



Asia-Pacific Economic Cooperation

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Agenda Item: IV

Statement To Implement APEC Policies On Trade And The Digital Economy

Purpose: Consideration
Submitted by: SOM Chair



16th APEC Ministerial Meeting
Santiago, Chile
17-18 November 2004

STATEMENT TO IMPLEMENT APEC POLICIES ON TRADE AND THE DIGITAL ECONOMY

Los Cabos, Mexico
27 October 2002

Bangkok, Thailand
21 October 2003

Santiago, Chile
21 November 2004

In Brunei in 2000, APEC Economic Leaders agreed to “continue to work toward pro-competitive and market based policy frameworks for liberalization in trade in telecommunications and IT services,” and in 2001 in Shanghai to develop trade policy targets for the new economy.

The exponential growth in Internet connectivity and use of electronic commerce as a channel for international business require the development of trade policies that promote a networked world. The trade agreements and rules we develop now will affect the world economy of the coming decades.

APEC Economies, as an important part of the world community, need to make constructive efforts to liberalize the trading environment with effective trade rules for the digital economy where products and services can be exchanged using electronic networks free of tariffs and other barriers.

Accordingly, APEC economies agree to support implementation on a pathfinder basis of the following objectives, taking into account the general principles in the Osaka Action Agenda.¹

General Objectives

1. The digital economy should continue to flourish in a liberal and open trade environment, which will lead to greater development of e-commerce and economic growth.
2. Market access and national treatment commitments across a broad range of relevant goods and services sectors will promote trade in products and services using electronic networks.
3. Where legitimate policy objectives require domestic regulations that affect trade in products and services using electronic networks, such regulations should be transparent, non-discriminatory and least restrictive on trade, taking Economies’ international commitments into account.
4. In light of the importance of liberalization in digital trade, Economies support a long term moratorium on customs duties on electronic transmissions.
5. Economies support demand-driven capacity building projects that promote trade and the digital economy, with a view to ensuring that developing Economies benefit fully from the new economy.

¹ For non-WTO Members, implementation of paragraphs 7, 8, 9, 10, 11, 15 and 16 should not be viewed as reflecting the on-going process of accession to the WTO.

Specific Objectives

6. APEC Economies agree to take a collective leadership role in the WTO negotiations to pursue market openness in areas related to trade in the digital economy, including encouraging other WTO Members to pursue the same degree of openness that APEC Economies support in the following areas relevant to the digital economy:

Services

7. Pursuant to the Shanghai Accord, APEC Economies identified and exchanged information on the following services related to electronic commerce: telecommunications and value added services, subscription video services (including via cable or satellite and excluding broadcasting), computer and related services, advertising, distribution (including products distributed electronically), express delivery, and video rental/leasing (including online rentals).

For services it identifies as critical to electronic commerce, each Economy will:

- (a) reduce progressively or eliminate limitations on the number of suppliers permitted to supply such services;
 - (b) reduce progressively or eliminate limitations on ownership and control that:
 - (i) prevent significant foreign investment in the supply of telecommunications services; and
 - (ii) prevent majority ownership or control of suppliers of other services; and
 - (c) otherwise accord market access and national treatment with a minimum of exceptions.
8. Each Economy will make offers in the WTO services negotiations on the services it identifies as critical to electronic commerce, recognizing that there are on-going WTO discussions on these issues.
9. Recognizing the need to implement pro-competitive regulatory reform in the telecommunications sector, Economies will adopt and implement as soon as possible the WTO Basic Telecommunications Reference Paper.
10. Any Economy that is not currently a WTO Member is, in its negotiations to accede to the WTO, encouraged to offer meaningful commitments for as many services critical to electronic commerce as possible, and agree to adopt and implement the WTO Basic Telecommunications Reference Paper.

Intellectual Property

11. In light of the importance of protecting intellectual property rights to promote trade in the digital economy, Economies will fully implement and enforce the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights.

12. Economies will ratify and fully implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty as soon as possible. If an Economy is a non-Member of WIPO, it will implement the provisions of these treaties as soon as possible. For any Economy in the process of reviewing accession or implementation, it will commit to completing that review as soon as possible.
13. Economies will ensure through adequate oversight mechanisms that their government entities use only legal software or other content.
14. Economies will to the largest extent possible ensure that the internet and e-commerce does not facilitate trade in infringing and counterfeit goods, and will put into place appropriate regulatory and enforcement systems aimed at curtailing these activities.

Tariffs

15. Economies will become participants in the Information Technology Agreement, and present their schedule of commitments to the WTO ITA Committee, as soon as possible. Any Economy that is not currently a WTO Member will, in its negotiations to accede to the WTO, consider becoming a participant in the Information Technology Agreement.
16. Economies will work toward eliminating tariffs on additional information technology products at the broadest level possible.
17. Economies will submit their annual tariff and trade data to the WTO Integrated Data Base. For any Economy that is not a WTO Member, it will submit equivalent data to the APEC tariff database as soon as possible.

Future Work

18. Recognizing the dynamic nature of the digital economy and the on-going need to ensure that our trade policies create incentives for creativity, growth and development, officials will:
 - (a) review Economies' progress in meeting the objectives set forth in this Statement and report to the 2003 Ministerial Meeting; and,
 - (b) pursue on an annual basis the process developed in the Shanghai Accord of exchanging information and setting trade policy targets in areas important for ensuring the free flow of trade and investment in the digital economy and report annually at the Ministerial Meeting.

List of participant economies

1. Brunei Darussalam
2. Hong Kong, China
3. Indonesia
4. Japan
5. Korea
6. Malaysia

7. Mexico
8. New Zealand
9. Papua New Guinea
10. Peru
11. The Philippines
12. Singapore
13. Chinese Taipei
14. Thailand
15. United States
16. Vietnam
17. Chile (according to the understanding in Attachment 1).
18. Australia
19. Canada
20. People's Republic of China

Attachment 1

Chile agreed to become a participating economy in the Leaders' Statement to Implement APEC Policies on Trade and the Digital Economy, on the basis of the following understanding of the requirements of this pathfinder statement:

- The commitment in paragraph 14 of the Statement to put into place appropriate regulatory and enforcement systems aimed at curtailing trade in infringing and counterfeit goods using e-commerce and internet does not require a participant to put into place a judicial system for the enforcement of intellectual property rights that are separate and distinct from its general judicial system to enforce its laws;
- No commitment in this Statement regarding implementation of the WIPO Copyright Treaty of the WIPO Performances and Phonograms Treaty can be enforced through any dispute settlement mechanism;
- The commitment in paragraph 15 of the Statement regarding participation as soon as possible in the Information Technology Agreement is understood to take account of the need for Chile to change its current flat tariff policy on this matter, in order for ITA participation to become a possibility.