

Hosuk Lee-Makiyama Director, ECIPE  
Presentation at the WTO ITA Symposium  
Geneva, May 14~15th 2012

I am happy to join you in commemorating the ITA, which remains inarguably the biggest trade liberalisation achieved by the WTO system. There is no better evidence that plurilateral agreements can deliver liberalisation that is inclusive and substantive. Fifteen years ago, ICT trade was exclusively a concern within the Quad; While today, exports of the developing economies are larger than from OECD countries, and South-South has overtaken North-North trade. Free trade through the ITA effectively redistributed the welfare gains, jobs and know-how from North to South. It has single-handedly replaced the digital divide with inclusiveness that followed global production networks and investments, that in turn should have made worries about trade balances and mercantilism outdated concepts.

However, failing to expand the ITA has taken its toll on the fastest evolving of all sectors, and the ITA has missed at least three innovation cycles and one industrial revolutions in fifteen years. But despite proliferation of bilateral FTAs with more comprehensive and updated coverage, they are not able to replace a critical mass agreement or the WTO system. As we have heard from the industry, the utilisation rate of FTAs are consistently lower for the ICT sector due to the number of components involved and the complexities of rules of origin.

This is why the ITA needs future-proofing: In a [policy paper](#) our think tank published last year, I tried to outline all the trade elements necessary for keeping the digital economy open and inclusive – goods, data, infrastructure and competences.

These elements form a framework that liberalises all of the digital economy, a framework we named the International Digital Economy Agreement (IDEA). But as you see, the elements are more or less the same as the 90s – which became the e-commerce moratorium, the reference paper and the ITA.

*Let us start with the product coverage* — It is often claimed that ITA covers 97% of IT trade, while in reality only covering about 65% of digital goods and vital parts almost exclusively used in them. Products outside the ITA face an average tariff at 5.3% tariff, which does not sound that much, but considering the profit margins are often less in processing trade, there is theoretically room for doubling profits. But in order to future-proof the ITA agreement, the principles behind the product coverage must be simplified. In Attachment A, more commitments can be made on category basis and negotiated by negative listing – for example telephony equipment, computers – rather than individual products and 6 or 8 digit level commitments that require updating and renegotiation whenever a new product is created. Second, inclusion must be devoid of attributes and criteria that are temporal – such as capacity, speed or definition like professional equipment that become out of date within months. It may be necessary to arrive to the most basic two-tier criteria for inclusion – a) digital technology products b) that are intended for information processing.

*NTBs* – Obviously, the trade restrictiveness arising from discriminatory and disproportionate measures is larger than any tariff. The WTO is unfit to be a standard-setting body and future work must make such measures actionable or at least transparent. Members could conclude existing work on EMC/EMI. But given that most high level standards are market driven under dynamic competition, there is no real reason, at least from the consumer and the business perspective, why some of the techniques that we already use in our FTAs, such as Supplier Declaration of Conformity (SDOC) or mutual recognition are not possible amongst ITA signatories.

*Services* — Today, approximately 75% of software is distributed online, and the global spending on software are of equivalent volumes as entire ITA of most is traded cross-border. The market for “software as a service”, or SaaS, is doubling ever three years. Furthermore, many goods, especially in mobile technology, depend on access or bundling with online services. Even technical infrastructure and network equipment is today delivered as managed services and could technically fall under mode 3. There is a significant degree of servification of manufacturing. And while tariffs on digital products simply increase transaction costs, service restrictions could have completely prohibitive effects on an industry’s business models, or turn goods into useless bricks. This urgency explains also why some industry initiatives are taking place outside the WTO, such as NFTC or OECD regulatory principles on cross border data flows.

ICT services are also general purpose industry, enabling all other services trade: half of all services trade is enabled by ICT services, especially for developing economies who is more dependent on the internet for its goods exports, offshoring or outsourcing. Five out of the top ten ICT services exporters are developing or emerging economies, including the number one, India whose balance from the ITA would improve by 850% if services were added.

Agreeing on services market access is not such an ambitious undertaking as we would expect. The ten largest ITA signatories account for 90% of IT services trade, and have almost no exceptions listed in their GATS commitments. Locking in these commitments would not affect their ability to make genuine exceptions as GATS Art XIV would still be in place.

*Mode 4* — Temporary movement of workers is a sensitive affair, but less so in the ICT sector than in others – qualifications and certifications are issued by corporations, not authorities. The “stolen jobs” argument in the ICT services industry is either non-existent or look very foolish. Intra-corporate transfers, abolition of economic needs tests and ambitious quotas for foreign ICT workers are demanded by business on all sides, including in countries where migration issues are politically sensitive.

*To conclude* — The WTO has the potential to expand the trade coverage within goods and services that exceeds 40% of the current trade, with developing and emerging economies as key beneficiaries. In terms of value-added, the expansion would deliver twice that figure, given the high value-added of services.

The principal question now is whether the WTO must follow where technology trade has already gone. The ITA risks becoming obsolete when the majority of the value-added created in the industry is traded outside it. We are even face rollbacks on goods liberalisation we thought ITA had already achieved due to services barriers. This question is even more pressing for the industries of the developing economies that rely more on the MFN rate than others – and this is particularly true given the non-MFN alternatives that are discussed in other areas of trade outside goods.

The question of whether all elements should be in a linked package within the ITA is a completely irrelevant question – it is a question of what is *needed* to keep the WTO relevant, not a question of what negotiators have the mandate to do.

Finally, protectionism and import substitution has become a counterproductive strategy due to the need for specialised components, and taxing your own export competitiveness will eventually force you out of the market. One lesson learned from attempts to protect the domestic consumer electronics manufacturing show that no market – not even the Single Market of the EU, which is the largest consumer market in the world – was large enough to artificially sustain domestic firms without exports.