commerce brings, and enabling inclusive development of trade, also having in mind the uncertainty of future technological development as well as its influence, Members **may** decide to maintain the practice of not imposing customs duties on electronic transmissions until the next session of the Ministerial Conference to be held in 2019.

2 FACILITATING CROSS-BORDER E-COMMERCE

2.1. Along with the rapid development of e-commerce globally, transaction parties located in different customs territories increasingly conclude transactions through electronic means, and then complete payment, logistics and other business processes. E-commerce is now changing the way of trade in goods. In reality, free zones and customs warehouses and other good practices facilitating cross-border e-commerce have played a key role in promoting the development of industries. Members' successful experiences in this regard **may** be summarized at MC11 for reference by other Members to promote the latter's development of e-commerce and better achieve the goals of inclusive growth in accordance with their individual circumstances.

2.2. Based on the experiences of some WTO Members like China, the facilitating role of free zones and customs warehouses as defined in the Specific Annex D of International Convention on the

Simplification and Harmonization of Customs Procedures, or Kyoto Convention of the World Customs Organization (WCO), **may** be explored in depth.

2.3. The facilitating role of free zones and customs warehouses is first and foremost reflected in that relevant goods are permitted to be stored, unpacked and grouped, collected for repacking, and repacked in the free zones and customs warehouses at the importing destinations; then go through the importing procedures including customs declaration, tariffs and internal tax payment in accordance with the electronically-placed transaction orders, and from free zones and customs warehouses, eventually get transported and delivered to the buyer. Such free zones and customs warehouses may also locate in a third territory other than the importing or exporting one, to offer the same facilitation as mentioned above to relevant goods.

2.4. Such facilitation may also include permitting relevant goods to be stored, unpacked and grouped, collected for repacking, and repacked in the free zones and customs warehouses at the exporting source, and complete in due course the exporting procedures including export declaration, export tax rebate and etc.; then in accordance with the electronically-placed transaction orders and upon completion of the importing procedures including customs clearance, tariffs and internal tax payment, get transported and delivered to the importing destination, and finally reach the buyer.

2.5. Bringing into play the role of free zones and customs warehouses in facilitating the operation of cross-border e-commerce can not only save time for cross-border logistics and delivery to cut costs, improve e-commerce customer experience, and enhance the transaction efficiency of both sellers and buyers, but also make the job of regulatory authorities easier, by reducing the administrative costs and raising the administrative efficiency in the regulation of relevant goods.

2.6. It is worth noting that making use of free zones and customs warehouses to facilitate the operation of cross-border e-commerce is without prejudice to the Members' existing trade policies, the regulatory framework and implementation, namely policies of tariffs and related internal taxes, export tax refund, and licensing of various kinds in relation to import and export.

2.7. With regard to the facilitating functions of free zones and customs warehouses, Members **may** also share the status of relevant domestic legislations or offer summary-type introductory materials, the content of which may include but not be limited to the definition and categories, establishment and closure, administration and regulation of free zones and customs warehouses, and authorized operations as well as the period of storage therein and etc.

2.8. Members **may** discuss the capacity building of developing Members in the context of policies of free zones and customs warehouses as well as their relationship with the development of e-commerce.

2.9. Members **may** request the WTO Secretariat to assist in understanding and drawing upon the relevant work of the WCO, and build a cooperative relationship with it if necessary.

2.10. Members **may** explore more concrete issues relating to the facilitation of e-commerce based on the stipulation of the Kyoto Convention regarding free zones and customs warehouses, summarize and share more experiences with one another to better serve the objective of promoting inclusive trade and development through e-commerce.

3 PROMOTING PAPERLESS TRADING

3.1. The development of e-commerce has further promoted paperless trading. With improved transaction efficiency, reduced transaction costs and saved resources as its greatest advantage, paperless trading represents the development trend of international trade under the new circumstances.

3.2. Members **may** endeavor to promote paperless trading to the extent possible, and in particular, explore in the implementation of Trade Facilitation Agreement (TFA) effective ways and means to encourage the development of e-commerce, including the possibility of accepting trade administration documents submitted electronically as with the same legal effect of their paper versions, and make trade administration documents available to the public in electronic form.

4 ELECTRONIC SIGNATURE, ELECTRONIC AUTHENTICATION AND ELECTRONIC CONTRACTS

4.1. The recognition and standardization of electronic signature, electronic authentication and electronic contracts help promote the rapid development of electronic transactions, and safeguard the security of electronic transactions.

4.2. Members **may**, building on the existing work of United Nations Commission on International Trade Law (UNCITRAL), maintain domestic legislation for electronic signature that would not deny the legal validity of a signature solely on the basis that the signature is in electronic form; permit parties of an electronic transaction to mutually determine the appropriate electronic signature and authentication method, and permit electronic authentication agencies to have the opportunity to prove to the judicial or administrative authorities that their electronic authentication of an electronic transaction complies with legal requirements with respect to electronic authentication; confirm the legality of contracts concluded through electronic signatures from the legal perspective. If the parties enter into a contract in the form of letter or text in electronic data, a confirmation instrument may be required to be signed prior to the forming of a contract. The contract is formed at the time when the confirmation instrument is signed.

4.3. Members **may** also exchange information on policies concerning electronic signature, electronic authentication and electronic contracts, and work towards the mutual recognition of digital certificates and electronic signatures; and encourage the use of digital certificates in the business sector.

5 TRANSPARENCY

5.1. With a view to better understanding each other's policies related to e-commerce and their changes, and promoting the development of e-commerce as well as the realization of goals concerning inclusive growth, Members **may**, on top of the existing transparency requirements in the WTO agreement, endeavor to enhance the transparency regarding e-commerce policies, including to publish, or otherwise promptly make publicly available, where publication is not practicable, laws and regulations of general application which pertain to or affect the operation of E-commerce; provide, to the extent possible, the original text of such laws and regulations as well as where they are published to the WTO Secretariat; respond, to the extent possible, to reasonable enquiries from other Members regarding facilitating cross-border e-commerce through enquiry point(s) established and maintained under the Trade Facilitation Agreement or other existing enquiry point(s).

6 DEVELOPMENT AND CO-OPERATION

6.1. The WTO work on e-commerce should reflect the concept of inclusive trade, and earnestly help MSMEs and vulnerable groups to better participate in and benefit from international trade and global value chains. Many Members' experiences of e-commerce development have proven that e-commerce is conducive to development and helps small farmers and MSMEs in remote areas to integrate into the vast domestic and international markets. The e-commerce work at the WTO should take into full account the actual situation of Members at different stages of development, in particular the specific demands of developing and least developed Members, strive to solve the problems of development to their general concern, and enhance the ability of developing Members to benefit from e-commerce, and take the principle of special and differential treatment as an integral part. Considering the WTO's functions, Members **may** further explore specific consensus on development and cooperation. Members' concrete opinions and recommendations are welcome, including the work that can be carried out under the Aid for Trade Program of the WTO.

6.2. Recommendations and practical measures **may** be taken to improve the e-commerce infrastructure, technical conditions and capacity building of developing members regarding cross-border e-commerce. Cooperative activities like information exchange, joint study, promotion events and training **may** be conducted, including the sharing of experience in helping MSMEs, economically under-developed areas and vulnerable groups to participate in e-commerce.
