

GLOBAL BUSINESS DIALOGUE ON ELECTRONIC COMMERCE



TRADE

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Introduction

There are two powerful and related trends that are fundamentally reshaping the global economy: the exponential growth in Internet connectivity, fueled by the widespread dispersion of information technology, and the growth in electronic commerce as a channel for conducting international business. While this technological transformation is creating a Networked World that promises enormous potential benefits, it raises complex issues relative to existing international trade frameworks. These issues must be resolved through global cooperation that remains focused on the goal of expanding free trade to ensure that the benefits of electronic commerce are not diminished or delayed.

As recently as 1994, three million people, mostly in the United States, were connected to the Internet. Today, more than 300 million people around the world — over half of them outside North America — utilize the Internet, and usage is growing exponentially.

By 2005 it is expected that one billion people will be connected to the Internet, more than 75 percent of them outside North America. At about the same time, online business-to-business commerce will exceed seven trillion dollars annually.

Most experts agree that we are at the very beginning of the Internet revolution and the emergence of an increasingly networked global economy.

Faster, less expensive and smaller computers, appliances and intelligent devices, combined with expanding communications capabilities, are enabling more people and institutions to connect to the network. Current barriers to human interaction and commerce, such as time and distance, are being diminished by technology, allowing the emergence of a seamless, global marketplace for goods, services and ideas.

There are few technological barriers to realizing this vision. However, Internet-based electronic commerce will not meet its full promise unless industry and governments work in cooperation to create a policy framework that reflects what technology has made possible. Trade policy is an important case in point.

The Policy Environment

Today's international trade regime is rooted in traditional notions of physical borders and, until the mid-1990's, was directed mostly at trade in physical goods. The General Agreement on Tariffs and Trade (GATT) dates to 1947 and was focused largely on reducing tariffs on trade in goods. With the growing importance of trade in intellectual property and services, the global community in 1995 created the World Trade Organization (WTO) as the successor body to the GATT, including new bodies on Trade Related Aspects of Intellectual Property (TRIPS) and the General Agreement on Trade in Services (GATS) in addition to the GATT.

The main purpose of the WTO is to promote the free flow of international trade. Trade liberalization brings many benefits: lower prices for consumers and businesses, greater

choice of products and services, accelerated economic growth, and increased standard of living. Furthermore, evidence that free trade helps to reduce poverty was provided in two recent reports from the World Bank and the WTO.⁶ Electronic commerce offers the potential to facilitate trade liberalization and accelerate economic growth, thereby enhancing the ability to bring the benefits of free trade to the greatest number of people, including those in developing countries.

The Seattle Ministerial meeting of the World Trade Organization was to have launched a new round of multilateral trade negotiations, including a work program to examine the growth of the Internet and electronic commerce and to understand their ramifications for the world's trade rules. WTO delegates also were set to consider extension of the 1998 moratorium on duties applied to "electronic transmissions" over the Internet. The e-commerce work program and extension of the moratorium enjoyed broad support among industry and governments and was a non-controversial portion of the issues under discussion in Seattle.

Notwithstanding the failure to launch a new round, there was a pre-existing commitment to relaunch services negotiations in 2000, and that work formally began in March of this year. The objective of this new round of services negotiations is to broaden and deepen market access commitments in the GATS and to strengthen its rules and principles.

GBDe Trade Agenda for E-Commerce

The GBDe believes that development of a trade regime for e-commerce should proceed on a two-tiered track: services liberalization and an e-commerce work program.

Services trade liberalization and regulatory reform are essential to the continued growth of electronic commerce, both business-to-consumer and business-to-business. While the supply of services across borders is not new, the Internet makes cross-border provision of services far more feasible than was previously true, both for large multinational firms and for small and medium sized businesses. This is just one example of how e-commerce fundamentally changes international trade, and it is essential that trade agreements recognize and accept these changes to continue to promote trade liberalization.

Further, even when a transaction involves the sale of a physical good, the cross-border provision of certain services -- advertising, financial services, communication services, distribution and express delivery services -- are essential elements in concluding a transaction.

While limited in scope, the services negotiations offer an excellent opportunity for the WTO to begin work on electronic commerce and to realize both market access and rules-based commitments that will enhance the growth of online trade.

⁶ WTO Special Study No. 5: "Trade, Income Disparity and Poverty," by Dan Ben-David and L. Alan Winters; "Growth is Good for the Poor," by David Dollar and Art Kray, World Bank.

Therefore, the GBDe believes a cross-sector initiative within the current services negotiation offers an important opportunity to further the growth of electronic commerce.

The WTO also needs to set up a horizontal working group on e-commerce as soon as possible in order to get a broad understanding of how this new medium will affect all forms of global trade. Such a working group should address near-term issues, such as extending the moratorium on customs duties for online sales. However, it also should address longer-term issues, such as how to ensure that domestic regulations are least trade restrictive, nondiscriminatory, transparent and promote an open market environment, and how to appropriately classify electronic commerce for trade purposes.

Services Agenda

The GBDe supports an e-commerce initiative within the current services negotiations. Such an initiative should include:

A package of cross-sector commitments that would provide national treatment and expanded market access. Specific focus should be given to sectors that are critical to initiating and completing an e-commerce transaction for both business-to-business and business-to-consumer e-commerce. Creating a truly global environment that facilitates the growth of e-commerce requires the removal of barriers to market access across every aspect of the e-commerce “value chain,” including all forms of commercial communications (advertising, sales promotion, direct marketing etc), business services, computer, data processing and software services, content related services, communication services, express delivery services, distribution services and financial services.

In addition to enabling an e-commerce transaction through a package of cross-sector commitments, individual services sectors should also pursue liberalization commitments to enable services that can be delivered electronically to benefit fully from e-commerce.

Full implementation of the Agreement on Basic Telecommunications, including the associated Reference Paper, both by countries that have already signed this agreement and by countries that have not. Competition among network providers, including a variety of communication platforms (wireline, cable, terrestrial wireless, satellite, etc.), is the most effective way to speed deployment of broadband networks, make these services affordable, and encourage innovation. Telecommunications liberalization is an essential step in enabling competition.

Recognition that all existing GATS commitments apply to transactions conducted via electronic commerce. Further, WTO members should agree not to raise new barriers to e-commerce during the course of the new services negotiations.

Mode 1 (cross-border delivery) and Mode 2 (consumption abroad) commitments should be increased and made consistent to expand e-commerce trade opportunities while avoiding confusion over which mode of delivery should apply.

E-Commerce Work Program

The GBDe also supports an e-commerce work program within the WTO. The work program should address the trade-related implications of e-commerce, specifically:

Confirm official implementation of the extension of the 1998 moratorium on duties applied to electronic transmission over the Internet.

Relaunch the negotiation of ITA II (Information Technology Agreement II), which is a commitment to duty-free treatment of a number of important IT products. The success of ITA II will enable e-commerce to develop in the global market.

Enable unrestricted cross-border provision of services via e-commerce in areas where market access commitments are not sufficiently liberal. Such services include legal, medical, educational, advertising and travel and tourism, among others.

Ensure that legitimate domestic regulations in areas that affect e-commerce follow the principles of transparency, nondiscrimination, and least trade restrictive means.

Seek international consensus on the classification of digital goods and services. Classification has been particularly divisive because some products can be delivered both online and in physical form (e.g., music, video, software). This issue should be resolved after careful consideration of the facts and in a manner that does not effectively favor one form of delivery over another.

Ensure that WTO members understand the critical role of competition among network providers, the need for investment in broadband technologies, and the importance of telecommunications liberalization, including access to the local loop, in enabling e-commerce.

- Ensure that none of the existing benefits of the current WTO disciplines are lost in the e-commerce environment. Particular attention should be given to ensuring that intellectual property rights in goods and services traded on the Internet are afforded adequate levels of protection and enforcement by WTO members in accordance with the terms of the TRIPs Agreement and the WIPO Treaties. All WTO member countries should implement and enforce TRIPs fully, faithfully and promptly. Countries seeking accession to the WTO should be encouraged to bring their enforcement regimes into compliance with WTO TRIPs standards.
- Enable broad, unrestricted Mode 1 and Mode 2 commitments for all services that can be delivered electronically. The Internet greatly facilitates international trade in services, potentially providing tremendous benefits to consumers. WTO members should look for ways to take advantage of this technology to promote further liberalization, especially in sectors that today are highly regulated.
- Consider appropriate means to provide technical assistance to developing nations in establishing an appropriate policy and regulatory environment to promote trade in, and enjoy the benefits of, electronic commerce.

Conclusion

The GBDe believes that WTO activity in the area of e-commerce should be tightly focused and strictly trade related. While the emergence of e-commerce has raised a number of public policy issues — privacy, security, taxation, consumer protection, appropriate legal framework, competition policy, investment, business method patents — most are being addressed at either a national or multilateral level. Further work should go forward in those venues to ensure that any domestic legislation or regulation is the least trade restrictive possible, nondiscriminatory, transparent, and promotes an open market environment. WTO intervention would be necessary where and when such domestic regulations pose market access barriers. In the context of a new, broader round of trade negotiations, the WTO has a critical role to play in ensuring that all of its disciplines – GATT, GATS, and TRIPS – are applied to trade in the Networked Economy. WTO members must be prepared to make changes where required.

The overarching goal of WTO work in this area should be to enable e-commerce on a global scale. The Internet and e-commerce have already proven to be powerful engines for economic growth, wealth creation and societal benefit in many countries. But in the future, these benefits must not be restricted to rich, industrialized nations; the GBDe wishes to ensure that developing countries will also benefit.

We are at the beginning of what is likely to be a long-term phenomenon, as technology continues to improve and more of the world's people become connected. Tearing down existing barriers to electronic commerce and preventing the erection of new barriers should be a common goal of businesses and governments around the world.