

WORLD TRADE ORGANIZATION

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PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

WTO Work Programme on Electronic Commerce

Communication from the European Communities and their Member States

The following communication, previously circulated informally to the Council for Trade in Services, is being circulated formally to the General Council at the request of the Permanent Delegation of the European Commission.

The attached is submitted as a contribution to the ongoing WTO work programme on electronic commerce, and which is intended to lead to recommendations to be submitted by the General Council to the Third WTO Ministerial Conference. The list of principles is to assist discussions by Members and is in no way intended to be an exhaustive list.

**POSSIBLE LIST OF TRADE PRINCIPLES ON ELECTRONIC COMMERCE
(WTO Work Programme on Electronic Commerce)**

WTO Members agree¹ that:

1. Electronic commerce involves two types of deliveries:
 - goods delivered physically, -while ordered electronically, which fall within the scope of the GATT;
 - electronic deliveries, which consist of services and therefore fall within the scope of the GATS.
2. All GATS provisions, whether relating to general obligations (e.g. MFN, transparency, domestic regulation, competition, payments and transfer, etc.) or specific commitments (Market Access, National Treatment or Additional Commitments) and general exceptions to the GATS (Article XIV) are applicable to electronic deliveries.
3. According to the principle of technological neutrality of the GATS, specific commitments are undertaken when a service is listed in a schedule, irrespective of the technology used to provide it, unless otherwise specified. The likeness of 'like services' for the purposes of the application of the GATS MFN and national treatment obligations does not depend on whether the services are delivered electronically or not.
4. All GATS modes of supply are potentially applicable to electronic deliveries.
5. Internet access and network services are telecommunication services. The obligations of the GATS Telecoms Annex on 'access to and use of' public telecommunications networks and services apply to internet access and internet network services. The provisions of the GATS Reference Paper on Basic Telecommunications on interconnection apply to the major providers of telecommunication services over the internet and to major suppliers of internet access and network services.
6. Appropriate measures shall be maintained by Members for the purpose of preventing suppliers of internet access, internet network and internet certification services who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.
7. Domestic regulation on the electronic means of delivery needs to be in accordance with Article VI of the GATS. Regulatory measures on the electronic means of delivery could be justified on the basis of specific public policy objectives to be defined.
8. There is a need to enhance the participation of developing countries in electronic commerce, in particular by improving and facilitating access to telecommunications services by the users in these countries, including by SMEs. Thus, technical assistance programmes should be provided in a coordinated and transparent manner.
9. The current practice of not imposing custom duties on electronic transmissions shall be maintained.

¹ This list of principles is by no means exhaustive. For example, additional principles may be needed in relation to intellectual property, new services and modes of supply services.