



CIVIL SOCIETY DIALOGUE

MEETING ON

WTO NEGOTIATIONS ON E-COMMERCE

Date: 13 February 2019

Time: 14.30-16.00

Location: Charlemagne Building, room Lord Jenkins, 170 Rue de la Loi, Brussels

Lead speakers

Head of Unit, Services, DG Trade

Trade Negotiators, Services, DG Trade

Panel Presentation

The Commission updated the Civil Society about the WTO negotiations on e-commerce that were launched on 25 January 2019 by the EU and 48 other WTO Members. This announcement came after one year of detailed exploratory work towards WTO negotiations on e-commerce in the context of the e-commerce joint statement initiative (that was launched in Buenos Aires in the margins of MC11 and, at that time, was supported by the EU and 42 other WTO Members).

The Commission informed the participants about the next steps, its expectations on the future negotiating process, the scope of negotiations and the EU priorities.

Discussion Highlights / Questions and Replies

The **International Trade Union Confederation (ITUC)** asked why the EU is leading this process, given that there are very few big EU companies in digital trade, and whether participating Members will retain right to regulate, including on labour and taxation matters. The **European Economic and Social Committee (EESC)** asked if licensing procedures will be covered. The **European Multichannel and Online Trade Association (EMOTA)** and **European Services Forum (ESF)** noted that e-commerce does not only concern big companies but also millions of EU SMEs.

The **Commission** stressed that the EU is one of the largest digital trade exporters in the world. It also stated that labour or taxation issues are not part of WTO e-commerce negotiations. The aim is rather to ensure that non-discrimination principles apply to digital trade. The Commission also informed that negotiations on Domestic Regulation in services are separate from those on e-commerce and are much more advanced.

The **ITUC** and the **Confederation of the German Textile and Fashion Industry** also inquired about the availability of statistics regarding the share of the e-commerce generated in the EU and the impact on growth and jobs respectively.

The **Commission** said that trade in services is overall difficult to quantify and agreed that there is lack of comprehensive/comparable data on electronic transactions.

The **EESC** asked further clarifications on the definition of e-commerce stressing that it can potentially encompass a vast amount of activities. **Wikimedia** asked whether the e-commerce directive will be covered in future negotiations. **IFPI (Representing recording industry worldwide)** inquired if e-signature would only apply to private contracts or also in litigation instances and stressed that the e-commerce negotiations should not affect the intellectual property (TRIPS) agreement.

The **Commission** replied that e-commerce is interpreted in a broad sense (and that the EU uses e-commerce and digital trade as synonyms) and any e-commerce trade related issue could be brought in the scope of negotiations, subject to proposals by Members. The Commission also confirmed that Members may engage in negotiations on some of the issues that are internally covered in the e-commerce Directive and that the Commission's position would be in line with the EU acquis. The Commission also clarified that potential WTO rules on e-signature (and possibly other electronic trust services) would aim at ensuring that these services are not discriminated just because of their electronic form. However, WTO rules would not oblige WTO Members to only use electronic documents, especially in administrative procedures. The Commission confirmed that there is no intention to modify TRIPS.

The **EESC, EMOTA, ESF, Orgalime (Europe's Technology Industries)** and **ITUC** raised questions regarding data flows and privacy, including on the position that the EU will take during the negotiations on these matters. ACT Alliance Advocacy to the EU asked if negotiations will address the ownership of data.

The Commission noted that the EU approach on data flows in the WTO negotiations is still to be defined, while stressing that personal data protection is a fundamental right in the EU and, from the EU perspective, should not be negotiated in trade agreements. The Commission recalled that the EU approach on data flows/data localisation – currently used in bilateral trade negotiations - is publicly available. Regarding the application of the GDPR, the Commission noted that when EU data moves, the protection guaranteed by the GDPR accompanies the data. The Commission noted that the question of data ownership has not been put on the table in the exploratory talks.

EESC, EMOTA and **ESF** asked about the EU position on potential negotiations of rules applying to telecommunication services. The Commission explained that the EU has a strong interest in upgrading/strengthening the WTO provisions applying to this sector and that this will be reflected in the EU negotiating proposal.

EESC, EMOTA, IFPI and **European Digital Rights (EDRi)** asked further clarifications on what is meant by "open internet access". The **Commission** replied that this is the term used in the EU and is generally a synonym to net neutrality.

ESF asked about the timeline of negotiations and if negotiations would be part of the WTO. The **Commission** explained that the negotiations are only now starting and that there is no specific timeline. It also said that the negotiations will take place amongst interested participants but within the WTO.

ACT ALLIANCE EU suggested that these negotiations could pose risks for DCs and LDCs, while the **Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)** argued that the e-commerce negotiations could provide important economic opportunities for DCs and LDCs and hoped that more developing countries would join.

The **Commission** stated that the group of countries already participating in the negotiations is diverse; that future negotiations have the potential to be broad and could therefore include issues of interest for all Members. The Commission also underlined that it does not expect that every participating Member would be taking fully identical commitments and stressed that flexibilities will be indispensable.

Finally, **ITUC** and **EESC** requested that civil society remains actively involved in these negotiations while the latter also inquired whether negotiating proposals will be published.

The **Commission** confirmed that engagement with civil society is crucial, that civil society dialogues will continue and that EU negotiating proposals will be published. The Commission, however, noted that it could not commit to impose the same transparency approach on other WTO Members.