

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Electronic Commerce

Communication from Japan

The following communication, dated 13 July 1999, has been received from the Permanent Mission of Japan.

Proposal

1. A free trading environment, avoiding unnecessary regulations, should be developed so that the benefits of electronic commerce can be fully realized.
2. Discussions on issues relating to the development of such an environment, which could include developing international rules, should continue under the auspices of the General Council. Treatment of the issues for the next round of negotiations should be examined in this process by the time of the Seattle Ministerial Conference. Such discussion process should also account for the opinions of business communities and experts. It is also necessary to streamline the relationship between work in the WTO and the work being carried out in other international organizations, such as the UNCITRAL and the OECD.
3. With respect to the treatment of digital contents transmitted electronically, it is appropriate to examine the issue further so that the principles stipulated under the GATT, namely the most-favoured-nation treatment, national treatment and the general elimination of quantitative restrictions, can be applied to such contents.
4. When discussing this issue from a legal and technical point of view, Members should maintain the current practice of not imposing customs duties on electronic transmissions. Developed countries should extend cooperation toward the smooth participation of developing countries in electronic commerce-related markets through, for example, the provision of relevant information.
5. Measures for privacy and consumer protection, etc., have legitimate policy objectives in themselves. However, a balanced approach is important in order to ensure that such measures do not develop into unnecessary regulations in view of developing a free trading environment.

Background

6. The rapid development of the Internet and other kinds of information technology has led to an explosive increase in commercial activities using digital networks (electronic commerce) for orders, settlements and the distribution of goods and services. In Japan, ¥8.6 trillion was produced in

business-to-business transactions in 1998 and is forecast to boom to ¥68 trillion by the year 2003. Business-to-consumer transactions are also expected to grow from ¥65 billion to ¥1.16 trillion over the same period, actually increasing by as much as 48 times. This area, therefore, nurtures enormous market potential.

7. Electronic commerce also has the following three main merits:

- (a) by directly linking producers and consumers, it reduces the various costs entailed by such factors as distribution, and thereby facilitates cross-border transactions;
- (b) entrepreneurs with original ideas have a chance to realize substantial profits, while avoiding heavy production costs;
- (c) as a company's clients are Internet users spreading across the globe, markets are not restricted to within national borders, but rather expand world-wide.

8. While electronic commerce is an area that has been growing rapidly over a brief period of time, countries are still exploring what laws should be applied to such transactions. A free trading environment, without unnecessary regulations, should be developed so that the benefits of electronic commerce can be fully realized.

9. Fora such as the WTO, the UNCITRAL and the OECD have been engaged in initial considerations on international rules that shall serve as a framework for government measures. Active considerations on the various aspects of electronic commerce have been undertaken at the WTO in the Council for Trade in Goods, the Council for Trade in Services, the Council for TRIPS and the Committee on Trade and Development, and those bodies shall be submitting reports to the General Council by the end of July. It is our observation, however, that issues have yet to be structured from a more integrated perspective.

10. For example, Japan agrees that the GATS disciplines should be applied to the acts of supplying digital contents by electronic means. However, as it is not entirely clear what disciplines should be applied to the digital contents themselves, for example, software, further consideration is needed. Such consideration should be directed so that the GATT principles of the most-favoured-nation treatment, national treatment and the general elimination of quantitative restrictions will apply to such digital contents.

11. It is desirable that the WTO Members continue their current practice of not imposing customs duties on electronic transmissions while Members discuss this issue from a legal and technical point of view. Such discussions should cover the treatment of electronic transmissions in the WTO Agreement.

12. Furthermore, in considering the need for the formulation of international rules in the WTO and the scope thereof, the relationship between the work under the WTO and the considerations being undertaken by other bodies such as the UNCITRAL and the OECD needs to be streamlined.

13. Drawing from the reports, which are scheduled to be submitted in July to the General Council from the Council for Trade in Goods, the Council for Trade in Services, the Council for TRIPS and the Committee on Trade and Development, efforts should be made during the lead-up period to the Seattle Ministerial Conference to identify issues, e.g. from those listed in paragraphs 10 to 12, and to reach conclusions on the treatment of such issues related to the development of an appropriate environment for electronic commerce.

14. Developed countries should cooperate toward the smooth participation of developing countries in electronic commerce-related markets through, for example, the provision of relevant information.
