E-Commerce and GATS

Seminar on Trade in Services
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Trade in Services Division
WTO
What are the issues?

- What do we understood by e-commerce?
- What services are involved and what commitments should be made?
- Should the ‘moratorium’ on imposing customs duties on electronic transmissions be made permanent?
- What are the ICT Principles proposed by certain Members?
- What classification issues arise: digitized products, ‘new’ services, other issues?
What does “e-commerce” mean?

- No agreed meaning
  - But in common usage the term has a broad scope. A suggested definition:
    
    "trading in products or services conducted via computer networks such as the Internet"

- Query:
  - In the 1960s, ordering products over the telephone could be seen as a type of ‘electronic’ business. Does e-commerce pose qualitatively different regulatory issues than earlier forms of ‘distance selling’?
What services are involved in E-commerce?

- E-commerce cuts across numerous services sectors and modes.
- Following services would typically be involved:
  - computer
  - communication
  - advertising services
  - distribution services
  - financial services
  - distribution services
- Commitments in these sectors are needed to ensure liberalized access.
- Classification issues can arise, and as to whether modes 1 or 2 are involved in certain transactions.
1998 Decision not to impose customs duties on electronic transmissions

- In 1998 Ministers decided that “Members should maintain their current practice of not imposing customs duties on electronic transactions”
- The moratorium has been regularly extended, most recently at the 2013 Bali Ministerial meeting
- In practical terms, a “bit tax” would be very difficult and costly to implement
- This is the only concrete result so far concerning the discussion of e-commerce issues in the WTO
Establishment of an E-commerce Work Programme

- Established by Ministers in 1998
- Began a 16-year discussion in WTO, including in services Council, on cross-cutting issues including:
  - classification of the E-commerce content
  - fiscal implications of e-commerce
  - imposition of customs duties on electronic transmissions
  - competition issues
  - jurisdiction and other legal issues
- Work Programme was extended once again at 2013 Bali Ministerial meeting
Current status of Work Programme

- Members have recently made submissions to the services Council on:
  - Principles to enhance networks and develop E-commerce (EU and US)
  - Further suggested ICT principles (Australia)
  - Trade rules to support innovative advances in computer applications (US)
  - E-commerce by SMEs (Switzerland)
  - Authorizations affecting E-commerce (EU)
  - Privacy and E-commerce (Chinese Taipei)

- Next review of Work Programme to be held in December 2014
Focus on EU-US Proposal on ICT Principles (2011)

- **Transparency**: in all ICT laws and regulations
- **Open networks**: technological neutrality, interoperability
- **Cross-border data flows**: no restrictions
- **Local infrastructure**: no requirement for local presence
- **Foreign ownership**: allow full foreign participation in ICT service sectors

(continued)
EU-US Proposal on ICT Principles 2011 (continued)

- Use of spectrum: maximize availability
- Regulatory authorities: functionally independent from service providers
- Authorizations: on simple notification, where possible
- Interconnection: ensure access in accordance with GATS Telecom Annex and Reference Paper
- International cooperation: to reduce “digital divide”
Australia Proposal on Additional ICT Principles (2012)

- Online consumer protection: ensure in domestic legislation
- Online personal data protection: ensure in domestic legislation
- Spam: ensure proper control in domestic legislation
Thank you