

International Trade and the Internet

European Parliament resolution of 5 February 2009 on International Trade and the Internet (2008/2204(INI))

The European Parliament,

- having regard to point 18 on Trade in Information Technology Products (also known as Information Technology Agreement (ITA)) of the Singapore Ministerial Declaration of the First Session of the Ministerial Conference of the World Trade Organisation (WTO), adopted on 13 December 1996,
- having regard to the Geneva Ministerial Declaration on Global Electronic Commerce of the Second Session of the Ministerial Conference of the WTO, adopted on 20 May 1998,
- having regard to the submission from the European Communities regarding the "Classification Issues and the Work Programme on Electronic Commerce" to the WTO of 9 May 2003,
- having regard to point 46 on E-commerce of the Hong Kong Ministerial Declaration on the Doha Work Programme of the Sixth Session of the Ministerial Conference of the WTO, adopted on 18 December 2005,
- having regard to the proposal for a Council Directive amending Directive 2002/38/EC as regards the period of application of the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services and the report from the Commission to the Council on Council Directive 2002/38/EC of 7 May 2002 amending and amending temporarily Directive 77/388/EEC as regards the value added tax arrangements applicable to radio and television broadcasting services and certain electronically supplied services (COM(2006)0210),
- having regard to Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ('Directive on electronic commerce')¹,
- having regard to Council Regulation (EC) No 792/2002 of 7 May 2002 amending temporarily Regulation (EEC) No 218/92 on administrative cooperation in the field of indirect taxation (VAT) as regards additional measures regarding electronic commerce²,
- having regard to Decision No 70/2008/EC of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade³,
- having regard to its position of 24 September 2008 on the proposal for a directive of the European Parliament and of the Council amending Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services, Directive 2002/19/EC on access to, and interconnection of, electronic communications networks and

¹ OJ L 178, 17.7.2000, p. 1.

² OJ L 128, 15.5.2002, p. 1.

³ OJ L 23, 26.1.2008, p. 21.

associated facilities, and Directive 2002/20/EC on the authorisation of electronic communications networks and services¹, Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications)² and Regulation (EC) No 2006/2004 of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (the Regulation on consumer protection cooperation)³,

- having regard to its resolution of 14 May 1998 on the communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions on a European Initiative in Electronic Commerce⁴,
 - having regard to its resolution of 21 June 2007 on consumer confidence in the digital environment⁵,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on International Trade and the opinions of the Committee on Industry, Research and Energy, the Committee on Internal Market and Consumer Protection and the Committee on Culture and Education (A6-0020/2009),
- A. whereas more than half of EU citizens and nearly 1.5 billion people worldwide have access to the Internet; whereas one out of three EU citizens conducts online purchases, but only 30 million do cross-border shopping in the European Union,
- B. whereas according to the WTO, e-commerce is defined as "the production, advertising, sale and distribution of products via telecommunications networks",
- C. whereas a distinction may be drawn between the delivery of content on physical carrier media and content digitally-encoded and transmitted electronically over the Internet and thus independently from physical carrier media, over fixed and wireless networks,
- D. whereas e-commerce may be conducted either in the form of business to business, business to consumer or consumer to consumer transactions; whereas trading on Internet platforms has profoundly changed the manner in which people trade goods and services, creating new opportunities in particular for small and medium-sized enterprises (SMEs) to reach new customers across borders,
- E. whereas preserving the openness of the Internet is a precondition for its continuous growth, as well as that of the wider economy and global trade, which increasingly 'run' on Internet technologies,
- F. whereas SMEs can derive particular benefit from e-commerce in terms of access to external markets; whereas, however, the full development of these new e-commerce methods still comes up against various obstacles as regards their practical application,

¹ Texts adopted, P6_TA(2008)0449.

² OJ L 201, 31.7.2002, p. 37.

³ OJ L 364, 9.12.2004, p. 1

⁴ OJ C 167, 1.6.1998, p. 203.

⁵ OJ C 146 E, 12.6.2008, p. 370.

- G. whereas the free flow of information is essential in order to facilitate e-commerce and an open and secure network allowing dissemination of and access to the Internet as information is the foundation upon which the global economy of the 21st century is being built,
- H. whereas Information and Communication Technologies (ICTs) are now ubiquitous in the economy and new platforms and networks are being developed and rolled out; whereas there is a need for open standards which are important for innovation, competition and effective consumer choice,
- I. whereas the further development of the new "digitalised" commercial environment has already and will continue to provide new opportunities for traditional and modern trade transactions, to enhance the consumer's position in the commercial chain and to lead to entirely novel business models in consumer-producer relations,
- J. whereas the Internet offers consumers the possibility to make better informed decisions in terms of quality and price compared to traditional means of purchase, and whereas online advertising has become an important means to facilitate cross-border trade for businesses of all sizes, but in particular for SMEs in order to be able to reach new customers,
- K. whereas the increasing use of the Internet for trade brings with it significant opportunities, but also certain challenges,
- L. whereas companies delivering content services should be encouraged to engage in new and innovative business models embracing the opportunities offered by the Internet and e-commerce,
- M. whereas technology and economics will dictate legal solutions given that the current patchwork of legal frameworks is clearly inadequate,
- N. whereas e-commerce generally relies on intellectual property protection, and whereas a secure and predictable legal environment for intellectual property protection, as well as exceptions and limitations, is needed to promote technological innovation and the transfer/dissemination of technology,
- O. whereas it has been observed that according to the national law of important EU trading partners, a telecommunications licence has to be obtained first in order to be able to provide e-commerce services, creating thus an unnecessary obligation especially in view of the complex procedures which apply for granting these licences,
- P. whereas the role of e-commerce amongst members of the WTO has increased rapidly in areas such as banking, the telecommunications sector, the computer industry, the advertising industry, distribution and express mail services; whereas the number of countries not limiting cross-border access in such fields is already substantial; whereas ten years have passed since the launch of the WTO Work Programme on E-Commerce,
- Q. whereas the WTO fundamentals of non-discrimination, transparency and progressive liberalisation must be applied in a manner that takes account of the speed and interactivity of the Internet, the methods of electronic payment, disintermediation, the increased integration of business functions into the online system, the greater flexibility of business organisations as well as the greater fragmentation of businesses,
- 1. Stresses the beneficial influence of the Internet over the different factors and stages in

cross-border and international trading of goods and services during the last two decades; underlines that the inherently international character of e-commerce calls for universal understanding and cooperation;

2. Acknowledges that online commercial innovation and creativity is fostering the development of new patterns of trading such as commerce between consumers; points out that online markets act as new intermediaries in order to facilitate exchanges, increase information access at very low cost, and generally expand the scope of business-to-business relationships;
3. Believes that SMEs and young entrepreneurs who are partly or entirely engaged in online trading activities, are really finding a comparatively low administrative and commercial cost platform from which to promote, through customised online advertising, and sell their goods and services to a universally expanding clientele, thus bypassing some trade barriers, part of which are obsolete, and penetrating previously remote and closed markets;
4. Acknowledges that problems with regard to the guarantee of product quality and safety due to the lack of the usual control practices at the distribution stage of online trading must be addressed in novel ways, such as consumer ratings of vendors and consumer-to-consumer peer review;
5. Calls for a detailed analysis of the influence of online trade upon conventional trading patterns and activities, in order to be aware of and consequently avoid potential adverse effects;
6. Notes with concern that consumers and vendors using ICT are often subject to discriminatory treatment in comparison to consumers and vendors operating in offline markets;
7. Welcomes the fact that consumers are benefiting from access to a virtually unlimited range of goods and services due to the effective abolition of geographic, distance and space limitations as well as the possibility for transparent and unbiased information, the comparison of prices, the availability of customised online advertising, and the convenience of online "search and buy" twenty-four hours per day for anyone connected to the Internet at home, at work or elsewhere;
8. Notes that the emerging digital market in intangible goods and services is already greater than traditional trading and provision and has, moreover, created a new range of trading concepts and economic values such as digital real estate (domain names) and access to information (search engines);
9. Suggests that illegal behaviour such as counterfeiting, piracy, fraud, breach of transaction security and violation of citizens' private space should not be attributed to the nature of the medium but has to be considered as aspects of illegal commercial activities which pre-existed in the physical world and have been both facilitated and exacerbated due to the abundant technological possibilities provided, occurring mainly when the medium does not operate on a basis of compliance with the rules in force in order to benefit from a regime of managed responsibility; stresses the need to create mechanisms for the adoption and strengthening of the necessary and appropriate enforcement measures and of more effective and concerted coordination, which will permit the combating and elimination of existing illegal online commercial behaviour especially with regard to cases liable to involve major public health risks, such as bogus medicines, without affecting the development of

international e-commerce;

10. Supports the unconditional respect for the public morals and ethics of states and peoples, but regrets the increasingly abusive recourse to censorship in respect of online services and products which operates as a disguised trade barrier;
11. Recognises the need for open standards and their importance for innovation, competition and effective consumer choice; proposes that trade agreements concluded by the European Community promote the broad and open use of the Internet for e-commerce, provided that consumers are able to access and use services and digital products of their choice unless prohibited by national law;
12. Considers that the magnitude of the increase in cross-border transactions, the difficulty of identifying the nature, origin, and destination of transactions, and the lack of audit trails and leverage points bring into question the territorial nature of tax regimes; notes that opportunities exist for streamlining tax administration, for replacing paperwork with electronic data interchanges and for the electronic filling-out of tax returns as well as the automation of the tax collection process;
13. Stresses the need to educate consumers and undertakings and the need to organise media information campaigns on the development prospects, rights and obligations of all parties involved in international trade on the Internet;
14. Regrets the increasing number of incidents of online fraud and theft of both personal data and money; believes that lack of trust in the security and safety of transactions and payments constitutes the most important danger for the future of e-commerce; calls on the Commission to investigate the causes and to redouble its efforts to create mechanisms for strengthening businesses' and individuals' trust in international electronic payment systems, as well as establishing suitable means for resolving disputes related to illegal commercial practices;
15. Highlights that the security and credibility of transactions related to cultural goods or services online are essential;
16. Notes that confidence depends not only on simple, reliable and secure ways of using the Internet, but also inter alia on the quality of the goods and services and the availability of appropriate remedies;
17. Stresses the need for international regulatory co-operation if international electronic trade is to grow to its full potential; considers that a new, modern approach to problematic areas of e-commerce is necessary in order to ensure consumers benefit from protection of their privacy and the lower costs and new opportunities for commerce that flow from the Internet;
18. Considers that the discussion for the current and future challenges of global Internet trade should take place in a mutually supportive and structured cooperative framework based on systems of institutionalised rules amongst interdependent actors, thus enabling a modern and inclusive multi-stakeholder governance process as exemplified by the Internet Governance Forum; notes that the current modes of Internet governance are characterised by their hybrid nature lacking functional and regulatory hierarchical steering instruments;
19. Regrets the absence of any progress under the WTO negotiations on the important issue of the classification of so-called "digitised products", the fact that the Doha Development

Agenda does not mandate specific negotiations on e-commerce and that no progress has been made on the establishment of a permanent WTO Customs Duty Moratorium on Electronic Transmissions; notes that there is still uncertainty as to the proper customs valuation of digital products and there is still lack of agreement as to what rules and obligations (General Agreement on Tariffs and Trade, General Agreement on Trade in Services (GATS) or Trade-Related Aspects of Intellectual Property Rights) should apply to digitally-delivered products;

20. Welcomes the Commission's proposal to the WTO to update and expand the above-mentioned Ministerial Declaration on ITA, setting a short time frame, in order to give an additional boost to trade in these products, to attract more participants, to address non-tariff barriers and to address the increasing challenges of technological development and convergence; regrets however the disparate interpretations of the ITA by the parties and calls on the Commission to fully implement the letter and the spirit of the current ITA and to support a modern and realistic approach for any future agreement in line with the demand for more information technology products, free of import duties;
21. Welcomes the progress already achieved in the framework of GATS, World Intellectual Property Organisation (WIPO) Internet Treaties, United Nations Commission on International Trade Law (UNCITRAL) model law, the extensive work by the Organisation for Economic Co-operation and Development (OECD), and the extensive policy framework adopted at the OECD Ministerial Meeting in Seoul in 2008, and the World Summit on the Information Society in Geneva in December 2003 and in Tunis in November 2005;
22. Highlights the importance of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) Convention on the Protection and Promotion of the Diversity of Cultural Expression as an essential instrument to guarantee that the cultural exemption in international trade transactions in goods and services of a cultural and creative nature is maintained within the international framework of the WTO; calls upon the Council and the Commission to implement quickly the Convention in the internal as well as the external policies of the European Union;
23. Emphasises the fact that bilateral and regional free trade agreements cannot provide complete answers to far-reaching market access; nevertheless, calls on the European Union to include systematically in its bilateral and regional trade agreements explicit provisions covering broad and open use of the Internet for trade in goods and services and unfettered information flows, such as to refrain from imposing or maintaining unnecessary barriers to information flows across borders, and by applying the principles of non-discriminatory, transparent and least trade-restrictive regulation to Internet transactions; supports the efforts made by the EU to establish cooperation dialogue on regulatory issues as part of its bilateral agreements with third country trading partners; calls on the EU institutions and Member States, upon reaching these agreements, to be prepared to contribute to this cooperation dialogue;
24. Calls on the Commission to review the applicability of trade instruments so as to harmonise and open the use of spectrum in order to promote mobile access to Internet services spurring innovation, growth and competition;
25. Stresses that attention needs to be focused on the provision of online services including e-commerce not being subject to unnecessary domestic authorisation procedures, both in the

EU and in our trading partners' countries, which would result in a de facto impediment to the provision of such services;

26. Takes the view that in the context of international public procurement, where new technologies allow for cross-border e-commerce, new forms of, for example, combinatorial auctions for SME-consortia, online publication and advertising tenders allow for significant increases in procurement trade not only within the European Union but globally thus encouraging cross-border e-commerce;
27. Recalls that the conclusion of the Anti-Counterfeiting Trade Agreement has to provide a balance between effective implementation of Intellectual Property Rights (IPRs) and protection of the fundamental rights of consumers, and to contribute to further innovation, flow of information and use of legitimate services in the online commercial environment;
28. Calls on the Commission to run information and education campaigns using traditional and Internet-based tools in order to raise awareness among consumers of their rights with the aim of increasing their confidence in online trading;
29. Deplores the fragmentation of the EU online market which is the result of regulatory provisions permitting or requiring geographic market partitioning, regulatory provisions preventing or impeding the online provision of goods or services, contractual restrictions on distributors, legal uncertainty, lack of consumer trust in the security of payment systems, high Internet access charges, and any limits on the availability of delivery options;
30. Calls on the Commission to publish on its website information on consumer rights in dealing with international trade over the Internet focussing in particular on contractual issues, protection of consumers against unfair commercial practices, privacy and copyright;
31. Believes that the regulatory deficiencies in the EU online market are hindering the development of a stable and strong European online industrial and commercial environment, which results in unsatisfactory levels of participation by European consumers in EU and international trade transactions and hinders creativity and innovation in commercial activity; regrets the fact that the number of EU based companies solely providing online services is extremely low;
32. Notes the proposal for a Directive of the European Parliament and of the Council on consumer rights (COM(2008)0614) that, it is to be hoped, will bring a greater degree of legal certainty, transparency and protection for the growing number of consumers buying over the Internet, particularly regarding delivery, the passing of risk, conformity with the contract and commercial guarantees;
33. Recalls that confidence, in particular for consumers and SMEs, is vital for making full use of the possibilities offered by Internet trade, as emphasised in its above-mentioned resolution of 21 June 2007;
34. Calls on the Commission and the Member States to take every opportunity to contribute to strengthening confidence through action in the relevant international forums, such as the WTO, and to make efforts to arrive at global standards and norms which take into account European best practices;
35. Calls on the Commission to improve the legal interoperability of Internet services through the development of model licences and other legal solutions compatible with jurisdictions where private law has not been harmonised, in particular for voluntary patent

indemnification of international online standards, and to propagate existing European deliverables for legal interoperability as a means of reducing transaction costs and legal uncertainty for online providers;

36. Calls on the Commission, if appropriate in conjunction with the OECD, to draw up a detailed study incorporating statistics on international e-commerce;
37. Calls on the Commission to develop a comprehensive strategy for removing the barriers to using e-commerce still affecting SMEs (access to ICT, costs of developing and maintaining e-business systems, lack of trust, lack of information, legal uncertainty over transnational disputes, etc) and policy recommendations including offering incentives to SMEs for enhanced participation in online trading products and services; encourages, in this respect, the establishment of a database, designed to provide information support and management guidance to the new and inexperienced participants in online trading, and the conduct of a comparative economic analysis of the benefits of e-commerce and online advertising for SMEs, as well as case studies of successful EU SMEs trading online;
38. Calls on the Commission and the Member States to encourage SMEs to 'go online' and to organise platforms for sharing information and exchanging best practices and recommends that the Commission and the Member States promote public procurement through electronic use, taking great care to ensure eAccessibility;
39. Welcomes the Commission's initiative to open a public dialogue by way of its issues paper entitled "Opportunities in Online Goods and Services" and by establishing a group of advisers to collaborate in delivering a report on the relevant issues;
40. Points out that the Internet has brought a new approach to the production, consumption and dissemination of cultural goods and services, which can contribute to cross-cultural understanding on the basis of free and fair access to new ICTs and respect for cultural and linguistic diversity;
41. Stresses that cultural and artistic products and services have both an economic and cultural value, and that it is important to maintain this understanding in international trade negotiations and agreements, and through global networks by implementing the UNESCO Convention in a legally binding way;
42. Urges the Council and the Commission to ensure that European cultural industries fully exploit the new opportunities brought about by online trading in particular the audiovisual, musical and publishing sectors, whilst at the same time offering effective protection against illicit trafficking and piracy; however, this must not affect the Community's policy, clearly stated in the negotiating mandate, to refrain from making offers or accepting liberalisation requests in the audiovisual and cultural sector;
43. Considers that the Internet is becoming the most efficient medium for bridging the trade gap between North and South; considers that the Internet is opening new commercial channels connecting least developed and other developing countries with advanced and central commercial systems, increasing their export flows and bypassing the disadvantages of traditional commercial practices;
44. Believes that the participation of the least developed and other developing countries in international trade through the Internet has to be supported through increased investment primarily in basic infrastructure such as telecommunication networks and access devices;

underlines the need for low cost and better quality provision of Internet services;
recognises that telecom liberalisation has led to increased investment in infrastructure,
improved service and innovation;

45. Recognises that in many countries, users access the Internet via mobile devices;
46. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.