

## E-Commerce Developments

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# Asia-Pacific Prepares for WTO Telecom Trade Negotiations

### 1. Introduction

A project to assist Asia-Pacific economies prepare for WTO Doha telecommunications and ICT negotiations was launched by the Asia-Pacific Telecommunity (APT) in mid-2003. The objectives are to provide authoritative information and documentation enabling the 25 WTO members and 5 economies applying for membership, to better understand the multilateral trading system established by the General Agreement for Trade in Services (GATS) as well as scheduling new commitments and participation in the request-offer process. The World Bank infoDev program provided funding for the project. Mr. A. Narayan, APT Secretary General observed at the launch of the project that competitive telecom services and foreign investment have been highly important to expanding trade in telecom services.

To assist governments prepare for the negotiations the APT prepared a Guide to Telecommunications Trade Principles, WTO Commitments and Doha Development Round Negotiations, the first major research report in the field for many years has been recognized as an important reference source for examining telecom trade issues. A second initiative was to conduct a survey of Telecommunications Development Strategies, Policies and WTO in 32 economies, and prepare a detailed report on the results. The third key element involved organizing four sub-regional seminars where government representatives could informally meet with international experts for extensive discussions on telecom trade issues and exchange experiences.

In addition to describing the objectives and status of Doha Round negotiations and General Agreement on Trade in Services (GATS), considerable attention was directed to telecom market structures and trade

policies. This is very important because a number of economies are in the process of introducing competition into their telecom markets and strengthening regulatory practices. GATS scheduling techniques and the request-offer process were thoroughly reviewed. Great interest was expressed in integrating telecom services trade policies with developments objectives. The characteristics of proposed bilateral and regional Free Trade Areas also were considered.

An important objective of the seminars was to determine whether and what type of additional capacity building assistance Asia-Pacific economies require in order to fully participate in telecom trade negotiations in the region and beyond. At each of the seminars participants introduced a number of proposals. The recommendations underscore the need to organize sub-regional seminars of 3–5 days in the Asia-Pacific Region to provide more in-depth analysis of trade issues and WTO procedures. It is also considered important to organize a regional program to organize and analyze Telecom Business Opportunities in sub-regions, in particular Pacific Islands. Another recommendation proposed that a case study model should be prepared that can be used to assist countries seeking accession to the WTO and for Members to prepare commitments.

Because telecom trade policy in most economies is under the jurisdiction of several ministries, involves telecom regulators and consumer organizations, it was recommended that greater coordination is needed. Representatives of Pacific Island economies suggested that a workshop should be sponsored to review and compare practices of several economies with interconnection policies, pricing issues and universal service obligations (USO). There is a need to carry out a study of Free Trade Agreements (FTAs) that have been concluded or are being negotiated involving Asia-Pacific

countries. Another important issues involves preparing a study on “how to deal with” convergence issues in telecom and information services.

Creating an accessible telecom and ICT database was considered urgent with links to websites of international organizations, as well as official reports and documents would be widely available. Setting up a G-rex type query system to benefit officials and researchers is needed. The APT Guide to Telecom Trade and Survey of Telecom Trade Policies should be revised and updated periodically, was the consensus of participants in each seminar.

## **2. Capacity Building Seminars**

Representatives of 30 Asia-Pacific governments participated in the four 2-day seminars. Seminars were held in Male, The Maldives; Bali, Indonesia; Melbourne, Australia; and Ulaanbaatar, Mongolia. Through the cooperation of The World Trade Organization, Mrs. Lee Tuthill, Senior Counselor and Mr. Peter Morrison, Counselor participated in the seminars. Russell Pipe, APT Consultant and other experts served as resource persons at the seminars.

The Doha trade negotiations, including commitments on Basic Telecommunications, the Reference Paper and Value-Added Services were presented by Mrs. Tuthill. She described different service sectors and the Basic Telecom agreements and the various approaches Members are taking with irrespective of economic situations. As well, she addressed issues of competition in international traffic, challenges to new operators and how global reforms that have taken place with respect to competition. She presented a list of Basic Telecom commitments of Asia-Pacific emerging economies under various services as data transmission, fixed telephones, cellular telephones, leasing circuits, mobile satellite, and simple voice resale.

A second dimension to trade in telecommunications services is the growth of bilateral and regional Free Trade Agreements (FTAs) was described by Mr. Russell Pipe. In the Asia-Pacific, he observed that such agreements have been made by Australia, Japan, Singapore, South Korea, Thailand, and Vietnam. These are modeled after the WTO schedules of commitments, Telecommunications Annex, Basic Telecommunications Agreement, and Reference Paper. An important recent development is agreement by the 10-ASEAN countries to establish a Single Market for Goods and Services in 2020 with the expected involvement of

Japan, China and India. An East Asia FTA also has been proposed between China, Japan and South Korea.

The four fundamentals of the GATS were described by Mrs. Tuthill, which are non-discrimination, transparency, reasonable regulation and competitive safeguards. She described the multilateral nature of the WTO dispute settlement systems as a unified system for all trade agreements. The new telecommunications regulatory issues that need to be decided are related to local loop unbundling, emergence of interconnection of mobile and the Internet, convergence and impact of evolution in definitions and classifications.

The APT Survey of Telecommunications Development Strategies, Policies and WTO Commitments of Asia-Pacific Economies distributed to the 32 members and affiliates, providing empirical details of how governments are approaching the Doha negotiations in terms of assessing whether their telecommunications markets have been liberalized to conform to GATS commitment expectations. Russell Pipe presented the survey results. Several responses describe the objectives of the Doha round in telecom services as both to liberalize markets and promote economic development. That is, a Doha agreement could promote the wider diffusion of new technologies such as broadband and the need for considering trends in convergence of information and communication technologies. The survey reviewed policies on market access to basic and value-added services, new communications services, the telecom regulatory framework, independent telecom regulator, reference paper and competitive safeguards.

Survey results show that more than 10 economies have open, competitive basic telecom services markets and another 10 economies have adopted plans to open basic services to competition. Most economies allow some foreign investment in domestic voice services but apply some percent of ownership limits, particularly on legacy PTOs. In general, foreign investments in international services are more restricted than for domestic voice services. Many economies have established policies providing unlimited licensing and investment in value-added services. More than half of the 25 WTO members in the Asia-Pacific have signed the Reference Paper. There is a high degree of uncertainty as to whether certain services, as cable TV and modem services, the Internet, E-Commerce, Radio-TV broadcasting and audio-visual services should be specifically addressed in a Doha agreement.

In most Asia-Pacific countries a ministry of communications is responsible for determining the overall market structure and regulations for the sector. The mis-

sion of many of these ministries has been expanded to “transform telecom into a leading engine of economic renewal. IT councils have been formed in a number of countries to design and implement national IT strategic plans in many cases telecom is “to create an enabling environment, competition and rapid industry growth.” There is wide acceptance of the need for Telecom Regulatory Authorities (TRAs) by most governments.

Because new investment is required to increase telecom penetration levels are crucial for developing countries, Mrs. Tuthill said, there are a number of factors that will attract investors. She reviewed the four GATS principles and the key ingredients for reform addressed in an earlier session. Regulators are taking on new roles of managing transition from monopoly to market, reducing uncertainty and compensating for market failure. She explained the various benefits that prompted emerging economies to come forward and commit in WTO and how telecom and other industries can take advantage from such an opportunity.

Several important new aspects for the Doha negotiations affecting telecom, Tuthill pointed out, are the field of Internet, ICT and convergence. Web applications, E-Commerce and the WTO E-Commerce work program were described. She reported that 70–90% of the industrialized countries have committed to barrier-free access for cross-border supply within the areas of computer-related services, travel agency services, advertising/architecture/engineering, management consulting and market research. The current situation with regard to proposals and offers under the computer services were discussed.

The process of formulating requests and offers was explained by Tuthill. She explained the structure of GATS and compared the General Obligations to Schedules of Commitments, provided examples of sample commitments and identified some horizontal limitations. The telecom services to be covered are a wide ranging, such as local, long distance, international, wire-based or wireless technology, facilities-based or resale-based supply and public or non-public (closed user group) services. Further, she explained details about Modes of Supply and explained terms like None and Unbound. As well, she discussed key GATS issues including Market Access, National Treatment and Domestic Regulation.

Mr. R.B. Kamarapathirna, Director Project Development of APT explained there is wide consensus that expanded regional cooperation can be highly useful for preparing and revising telecom commitments as well as considering a regional telecom trade strategy. The

scope of this strategy might cover market access policies for basic voice and value-added services, new communications services, national regulatory frameworks, telecom regulatory authorities, and competitive safeguards. An important dimension of such regional collaboration would be strengthening the capacity of developing countries in the region to participate in bilateral, regional and WTO negotiations. The venues for regional cooperation are considered to be the APT, ESCAP, APEC, ASEAN as well as the ITU.

### 3. Government Presentations at Regional Seminars

#### 3.1. South East Asia Seminar, Bali, Indonesia

An inaugural address was presented by Dr. Djamhari Sirat, Director General of Posts and Telecommunications (DGPOSTAL), Indonesia. He expressed pleasure the seminar will give an opportunity to have a complete picture of the trade in telecommunications within the region. This will help the countries to resolve and improve matters relating to regulations, technical standards, and regional cooperation that are necessary to bring to reality the objective of trade in telecommunication sectors. He mentioned people often have the impression that liberalization of trade has given favor to the rich countries rather than the poor. He emphasized it is necessary to evaluate such a judgment in a more comprehensive. He encouraged the speakers to stimulate intensive discussions from all participants to get a useful output from the seminar.

“Competition and Regulation in the Indonesian Telecom Environment” was presented by Dr. M. Suwarso, Telecom Expert, Indonesia. He reviewed the global scenario and the evolving stage of competition. The various stages of transition from monopoly to full competition were explained. Some of the key issues and challenges mentioned are requirements to restructure shareholdings, required compensation for early termination of monopoly and rate balancing. The future will focus more on asymmetric regulation, extra requirements to dominant operators and ban against slamming and cracking.

A description of the “Indonesian Telecommunications Regulatory Body” (BRTI) was presented by Mrs. Koesmarihati, a member of the Telecommunications Regulatory Committee, Indonesia. She referred to a paradigm shift in the telecommunications sector has taken place and the statistics related to the lowest tele-

density in the region. She mentioned that since 1966, telecommunications development is no longer receiving state budget funds. She highlighted the significant events in this sector, emphasizing there is a need for a regulatory body that is independent and impartial to all operators to give healthy competition.

She explained the organizational structure of BRTI and the system of decision-making within the body. The main functions consist of Regulatory Supervision and Control of Telecommunications Networks and Service Operations. Under present operating procedures, she listed the main problem areas and the methods used to collect information and the final product. The main BRTI stakeholders are the government, Industry and the Community.

Koesmarihati highlighted the main weaknesses and strengths of the Indonesian Regulatory Body, showing growth rates of regulatory agencies from 1990 to 2003. She pointed out that Indonesian telecommunications is leaving the monopoly market to become active in the multi-operator market. BRTI is still in the embryo stage and in the future will become an ideal Regulatory Body that then can support the industry to grow and increase the welfare of the nation.

### 3.2. *Pacific Seminar, Melbourne, Australia*

The Inaugural address was presented by Mr. Philip O'Brien, Project Officer, Department of Communications, Information Technology and the Arts (DCITA) who praised the role APT has been playing to foster the development of telecommunications services and information infrastructure throughout the Asia-Pacific region for the last 25 years. He also expressed appreciation for the grant provided by infoDev for this important project. O'Brien pointed out that trade in services is recognized as the driving force for the world economy of the 21st Century. Increased trade in services among the Asia-Pacific economies will benefit them tremendously and telecommunications will be the backbone of these information economies, he said. He noted the seminar will be of prime importance in understanding the implementation of the Uruguay Round commitments in telecommunications and assessing the impact of extending WTO services to cover all IP services and other ICT services in addition to Basic services.

Mr. Stuart Davis, Telecom Cook Islands, provided an introduction of Cook Islands and its basic telecom sector, highlighting three main benefits of competition: lower prices, improved efficiencies, and customer service. The main anomalies of competition, he said, are

that it is ruled by market forces, Pacific Islands do not have any market power for international calls not terminating there. He mentioned some of the problems faced by the telecom sector within the region and its negative impacts on small Pacific Island countries. He concluded his presentation by mentioning that small Pacific Island nations are becoming dependent on external telecommunications to maintain their economies and therefore a practical solution must be found to ensure reliability of international telecommunications in a competitive environment.

"Australia's Experiences with WTO GATS," was presented by Mr. Bill Scott, Director, International Trade Policy Section, Department of Communications, Information Technology and the Arts (DCITA). He said his primary objectives of the presentation were to share DCITA's experiences in WTO services negotiations and to encourage greater cooperation on trade issues. He gave the background of Australia's commitment to multilateral trade and its diversity in trade and service sectors. Scott pointed out that Australia has strong trade connections with its Pacific neighbors. He explained the gradual changes that have taken place within Australia's telecom market since 1991. Open competition was introduced in 1997 and Telstra remains the dominant carrier as of today. Telstra and Macquarie Corporate are the two overseas telecom carriers and all other large carriers in Australia are owned by multinationals.

Scott noted that other countries are now dealing with similar issues, such as competition, government ownership and public ownership. The Department of Foreign Affairs and Trade is responsible for WTO negotiations. DCITA is directly involved in GATS negotiations opening opportunities to meet other members and push for greater liberalization. He explained the working process of negotiations and mentioned that the current round is in the request-offer process. DCITA expects that from the current Doha telecommunications negotiations will result in more open markets, transparent rules and decision-making, consistent application of rules and greater commitment to the WTO Reference Paper. South Pacific countries could face certain difficulties in attending GATS meetings. Australia sends small delegations to Geneva and also regular representatives of small countries are difficult due to long distances.

Regional cooperative activities, Scott said, could be realized by utilizing the link between governments and WTO readiness and also through APT and ITU projects. Future avenues of cooperation could be formulated by using the linkages and resources of organizations like

PITA, APT, The World Bank and the ITU Regional Office. Australia's position on the ITU council can be utilized to achieve targets of more cooperation. Expanding informal relationships among South Pacific countries will strengthen this process.

### 3.3. East Asia Seminar, Ulaanbaatar, Mongolia

An address was presented by Vice Minister, Ministry of Infrastructure (MOI) Ulambayar, who pointed out that over the last few years, ICT has been Applied to all social sectors worldwide which has transformed our community into an information oriented social system based on ICT. He said the Government of Mongolia considers the ICT sector for socio-economic development and it has been taking commitments to broaden ICT applications in all social sectors and strengthen human resource potentials step by step. The Vice Minister noted that Mongolia has achieved many successes by liberalizing the ICT market and introducing competition and deploying advanced new technologies. The Government wishes to continue cooperation with other countries including East Pacific countries.

The Vice Minister recalled that Mongolia joined the WTO in 1997 and has successfully accomplished its commitment under the agreement. As part of the fulfillment of this commitment, the ICT sector has been liberalized and an independent telecom regulatory body has been established. The APT seminar, he noted, will contribute to pushing forward the liberalization of trade, opening of the market, privatization, attracting foreign and domestic investment, reforming tariffs, enhancing human resource potentials of state and business organization and developing electronic business in Mongolia.

"Independent Regulator in the Reference Paper and Japan's Experiences," was presented by Mr. Hideo Tomioka, Ministry of Public Management, Home Affairs, Posts and Telecommunications (MPHPT). He raised two important questions: Why is an independent regulator necessary? And why has Japan achieved success in development of broadband and mobile services? He highlighted Japan's success in fast broadband speed comparing to other countries and explained the rise in subscribers in the areas of Fiber Optics, DSL and Cable Internet. Tomioka mentioned that Japan's pro-competitive DSL policies have created the world's most competitive DSL market. He said Japan is the world's leading nation with regard to innovative mobile services and also presented the rate of Internet-Accessible Mobile Handsets.

He said an independent regulator separate from any operator is crucial to the promotion of competition. It can address the issue of conflict of interest that arises if the regulator serves as both a referee and a player in the market. With regard to the Reference Paper (under Section 5) a common set of pro-competitive regulatory principles including "independent regulator" is established. The regulatory body is separate from and not accountable to any supplier of telecommunications services. The Reference Paper requires the regulatory body be separate from and not accountable to any supplier of telecommunications services. The Reference Paper does not require the separation of the regulator from a Government ministry. In the presentation, he described various forms of existing regulatory organizations in the US, EU countries and Japan.

Tomioka explained the transition of telecom organizations in Japan since 1885 until 2001 and the formation of MPHPT. He noted that not only is there a separation of the regulator from operators, but Japan ensures the separation of the regulatory body and the incumbent's shareholder. Thereafter, he explained, the development and implementation of competition policy under the purview of MPHPT and its predecessors. He emphasized the regulator must be strong and maneuverable and MPHPT is equipped with these characteristics. Tomioka noted that measures for ensuring transparency, impartiality and neutrality may be more important than the organizational structure of the regulator and listed examples of those measures in Japan. He concluded that an independent regulator separate from any operator is important for liberalization and promotion of competition in the telecommunications sector. He also stressed that the system employed by Japan i.e., ministry-type independent regulator, has led Japan's success in the telecommunications sector.

"Regulatory Concerns" issues were presented by Dr. Harsha Varedhana Singh, Telecommunications Regulatory Authority of India (TRAI). He explained important competition issues such as cross-subsidy and the necessity to have timely and transparent procedures. Interconnection should be resolved as a high priority among other important issues. He emphasized that interconnection should be transparent and public availability should be given importance. He also touched on other regulatory concerns, as Universal Service Obligations (USO) and licensing criteria.

With regard to dispute settlement under WTO, he advised Members to clarify issues in their commitments in order to make relevant claims and arguments. Singh concluded by mentioning the separation of the

regulator is a must to enable healthy competition. At least three telecom operations will be necessary for competition that in turn benefits the consumer. More

focus should be on policy that results in a low cost implementation and low tariff. Long-term goals should be targeted.