



PANEL DISCUSSION:

“Innovation and the Digital Economy: Enabling Service Sector Growth Worldwide”

October 14, 2009

Ronald Reagan Building and International Trade Center
Washington, DC

Participants:

Moderator: Peter Cowhey, Senior Counselor, Office of the U.S. Trade Representative

-Brad Smith, Senior Vice President and General Counsel, Microsoft

-John Palfrey, Faculty Co-Director of the Berkman Center for Internet and Society, Harvard Law School

-Teppo Tauriainen, Deputy Director-General for Trade, Head of International Trade Policy Department at the Ministry for Foreign Affairs, Sweden

Rapporteur: Dorothy Dwoskin, Senior Director of Global Trade Policy and Strategy, Microsoft

The panelists had a wide-ranging exchange on the possibilities and risks in the global market place of the ICT sector. All agreed that the sector is transformative and key to integrating manufacturing and services with greater potential for productivity gains and the growth of the global economy. One study cited that the ICT sector alone is expected to create nearly 6 million new jobs and more than 75,000 businesses, primarily small and medium size enterprises, over the next four years. Each of the speakers highlighted the importance of ICT as part of the economic recovery from their various perspectives and drew attention to the key issues that governments would have to grapple with going forward. The panel’s challenge was to encourage the dialogue on the emerging issues for the sector to focus on identifying those areas likely to have the greatest impact on the growth of ICT services trade and investment—ranging from competitive issues to law and policy to the potential of the ICT sector for driving broader economic growth through an increase in services exports. Moderator Cowhey noted that the USG is undertaking its own review of the adequacy of the trade rules in the sector – covering the immediate concerns of contributing to the Doha Round to the longer-term issues for the sector which panelists agreed would be relevant for the next decade.

Highlights from the Discussion

- The past ten years have seen a significant transformation of the ICT sector as an enabler to the broader global economy. In the 90’s, work was focused on bringing down the cost of

networking and building a competitive marketplace for a global networking infrastructure. In the early days of GATS, the focus was on issues related to access to the network infrastructure, telephones and value-added-telecom as it related to mainframe computing.

- Due to the rapid development of new technologies and business models in the sector, new challenges are emerging related to new computer and related services , particularly cloud computing, privacy and access to data, conflicting legal and regulatory regimes, and the broader technological engagement of society and its implications for law and policy.
- Specific Trade Agreements identified as key to the industry and important points of departure for moving forward in the trade arena were:
 - WTO , through the current Doha Services negotiations as well as any possible future work on WTO services including updating the Basic Telecom Agreement of the GATS, which reduced the cost of accessing networks globally initially and spurred investment
 - WTO TRIPS (trade-related intellectual property rights) which created a common set of rules that fostered innovation
 - Provisions of the FTAs, particularly yet-to-be approved US-Korea FTA ,with its innovations in services and e/commerce
 - Information Technology Agreement (ITA) which zeroed out duties on most hardware and software;
 - APEC work on the Digital Prosperity Checklist and Cross-Border Services Principles
- Panelists cited the earlier understanding agreement among all players that the Internet, and its accompanying range of new economic activities, should be given as much space as possible to experiment and innovate.
- A recurring theme in the discussion was that a similar careful response is needed for the new issues that are emerging. In looking at the issues of today -- promoting e/commerce, removing barriers to cross-border delivery of ICT services, including cloud computing, allowing the ability to freely mix and match devices and applications -- the challenge will be to ensure that the sector is defined in a sufficiently broad manner to take into account the pace of technological developments, the synergies between ICT goods and services sectors to assure that the agreements are not obsolete before they are concluded. A number of issues were flagged as needing further thought in this respect:
 - Barriers to deploying a global ICT infrastructure
 - The role of cyber security and export controls and their impact on efforts to maximize global efficiency and commercial issues
 - Protecting privacy while managing data, and the emerging questions of different laws and policies for different jurisdictions. The issue of where to establish data centers and the extent to which data can cross borders and the existing conflicts with data retention and differing privacy requirements.

- The fact that the ICT sector is still nascent, with less than half the world having access to computing (example only 25% of China's population having access to computing), yet societies are using technology in dramatically different ways.
 - Key questions about how to give the younger generation the right skills to promote the development of the sector
- In terms of vehicles for agreements, the panel didn't recommend a single model, or suggest that the trading rules alone could be a solution. Bilateral, regional, multilateral, and possibly plurilateral approaches, including services FTAs, could be part of a government to government approach. At this point exploration of various ideas, both binding and non-binding as well as private sector as well as government initiatives, is necessary without prejudging an outcome, or how it fits precisely with trade rules.
 - An example of dealing on an industry-wide basis related to questions of Censorship, notably Global Network Initiative (GNI) undertaken by companies to deal with some of the problems emerging from differing provisions on freedom of expression and privacy.
 - The system of trade rules needs to continue to promote legal security for services and investment and ensure that continued barriers to ICT growth are reduced so that countries don't miss out on the developmental benefits of the sector.
 - The ICT sector is globalized, with 1.2 million companies in the industry. There is a heavy SME element, with most companies in the sector being fairly small (35 people per company) and key to innovation.
 - On the Doha Round, all noted that the building blocks for promoting the digital economy are included. The question the US is examining is how to bring the various strands together under the request/offer approach.