E-Commerce Negotiations at WTO Could Begin Next Month

January 28, 2019
Sandler, Travis & Rosenberg Trade Report

Talks on a World Trade Organization agreement on trade-related aspects of electronic commerce could begin as early as March after dozens of WTO members affirmed Jan. 25 their intention to launch such negotiations.

In a statement, the European Union said that while the last two decades have seen the exponential growth of domestic and cross-border e-commerce there are no specific multilateral rules in the WTO regulating this type of trade. Instead, businesses and consumers have to rely on a patchwork of rules agreed by some countries in their bilateral or regional trade agreements.

In response, a joint communique from 76 WTO members said they “will seek to achieve a high standard outcome that builds on existing WTO agreements and frameworks with the participation of as many WTO members as possible” while taking into account “the unique opportunities and challenges” faced by developing and least-developed countries and micro, small, and medium-sized enterprises. The statement encourages all WTO members to participate in the negotiations to “further enhance the benefits of electronic commerce for businesses, consumers, and the global economy.”

The EU said its desired outcomes include (a) improving consumers’ trust in the online environment, (b) tackling barriers that prevent cross-border sales, (c) guaranteeing the validity of e-contracts and e-signatures, (d) permanently banning customs duties on electronic transmissions, and (e) addressing forced data localization requirements and forced disclosure of source code.

U.S. Trade Representative Robert Lighthizer said the U.S. goal is “a high-standard agreement that creates strong, market-based rules in this area and reduces the barriers around the world that threaten to undermine the growth of the digital economy, including restrictions on cross-border data flows and data localization requirements.” Lighthizer emphasized that such an agreement should be enforceable and have “the same obligations for all participants.”

In an open letter to WTO trade ministers, organizations representing businesses and workers around the world applauded the announcement and expressed hope that members will create “a modern ecommerce framework that facilitates customs clearance, digital transactions, transparency, trust, movement of information, and access to a variety of e-commerce platforms, payments technologies, communications, social media and marketing tools, productivity software, and shipping and logistics services.” They added that “improving the enabling environment for digital trade and global e-commerce is particularly critical for micro, small and early stage businesses to unlock customers, suppliers, and partners in new markets, integrate into global value chains, and manage their operations.”

However, a number of civil society organizations registered their “profound and urgent opposition” to the proposed negotiations, which they said “would severely constrain the policy space of countries to develop their economies in the future and would accelerate the global disadvantaging of workers and small enterprises in all countries vis-à-vis large corporations that characterizes the current global economy.” Instead, the groups said, the WTO should adopt a
new approach that addresses issues such as data governance, MSMEs, jobs, taxation, consumer protection, anti-monopoly regulation, and trade facilitation.

To get news like this in your inbox daily, subscribe to the Sandler, Travis & Rosenberg Trade Report.