



WITSA STATEMENT On The UPCOMING HONG KONG MINISTERIAL

October 2005

Introduction

The World Information Technology and Services Alliance (WITSA) has long supported the multilateral, rules-based trading system embodied by the World Trade Organization (WTO). WITSA has an established record of supporting free trade and attending past Ministerial meetings.

The WTO Ministerial Conference in Hong Kong in December 2005 has the potential to advance the Doha Round negotiations which, if successful, will create new opportunities for providers of information and communications (ICT) goods and services. Increased access to these goods and services will significantly benefit all members of the WTO. WITSA views liberal trade commitments as one step in the creation of an enabling environment that will bring added investment into a country and a consequent positive impact on its economy.

Ministers need to put aside past differences and entrenched positions in favor of achieving progress in Hong Kong for the benefit of all nations. WITSA supports an aggressive agenda aimed at bringing a successful conclusion to the Round in as short a time as possible. Continued brinkmanship is counter-productive and prevents progress in achieving positive results in bringing real improvement to the lives of many.

World Information Technology and Services Alliance

The World Information Technology and Services Alliance (WITSA) is a consortium of 67 information technology (IT) industry associations from economies around the world. As the global voice of the IT industry, WITSA is dedicated to advocating policies that advance the industry's growth and development; facilitating international trade and investment in IT products and services; strengthening WITSA's national industry associations through the sharing of knowledge, experience, and critical information;

providing members with a vast network of contacts in nearly every geographic region of the world; and hosting the biennial World Congress on Information Technology, the premier industry sponsored global IT policy event, and the biennial Global Public Policy Summit. Founded in 1978 and originally known as the World Computing Services Industry Association, WITSA has increasingly assumed an active advocacy role in international public policy issues affecting the creation of a robust global information infrastructure. For additional information about WITSA and its activities, go to <http://www.witsa.org>.

General

The information and communication technology (ICT) industry is an important and robust industry. In fact, it is one of the most dynamic creators of jobs and income in the world. Worldwide in 2003, ICT accounted for approximately \$2.4 Trillion or 6.8% of GDP according to *Digital Planet 2004*¹. As markets in Eastern Europe, the Middle East, Asia and Latin America continue to develop, the compound annual growth rate is expected to be 8% between 2003 and 2007 by which time the worldwide market is expected to be over \$3.2 Trillion.²

The conclusion that can be drawn from these statistics is that all countries want to participate, and participation in the market will help individual economies grow and prosper. Participation, however, requires trade commitments that allow companies to operate globally in providing those ICT goods and services that underpin the efficient and effective operation of virtually every other business in the world.

Computer and Related Services Commitments

The backbone of ICT services commitments falls into the category of Computer and Related Services. The Figure below lists the applicable W/120 codes along with the corresponding United Nations Provisional Central Product Classification (CPC) codes as identified by the UN Statistics Division. Although there was no requirement to do so, most countries used one or the other in making their commitments in the Uruguay Round.

Computer and Related Services Codes

W/120 Code	W/120 Description	Provisional CPC Code
1.B.	<i>Computer and Related Services</i>	84
1.B.a.	Consultancy services related to the installation of computer hardware	841
1.B.b.	Software implementation services	842
1.B.c.	Data processing services	843

¹ *Digital Planet 2004*, published by the World Information Technology and Services Alliance (WITSA), based on research conducted by Global Insights, Inc., October 2004.

² Ibid, page 15.

1.B.d.	Data base services	844
1.B.e.	Other	845+849

While not specifically Computer and Related Services, other services such as CPC 865 and 866 (Management Consultancy) are closely related. Thus, one should consider that this discussion is also applicable to them.

IT services, as listed above form the keystone of the ICT industry. Opening markets for these services benefits not only companies directly engaged in these services, but also those engaged in other segments of the industry. Expanding business in these areas provides additional business for hardware companies because new applications generally require additional hardware to operate. Expanding applications also require additional telecommunications capacity and infrastructure. Thus, by expanding commitments in this area, a range of industry sectors benefit.

Generally many countries made commitments in these services in the Uruguay Round. There were a number of key countries, however, that made either no commitments or only partial commitments.

WITSA feels that full market access and national treatment in all Computer and Related Services is essential. This means achieving full commitments for countries that currently have no commitments as well as for those that have only partial commitments.

Internet Related Services

The previous section considered the improvement of existing commitments from the Uruguay Round and accessions since its conclusion. This section will examine the treatment of services that have evolved from services that were commonplace at the time of the conclusion of the Uruguay Round. For example, the Internet, which is ubiquitous today, was in its infancy when the Uruguay Round concluded. Many of the services that have evolved and are being delivered via the Internet could simply have not been provided in the same manner prior to its inception.

The Internet represents the latest stage in the continuing evolution of computing. Starting with mainframe computing that filled large, centralized data centers with computer hardware and support personnel, the computer age has evolved through mini-computers, desktop personal computing, and client-server computing. Continual improvements in the speed and power of computers and networks have enabled these new models of computing and made possible greatly enhanced software applications. But while these models of computing have evolved, their fundamental purpose has remained the same: facilitating the processing and storing of information.

Like the underlying computer technology, computer services have also evolved and improved to take advantage of advances in technology. The Internet is the latest implementation of these services, providing a convenient way to package and deliver them so that users can share information and applications easily and cost-effectively on a global basis. Over time, data base storage and online retrieval systems evolved into a

number of internet-based services. This evolution has been made possible because of advances in the power and speed of computer processors, the capacity of information storage devices, and the speed and flexibility of networking. What we call the Internet “revolution” is in fact the result of applying these highly evolved computer and networking technologies in different ways.

The Internet has made sophisticated information and services previously available only to large corporations available to small businesses and individuals in every nation. The advanced capabilities of today’s information technology tools have made Internet-based computer services very powerful and flexible. Although the current generation of computer services represent the same spectrum of services large businesses have used for years, the Internet is allowing the benefits of these services to become more visible to individuals around the world.

Some examples follow that illustrate the evolution of traditional services in the Computer and Related Services Sector into the services we are familiar with today. In many instances, as will be shown, there is a one-to-one correlation to the traditional services. In other instances, the new service is a combination of traditional services.

Application Hosting

Traditionally, if a company wanted to outsource, for example, its customer data base operations, it would hire an outside expert in customer database software, and that expert would set up the necessary computer systems to track customer information and make it available to members of the company’s sales force. The expert company would set-up the necessary hardware and software, and also provide support and maintenance of the system. The services being provided were clearly consultancy, software, data base and data processing.

Now, over the Internet, Application Service Providers (ASPs) allow the same kinds of functions to be provided online through *Application Hosting*. Like an outsourcing expert, the ASP will typically provide a software application and accompanying support, but instead of physically setting up a customized software system specifically for the company, it will provide access to a standard application through an Internet browser. The ASP model is more efficient for many types of operations and is often a much less costly method for providing computer and related services. The ASP model also makes it possible for businesses and individuals in remote areas and developing countries to access technology that would be prohibitively expensive or physically impractical under and outsourcing model.

Application hosting services could be classified under a combination of data processing services, data base services and software implementation services under the existing W/120 classification system.

Electronic Procurement Hosting

There have been a number of different systems for businesses to exchange information over private (leased line) networks. Procurement systems, for example, have allowed suppliers to bid on jobs from governments and businesses. These services were previously part of software, data processing and data base.

Recently, Internet-based *electronic procurement hosting* services allow posting, accepting and pricing of trade opportunities when the underlying supply and distribution services are permitted across borders. These marketplaces have begun to create new opportunities for small businesses in developing countries and in the developed world to access markets that were previously closed due to the impossibility of obtaining access to information regarding sales opportunities. Producers benefit as well, because they have easy access to a virtual shopping mall and can compare the quality and price of goods from suppliers all over the world.

Electronic procurement hosting could be classified under data processing services and data base services.

Web Site Hosting Services

In the past, when a corporation wanted to display and distribute information, they created either pre-determined or customized reports and then distributed that information to recipients electronically, by mail or by other means. Today, the Internet provides another means of storing and displaying information. The information is displayed on web sites and the service of storing and displaying it is known as *web hosting*. The service that could encompass web hosting is data base services under the existing W/120 classification system.

The examples above demonstrate the underlying point that Computer and Related Services today have simply evolved from and are basically the same as the Computer and Related Services that were prevalent at the conclusion of the Uruguay Round. The Internet has improved our ability to deliver a number of services, and new names have been developed for some services, but fundamentally they are the same services. The Figure below shows the correlation between the services discussed above and the corresponding services negotiated in the Uruguay Round.

Correlation of Selected Internet Services to Provisional CPC Codes

IT Internet-Based Service Examples	Provisional CPC Codes					
	841	842	843	844	845	849
Application hosting		X	X	X		
E-procurement hosting			X	X		
Web hosting				X		

Since these services are either the same services as previously negotiated, or combinations of these services, WITSA believes that Internet related services are covered in current agreements. In order to indicate this and to preclude future questions or disputes, WITSA proposes that Computer and Related Services be scheduled at the Provisional CPC, 2-digit level (84).

Electronic Commerce

WITSA maintains that electronic commerce does not constitute a sector in itself. Rather, it is simply a means of delivering services electronically that had previously been delivered by other means. WITSA continues to hold that position and urges all countries to resist any efforts to create a sector designated "electronic commerce".

On the other hand, electronic commerce does represent significant opportunities for global business. There is a growing market in Internet commerce, and it is important that that market remains open for all businesses.

Electronic commerce also depends on the ability to access communications networks for the provision of services. WITSA continues to support positions to ensure cost-based, non-discriminatory access to basic telecommunications networks and services, including leased lines and other communications platforms. Such access remains important to the conduct of electronic commerce. Further, stronger protections are necessary to prevent dominant operators from abusing their positions either directly or through downstream affiliates.

Similarly, liberalization of other services needed to initiate and complete an electronic commerce transaction is also important. These areas include advertising, on-line payment, and distribution including express delivery services. Along these same lines, it is important that trade liberalizing commitments be secured in digitally downloadable products such as entertainment, news, publishing, etc. Notwithstanding theoretical debates about whether such product is a good or a service, trade liberalization should ensure maximum market access and national treatment.

It is also important to understand that electronic commerce implies much more than simply selling merchandise electronically. Many services that we are familiar with today, can also be provided electronically. Legal services, architectural services, entertainment services including movies and music, health services, educational services, financial services and engineering services, to name a few, can all be delivered across borders electronically. To do so, however, countries must make Mode 1 and 2 commitments for all of these sectors and others that have the potential of electronic delivery.

Trade Treatment of Software

A vast array of business models has evolved since the conclusion of the Uruguay Round, including the online delivery of software and other digital products previously

delivered exclusively on a physical medium. These developments have brought important benefits for consumers, industry and the global economy, and represent a natural evolution in the ability to distribute products. The online delivery of software increases productivity across all sectors of the economy by eliminating many inefficiencies associated with more traditional, physical means of distribution. It also creates additional opportunities for competition and allows companies to offer greater choices for consumers.

To realize these benefits, however, it is critical that software delivered online enjoy the same trade treatment that WTO members currently extend to software when delivered on a physical medium. Software delivered on a physical medium is subject to the trade rules that apply to goods -- i.e., full market access, national treatment, MFN protections and commitments under the Agreement on Technical Barriers to Trade and the Agreement on Government Procurement.

This is not to suggest that electronically-delivered software must be classified as a good in order to retain existing trade benefits, or that in lieu of a goods classification, software must be treated as a service. Our position is that software downloads should be treated no less favorably than software imports, not that they be treated "as" software imports.

The classification debate should not be allowed to jeopardize the existing liberal trading environment for software, merely because the method of distribution has changed. We therefore believe it is in the interests of all WTO members to ensure that that existing trade benefits and trade protections for software extend to the on-line world, as an essential element of the Doha Development Agenda, and as a package with strong liberalization of Computer and Related Services.

WTO Members should resist vigorously any proposal that would lead to the creation of trade barriers for software delivered online and ensure such software receives treatment no less favorable than these products enjoy when they are delivered on a physical medium.

Recommendation

WITSA recommends all countries commit to making the Hong Kong Ministerial meeting a success by putting aside past differences and committing to actively supporting the Doha Round negotiations. Further, WITSA recommends an aggressive schedule to concluding the Round so that its benefits can be made available as soon as possible.

In the ICT area, WITSA recommends full commitments for Computer and Related Services at the 2-digit level, and substantive commitments in other sectors to benefit the growth of electronic commerce. In particular, we continue to support the following positions:

SERVICES

- ❑ **Computer and Related Services:** Opening markets in Computer and Related Services benefits not only companies directly engaged in these services, but also those engaged in other segments of the industry. A number of key countries have made no commitments or only partial commitments in the Uruguay Round. All countries should:
 - a) offer full market access and national treatment commitments for computer and related services on a technology neutral basis;
 - b) apply these commitments to electronically delivered goods and services; and
 - c) apply liberalization for the full range of services that are essential for initiating and completing e-commerce transactions, to also include - advertising services, online payment services, content-based services and express delivery services.
- ❑ **Evolved Services:** Many Computer and Related Services today have evolved from and are essentially the same that were prevalent at the conclusion of the Uruguay Round. WITSA supports countries making clear in their offers that Uruguay Round commitments for Computer and Related Services apply to evolved Internet services.
- ❑ **Telecommunications Services:** Ensure non-discriminatory access to and use of public telecom networks and services; achieve cost-based access to leased lines; and promote binding rules on technology neutrality throughout the telecommunications sector, including in mobile telecommunications.

E-COMMERCE

- ❑ Governments must provide broad national treatment and most favored nation (MFN) commitments, so products sold electronically receive fair and non-discriminatory treatment; i.e., treatment no less favorable than their physical equivalents, where such equivalents are relevant.
- ❑ **Cross-border Services:** Governments should recognize that the development of e-commerce depends on cross-border transactions in all industry sectors and must liberalize cross-border services during the negotiations.

GOVERNMENT PROCUREMENT

- ❑ Governments should offer government procurement commitments that apply to all WTO member countries, and that require open, competitive, transparent, non-discriminatory and technology neutral procurement of goods and services across national and sub-national entities.

INTELLECTUAL PROPERTY

- ❑ Governments must achieve effective implementation and enforcement of the protection standards currently in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

TARIFFS

- WTO members should seek to eliminate tariffs on electronics; become signatories to the WTO Information Technology Agreement (ITA); and promote zero duties for entire chapters of the Harmonized Tariff System relating to ICT (e.g., Chapters 84, 87 and 90), while allowing specific exceptions with or phased-in implementation for specific products.

The World Information Technology and Services Alliance (WITSA)

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