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**CONFERENCE MINISTERIELLE DE L'OCDE
"UN MONDE SANS FRONTIERES : CONCRETISER LE POTENTIEL
DU COMMERCE ELECTRONIQUE MONDIAL"**

OTTAWA, 7-9 OCTOBRE 1998

ACTES DE LA CONFERENCE

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AVANT-PROPOS

Les « Actes de la Conférence ministérielle de l'OCDE -- Un monde sans frontières : concrétiser le potentiel du commerce électronique mondial (Ottawa, 7-9 octobre 1998) » regroupent en un seul volume maniable le compte rendu de la Conférence, le programme final, bon nombre des principales interventions ainsi que les conclusions officielles de la Conférence. Un volume parallèle fournit la liste des participants à cet important événement, qui a attiré près d'un millier de personnes à Ottawa.

Pour des raisons d'espace, il n'a pas été possible de réunir ici l'ensemble de la documentation. Souscrivant à l'idée de concrétiser le potentiel du monde électronique pour compléter le monde matériel, les organisateurs de la Conférence ont eu largement recours aux sites Web, à Industrie Canada ainsi qu'à l'OCDE, où sera conservée pendant plus longtemps sous forme électronique la documentation concernant la Conférence. Sur le site de l'OCDE, la page index de la Division de la politique de l'information, de l'informatique et des communications (<http://www.oecd.org/dsti/sti/it/index.htm>), Direction de la science, de la technologie et de l'industrie, donne accès à toute cette documentation. Le présent volume contient la transcription, mise en forme, de la plupart des principaux exposés. La version du programme proposée sur le site Web permet d'avoir accès par un simple clic à de nombreuses interventions d'éminents spécialistes présents à la Conférence.

Le Secrétariat de l'OCDE souhaite adresser ses remerciements à tous ceux qui ont contribué au succès de la Conférence ministérielle, notamment au Gouvernement canadien, sans la contribution duquel elle n'aurait pas pu avoir lieu.

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I. COMPTE RENDU SUCCINCT DE LA CONFERENCE

La Conférence

L'Organisation de coopération et de développement économiques (OCDE) ainsi que le Gouvernement canadien ont organisé conjointement une conférence ministérielle sur le commerce électronique, qui s'est tenue à Ottawa du 7 au 9 octobre 1998. C'était la première rencontre ministérielle de l'OCDE à laquelle participaient de hauts responsables des gouvernements nationaux (29 pays Membres, 11 économies non-membres), les chefs de secrétariat d'importantes organisations internationales, des personnalités du monde des affaires, ainsi que des représentants des syndicats, des consommateurs et des groupes de défense des intérêts publics pour préciser leurs rôles respectifs, discuter des priorités et élaborer des plans visant à promouvoir le développement du commerce électronique mondial.

La Conférence a permis de constater qu'on s'accorde de plus en plus à reconnaître la nécessité de créer le cadre mondial approprié pour tirer parti de l'énorme potentiel économique du commerce électronique et pour en assurer la croissance soutenue en tenant compte des impératifs sociaux. La réunion internationale de l'OCDE sur le commerce électronique qui s'est tenue à Turku (Finlande) en novembre 1997 a été la première occasion offerte aux gouvernements des pays Membres de l'OCDE et aux chefs d'entreprises d'échanger leurs vues sur la question et de mettre en évidence les obstacles au développement du commerce électronique, pour être en mesure de relever les défis qui se posent dans ce nouvel environnement. A partir de ces bases, la Conférence d'Ottawa a élargi la réflexion, pour mettre l'accent sur la recherche de solutions.

Thèmes de la Conférence et débat

Afin d'étudier les questions clés entourant le commerce électronique mondial, l'ordre du jour de la Conférence d'Ottawa avait centré le débat sur quatre principaux thèmes, complexes et interdépendants :

Renforcer la confiance des utilisateurs et des consommateurs – Veiller à ce que les cadres réglementaires et les garanties qui assurent cette confiance sur le marché matériel soient adaptés le cas échéant afin d'instaurer une confiance durable dans le marché numérique.

Au cours de la première session plénière, les participants se sont penchés sur les problèmes que pose le commerce électronique du point de vue des arrangements juridiques, réglementaires et institutionnels actuels, ainsi que les solutions technologiques permettant d'assurer une "autorégulation" efficace. Les personnalités du monde des affaires, les représentants des associations de consommateurs ainsi que les Ministres s'accordaient à penser que l'instauration du degré de confiance nécessaire passe par la coopération internationale. Certains représentants gouvernementaux ont fait valoir que s'il appartient principalement au secteur privé d'élaborer des solutions, c'est aux pouvoirs publics qu'il revient de prendre les mesures voulues pour assurer la confiance du public et d'agir en complément des initiatives du secteur privé. Les représentants des milieux d'affaires ont souligné l'importance de l'autorégulation et de son caractère volontaire, et demandé aux gouvernements de ne pas céder à la tentation d'exercer une réglementation directe. Les représentants des groupes de défense des intérêts du public ont pour leur part fait valoir que l'autorégulation ne doit pas être considérée uniquement comme une initiative du secteur privé, mais que c'est aux pouvoirs publics qu'il incombe au premier chef de veiller à ce que l'autorégulation s'exerce dans l'intérêt du public.

Ayant reconnu que l'autorégulation a un rôle important à jouer dans le commerce électronique et que sa mise en œuvre effective est nécessaire, les participants ont centré leur débat au cours de la deuxième session plénière sur des cas précis d'autorégulation effective en ce qui concerne la confiance du consommateur, la protection de la vie privée, la sécurité des données et la propriété intellectuelle ainsi que le contenu offensant ou illégal. Certains représentants des pouvoirs publics ont préconisé le recours à une formule mixte faisant intervenir la réglementation par les pouvoirs publics, l'autorégulation et une corégulation avec le secteur privé. Les représentants des milieux d'affaires et des groupes de défense des intérêts du public ont également souligné la nécessité d'une cohérence de l'autorégulation au plan international. Le Président a retenu dans sa conclusion la nécessité de maintenir un équilibre entre autorégulation et législation.

Etablir les règles fondamentales régissant le marché numérique – Reconnaître que les entreprises, les pouvoirs publics, les consommateurs ainsi que les organisations internationales ont un rôle à jouer dans l'élaboration de "règles" claires, cohérentes et prévisibles, qui favorisent un environnement concurrentiel pour le commerce électronique.

Au cours de la session plénière 3A, les représentants des pouvoirs publics et des milieux d'affaires ont échangé leurs vues sur la nécessité de la coopération internationale. Tous ont reconnu la rapidité avec laquelle évoluait le commerce électronique ainsi que sa dimension mondiale. Sur cette base, les représentants des pouvoirs publics ont préconisé la coordination internationale de certains aspects fonctionnels de l'Internet et du commerce électronique, par la voie gouvernementale ou par l'entremise du secteur privé. L'un d'eux a fait valoir qu'il serait nuisible pour le commerce électronique que les problèmes fondamentaux soient abordés dans une optique purement nationale, et que l'on tente de les résoudre à l'échelon national. Un représentant des milieux d'affaires a préconisé une coordination au plan mondial pour assurer l'efficacité de la régulation.

Au cours de la session plénière 3B, les représentants des organisations internationales ont présenté leurs travaux en cours et prévus dans le domaine du commerce électronique, et se sont déclarés en faveur d'une coopération plus étroite. Ils ont mis en évidence les nombreux domaines d'intervention touchés par le commerce électronique, d'où la nécessité de renforcer la coopération entre les organisations internationales.

Les organisations internationales présentes à la Conférence étaient les suivantes : Banque des règlements internationaux, Conseil de l'Europe, Association européenne de libre-échange, Union internationale des télécommunications, Organisation des Nations Unies (représentant la Commission des Nations Unies pour le droit commercial international), la Conférence des Nations Unies sur le commerce et le développement, la Commission économique des Nations Unies pour l'Europe, l'Union postale universelle, la Banque mondiale, l'Organisation mondiale des douanes, l'Organisation mondiale de la propriété intellectuelle et l'Organisation mondiale du commerce.

Améliorer l'infrastructure de l'information pour le commerce électronique – Créer une concurrence effective dans les marchés des télécommunications et assurer la croissance du commerce électronique mondial en élargissant l'accès à l'infrastructure et aux services de l'information.

La session plénière 4 a porté sur les problèmes que pose le développement de l'infrastructure nécessaire au commerce électronique. Les participants y ont soulevé les questions de convergence, ainsi que de politique et de libéralisation et de télécommunications. Les représentants des pouvoirs publics ont souligné, quant à eux, combien il est important d'assurer à tous l'accès à l'infrastructure et aux services, afin d'éviter qu'il y ait les « privilégiés » de l'information d'une part et les « laissés pour compte » de l'autre, et de poursuivre la libéralisation des services de télécommunications pour y parvenir. Certains d'entre eux ont fait campagne en faveur du développement de réseaux plus rapides et plus fiables. Les représentants des milieux d'affaires s'accordent à penser que c'est dans un environnement de

télécommunications mondial concurrentiel que pourra le mieux être mise en place une telle infrastructure, soulignant qu'il est urgent de lever les obstacles à la concurrence dans le secteur des télécommunications.

Optimiser les avantages – Comprendre les incidences sociales et économiques du commerce électronique ainsi que l'évolution plus large vers une société mondiale de l'information en évaluant son impact sur la croissance de la productivité, l'emploi et les besoins des entreprises, des organisations et des consommateurs.

Le débat qui s'est déroulé au cours de la session plénière 4 a également porté sur des questions telles que l'impact du commerce électronique sur la croissance, la productivité et l'emploi. Plusieurs représentants des milieux gouvernementaux ont soulevé la question des effets du commerce électronique sur les petites et moyennes entreprises et abordé d'autres aspects concernant les pays en développement. Ils ont insisté sur l'importance primordiale de la formation continue, rencontrant en cela un écho auprès des représentants des groupes de défense des intérêts du public, notamment des représentants syndicaux, selon lesquels il faut que le commerce électronique ait des retombées favorables pour les travailleurs, non des effets nuisibles.

Principales conclusions

La Conférence d'Ottawa a été un événement marquant qui a permis aux milieux d'affaires, aux consommateurs et aux pouvoirs publics de dégager les éléments d'une vision commune du commerce électronique mondial et d'adopter un ambitieux programme international pour son développement. Les participants ont pu mettre en évidence les défis qu'il importe de relever pour optimiser les avantages du commerce électronique, et préciser les rôles, les responsabilités et les engagements dans le cadre d'un programme d'action. Les représentants des pouvoirs publics, les entreprises, les syndicats ainsi que les ONG se sont accordés à reconnaître :

- Que c'est l'un des rôles des *pouvoirs publics* de veiller à l'intérêt général et de créer un environnement concurrentiel pour le commerce électronique mondial, où seront levés les obstacles injustifiés, où les règles fondamentales seront proportionnées, transparentes, cohérentes et prévisibles et dans lequel sera favorisée la coopération entre tous les acteurs au plan mondial.
- Que le rôle principal incombant au *secteur privé* est de stimuler la croissance du commerce électronique mondial en y consacrant les investissements voulus, ainsi que par une innovation dynamique dans les produits et services, par l'élaboration et la mise en œuvre de solutions à un certain nombre de problèmes, ainsi que par un partenariat nécessaire avec les pouvoirs publics pour veiller au respect des intérêts fondamentaux du public ainsi qu'à la réalisation des objectifs économiques et sociaux.
- Que l'ensemble des *intérêts de la collectivité* doivent être pris en compte et intégrés aux efforts déployés en vue de favoriser la croissance du commerce électronique mondial et d'optimiser son potentiel pour le développement social, civique et communautaire.

Les participants sont également convenus que la concrétisation de leur vision commune du commerce électronique passe par un partenariat entre tous les acteurs concernés, car c'est dans le cadre d'un tel partenariat que pourront être élaborées les solutions aux problèmes auxquels est confronté le commerce électronique.

Résultats de la Conférence

La Conférence ministérielle d'Ottawa a ouvert pour l'OCDE et le monde entier de nouvelles possibilités de créer de nouveaux partenariats entre pouvoirs publics, secteur privé, groupes de défense des consommateurs et des intérêts de la collectivité, et organisations internationales.

Les *conclusions de la Conférence* constituent une première pour une conférence ministérielle de l'OCDE dans la mesure où les participants - ministres, représentants des milieux d'affaires, syndicats et groupes de défense des intérêts du public - sont parvenus à un accord sur les conclusions officielles de la Conférence. Ces *conclusions* constituent l'un des aboutissements les plus significatifs de la Conférence d'Ottawa, à la fois en raison de l'adhésion des participants au principe du partenariat et de l'approche consensuelle qui reconnaît le rôle des milieux d'affaires, de l'entreprise et des consommateurs dans le développement du marché du commerce électronique et permet aux pouvoirs publics de créer un climat propice en appuyant les milieux d'affaires et en assurant aux entreprises des conditions équitables.

Des déclarations ministérielles qui définissent les principes et objectifs fondamentaux devant guider les travaux futurs de l'OCDE ont été adoptées dans trois domaines d'importance primordiale :

- **La Déclaration relative à la protection de la vie privée sur les réseaux mondiaux** réaffirme l'importance de la protection de la vie privée, reconnaît que les principes énoncés dans les Lignes directrices de 1980 de l'OCDE demeurent des fondements internationaux pour la protection de la vie privée sur quelque support que ce soit et que les pays doivent unir leurs efforts, en collaboration avec le secteur privé, pour en assurer la mise en œuvre effective dans un environnement de réseaux ouvert et mondial.
- **La Déclaration relative à la protection des consommateurs dans le contexte du commerce électronique** souligne la nécessité de veiller à ce que les consommateurs qui ont recours au commerce électronique bénéficient d'un niveau de protection transparent et efficace pour les transactions électroniques.
- **La Déclaration relative à l'authentification pour le commerce électronique** exprime la détermination des Ministres à ne pas établir de distinction à l'encontre des démarches suivies par les autres pays en matière d'authentification et à modifier, le cas échéant, les dispositions législatives ou réglementaires en vigueur, visant des technologies ou des supports particuliers, qui seraient susceptibles de faire obstacle au commerce électronique.

La Conférence est également parvenue à un certain nombre de résultats dans le domaine de la **fiscalité** :

- Les Ministres se sont félicités du rapport intitulé *Conditions cadres pour l'imposition du commerce électronique* et ont approuvé les propositions qu'il contient quant à la poursuite des travaux. L'intérêt de ce document est notamment qu'il fournit aux autorités fiscales des orientations concernant l'imposition du commerce électronique. Il conclut que les principes d'imposition actuels peuvent s'appliquer au commerce électronique pour le moment et que l'on ne devrait pas adopter de nouvelles formes d'imposition, telles qu'une taxe à l'octet, qui serait discriminatoire à l'égard du commerce électronique.
- En complément de ce cadre général, la Conférence a permis de dégager une convergence de vues sur des points précis. Ainsi, en ce qui concerne les taxes à la consommation, il a été conclu que celles-ci devraient être prélevées dans le pays où la consommation a lieu et qu'aux fins de cette taxe, la vente de produits numérisés ne devrait pas faire l'objet du même traitement que celle des produits matériels. Par ailleurs, une nouvelle formulation a été

adoptée pour caractériser les paiements électroniques dans le modèle de convention fiscale de l'OCDE. Il s'agit là d'une première étape importante dans les activités visant à déterminer la taxation des paiements pour tous les produits numérisés.

Lors de la réunion qu'ils ont tenue, les dirigeants d'entreprises ont adopté à l'unanimité le *plan d'action* intitulé "**Un plan d'action global préparé par l'industrie du commerce électronique, avec des recommandations pour les gouvernements**". Il a été convenu que le *plan d'action* devait être un "document vivant", à actualiser selon les besoins. Ce document repose sur les vues des milieux d'affaires, selon lesquelles : a) le développement du commerce électronique devrait être laissé principalement à l'initiative du secteur privé ; b) les pouvoirs publics ne devraient intervenir que lorsque cela est nécessaire et de façon à promouvoir un ensemble de règles stables, transparentes, objectives, non discriminatoires, flexibles et neutres par rapport aux technologies ; et c) la participation au commerce électronique devrait s'inscrire dans un marché ouvert et concurrentiel.

En outre, 12 organismes internationaux et régionaux, notamment l'OMC, l'OMPI, l'OMD, la CNUDCI, l'UIT, la BRI, l'AELE, l'UPU et la CNUCED, ont contribué à la première compilation de travaux internationaux concernant le commerce électronique dans le **Rapport sur les organismes internationaux et régionaux : activités et initiatives dans le domaine du commerce électronique**. Cet important document contribue à la coopération internationale en présentant un cadre commun pour les travaux actuels et futurs sur le commerce électronique.

Au cours de la Conférence, les milieux de défense des intérêts du public, représentés par les syndicats, les associations de consommateurs, et les groupes de protection de la vie privée et de défense des droits de l'homme, ont rédigé à l'intention des Ministres une lettre analogue à l'exposé des priorités présenté par les milieux d'affaires internationaux. L'exposé des ONG note la valeur des mesures prises pour tenir compte des intérêts de la collectivité à la Conférence d'Ottawa, mais souligne aussi la nécessité d'aller plus loin, de façon que les groupes qui les représentent deviennent partenaires à part entière lors des délibérations futures concernant le commerce électronique mondial. C'est pourquoi les ONG ont recommandé la création d'un Comité consultatif sur la défense des intérêts du public pour représenter les groupes œuvrant en faveur des droits de l'homme et de la démocratie, de la protection de la vie privée et des données, ainsi que des consommateurs et de l'accès. Les ONG se sont également déclarées en faveur de l'application par les pays Membres des Lignes directrices régissant la sécurité des systèmes d'information de l'OCDE (1992), notamment des principes de démocratie, d'éthique et de proportionnalité ; de la mise en œuvre des Lignes directrices de 1997 régissant la politique de cryptographie, qui préconise la levée des contrôles sur l'utilisation et l'exportation de techniques de cryptographie et d'autres techniques de protection de la vie privée ; de la mise au point de mécanismes pour faire appliquer les Lignes directrices régissant la protection de la vie privée (1980), qui visent à établir la confiance du consommateur dans les transactions en ligne ; et du renforcement du mandat et du fonctionnement du Comité de la politique à l'égard des consommateurs de l'OCDE.

La Conférence proprement dite a été complétée par une exposition sur le commerce électronique organisée et financée par le secteur privé, qui a permis aux participants de se familiariser avec des applications pratiques du commerce électronique déjà implantées dans les milieux d'affaires et dans le secteur public. L'exposition, qui réunissait quelque 40 entreprises et organisations, illustre les avantages du commerce électronique et faisait la démonstration de techniques efficaces répondant à certaines des principales questions et préoccupations que son développement pose aux pouvoirs publics.

¹ Présenté conjointement par les organismes commerciaux internationaux suivants : Comité consultatif économique et industriel auprès de l'OCDE (BIAC), Chambre de commerce internationale (CCI), Commission sur l'infrastructure mondiale de l'information (GIIC), *International Telecommunications Users Group* (INTUG), et *World Information Technology and Services Alliance* (WITSA), qui ont travaillé en collaboration avec le Forum sur le droit et les politiques de l'Internet.

Prochaines étapes, participation et coopération mondiale

La Conférence d'Ottawa représente une étape importante, dans la mesure où elle a permis d'établir un plan d'action pour les groupes qui y ont participé, mais son succès dépendra en définitive de la façon dont toutes les parties s'acquitteront de leurs engagements respectifs à l'égard de l'action future.

S'agissant de l'OCDE, il a été proposé un programme de travail à court terme en sept points sur le commerce électronique :

1. Achever la rédaction des Lignes directrices sur la protection des consommateurs dans le contexte du commerce électronique pour la fin de 1999.
2. Travailler sur les modalités pratiques de la mise en œuvre des Lignes directrices de l'OCDE de 1980 relatives à la protection de la vie privée sur les réseaux mondiaux.
3. Analyser les modèles technologiques d'authentification et de certification, de façon que la politique à cet égard puisse être judicieusement formulée.
4. Entreprendre des travaux sur la définition et la mesure du commerce électronique.
5. Elargir l'analyse des incidences économiques et sociales du commerce électronique, ainsi que de ses applications dans le secteur public, notamment dans le domaine de l'éducation.
6. Poursuivre l'étude des conséquences pour l'action des pouvoirs publics de l'évolution des réseaux d'information et de communication, notamment en ce qui concerne la convergence technologique, l'amélioration de l'accès aux infrastructures et les exigences des marchés ouverts.
7. Créer des groupes consultatifs techniques avec le monde des affaires pour réfléchir sur les questions d'imposition, notamment, comme cela a été suggéré à Ottawa, sur le régime des redevances, la notion d'établissement stable, les impôts sur la consommation ainsi que les façons d'utiliser les technologies du commerce électronique pour alléger la charge fiscale.

Les représentants des milieux d'affaires ont exprimé leur vif intérêt pour les travaux en cours à l'OCDE sur la base du consensus qui s'est dégagé au cours des travaux préparatoires de la Conférence, qui ont ouvert un nouveau champ de réflexion. Ils ont reconnu la nécessité de coordonner en permanence leurs vues et d'éviter le double emploi, et sont convenus de poursuivre leurs travaux sous l'égide de *l'Alliance for Global Business* (AGB), qui établira et maintiendra un contact régulier avec les groupements professionnels travaillant avec le *Global Business Dialogue* (GBDe), la CEAP et la ZLEA.

Afin de maintenir l'élan donné par la Conférence d'Ottawa et la coordination qu'elle a permis de mettre en place, le Secrétaire général de l'OCDE s'est engagé à organiser une réunion de travail environ un an plus tard pour évaluer les progrès accomplis par l'OCDE, par d'autres organisations internationales ainsi que par les groupes du secteur privé (entreprises et ONG) sur les questions examinées lors de la Conférence d'Ottawa.

II. PROGRAMME FINAL DE LA CONFERENCE

MERCREDI 7 OCTOBRE 1998

08:00 - 23:00 **INSCRIPTION**

18:00 **RECEPTION / DINER**

Participants à la conférence

Orateur : *M. Rudy Puryear, Global Managing Partner of Electronic Commerce, Andersen Consulting*

18:30 **RECEPTION / DINER**

Chefs de délégation, ministres et invités

Accueil : *M. George K. Petty, President & Chief Executive Officer, TELUS*
M. John Manley, Président de la Conférence, Ministre de l'Industrie du Canada

Orateur : *M. Renato Ruggiero, Directeur général, Organisation mondiale du commerce*

JEUDI 8 OCTOBRE 1998

08:30 **ACCUEIL OFFICIEL ET ALLOCUTIONS D'OUVERTURE**

Accueil : *Le très honorable Jean Chrétien, Premier ministre du Canada*
M. Donald Johnston, Secrétaire général, OCDE
M. John Manley, Président de la Conférence, Ministre de l'Industrie du Canada

Orateurs : *M. Louis V. Gerstner Jr., Chairman of the Board and Chief Executive Office, IBM Corporation*
M. William Daley, Secretary of Commerce, Etats-Unis

10:00

**SESSION PLENIERE 1 : TABLE RONDE
RENFORCER LA CONFIANCE DES UTILISATEURS ET DES
CONSOUMMATEURS : ROLES ET RESPONSABILITES**

La confiance est essentielle pour toute transaction commerciale. Le développement de nouveaux types d'activités commerciales dans l'environnement électronique dépend dans une large mesure de l'assurance donnée aux consommateurs et aux entreprises que l'utilisation qu'ils font des services sur réseau est sûre, fiable et vérifiable. De même, les consommateurs veulent avoir la maîtrise de la collecte et de l'usage des données les concernant et être assurés d'avoir accès à des mécanismes de recours appropriés. Les entreprises ont besoin d'un cadre qui soit prévisible et pratique pour les transactions mondiales. L'instauration du niveau approprié de confiance exige d'associer des technologies fiables, des règles fiscales appropriées, des dispositifs d'autoréglementation et l'éducation du public. Les mécanismes de recours et le rôle des organismes chargés de l'application de la loi doivent être clarifiés afin de bien faire face aux utilisations abusives et à mauvais escient de ce nouvel outil.

La table ronde se penchera sur les problèmes auxquels se heurtent les méthodes existantes et sur la combinaison optimale de lois, de codes, de normes, de dispositions sectorielles et institutionnelles, et de moyens technologiques, qui est nécessaire pour une « autoréglementation » efficace. Des chefs d'entreprise, des représentants des syndicats et des ONG, et des ministres traiteront de questions telles que la protection de la vie privée, la confiance et la protection des consommateurs, la fiscalité, les normes d'interopérabilité, les différences sur le plan culturel et/ou des valeurs, et le cadre contractuel et/ou juridique du commerce électronique.

Principales questions à débattre :

- Quels rôles devraient jouer les pouvoirs publics, le secteur privé et les organisations internationales dans l'instauration et le maintien de la « confiance » ? Quel est le rôle de l'autoréglementation ou de la co-réglementation dans le renforcement de la confiance et dans la protection de la vie privée ?
- Comment peut-on correctement déterminer la responsabilité, la juridiction compétente et le choix de la loi applicables aux divers éléments entrant dans une transaction commerciale électronique ? Dans quelle mesure l'autoréglementation peut-elle jouer un rôle ?
- Comment les gouvernements peuvent-ils concilier la nécessité de maintenir l'assiette de leurs revenus dans ce nouvel environnement avec la nécessité d'éviter les obstacles au développement du commerce électronique ? Quelles nouvelles possibilités de services aux contribuables les nouvelles technologies ouvrent-elles aux autorités fiscales ?

Modérateur : *M. Bruno Lamborghini, President, European Association of Manufacturers of Business Machines and Information Technology Industry (EUROBIT)*

Orateurs *M. Takuma Yamamoto, Chairman of the Board Emeritus, Fujitsu*

principaux : *M. Christian Pierret, Secrétaire d'Etat à l'Industrie, France*

M. Jim Murray, Directeur, Bureau Européen des Unions des Consommateurs (BEUC); Representative, Consumers International

M. Charles O. Rossotti, Commissioner of Internal Revenue Service, United States

Principaux *M. Klaus Büniger, Secretary of State, Ministry of Economics, Germany*

intervenants : *M. John Luxton, Associate Minister for International Trade, New Zealand*

M. Robert Goebbels, Ministre de l'économie, Luxembourg

M. Angelo M. P. Gennari, Director of Studies and Research, CISL (Italian Confederation of Workers Trade Unions)

M. Albert Gidari, Jr., Executive Director, Internet Law and Policy Forum

M. Jaap Kamp, Senior Executive Vice-President, ABN AMRO Bank

M. Larry R. Langdon, Vice President and Director, Tax, Licensing and Customs, Hewlett Packard

M. Nigel Stapleton, Chairman, Reed-Elsevier

M. Terry Matthews, Chairman, Newbridge Networks Corporation

11:15

SESSION PLENIERE 2 : TABLE RONDE

RENFORCER ET FAIRE JOUER LA CONFIANCE : ETUDES DE CAS DE MISE EN OEUVRE EFFECTIVE

Au cours de cette session, les questions et les idées examinées au cours de la session plénière 1 seront approfondies lors d'échanges de vues avec des dirigeants d'entreprise, des professionnels et des ministres qui se référeront à des cas spécifiques d'autoréglementation efficace concernant la confiance des consommateurs, la protection de la vie privée, la sécurité, la propriété intellectuelle ainsi que les contenus offensants et illégaux. Les débats pourraient mettre en lumière des « pratiques exemplaires » ou des « leçons à tirer » des technologies qui permettent à chacun de faire des choix en matière de contenu ou de vie privée; ou expliquer des solutions technologiques éprouvées permettant des transactions nationales et internationales sûres. Les ministres montreront comment les pouvoirs publics peuvent encourager le développement d'une population d'utilisateurs de plus en plus exigeants et avertis et la mise en œuvre efficace de l'autoréglementation par l'industrie et de la co-réglementation par les secteurs privé et public. Une référence aux moyens technologiques présentés à l'exposition illustrera les diverses approches décrites par le secteur privé.

Principales questions à débattre :

- Quelles normes techniques et quelles pratiques commerciales l'industrie peut-elle élaborer et adopter pour favoriser des transactions électroniques mondiales sûres et dignes de confiance ?

- Dans quelle mesure des mécanismes du secteur privé peuvent-ils favoriser la confiance chez les utilisateurs et quelles sont les solutions complémentaires nécessaires pour garantir la mise en œuvre de ces mécanismes ?
- Quel est le rôle éventuel des pouvoirs publics et des organisations internationales ?
- Quelles actions tous les protagonistes peuvent-ils mener pour éduquer les utilisateurs et les consommateurs et les responsabiliser ? Quels mécanismes (mesures coercitives, codes de pratiques de l'industrie, technologies) faut-il mettre en œuvre, au besoin, pour protéger les intérêts des consommateurs ? Quels sont les moyens permettant le mieux d'élaborer et de mettre en place ces mécanismes ?

Moderateur : *M. John Sacher, Executive Director, Marks and Spencer PLC.*

Orateurs principaux : *M. Jan Trøjborg, Minister of Research and Information Technology, Denmark*

M. David Kerr, Chief Executive, Internet Watch Foundation

Mme Christine A. Varney, Hogan & Hartson, L.L.P.

Principaux intervenants : *M. H.B.M. Van der Laan, Deputy General Director of Industry, Netherlands*

M. Gordon J. Feeney, Vice-président, Groupe financier Banque Royale

Mme Moira Scollay, Federal Privacy Commissioner, Australia

M. Yvan Ylieff, Ministre Fédéral de la Politique Scientifique, Belgique

M. Don S. Sandford, President and Chief Executive Officer, Net Shepherd, Inc.

M. Genaro Visconti, Director General for Industrial Development, Ministry of Industry, Italy

M. Daniel J. Weitzner, Technology and Society Domain Leader, World Wide Web Consortium

M. Mark Sneddon, Associate Professor, University of Melbourne

12:45 **OUVERTURE OFFICIELLE DE L'EXPOSITION SUR LE COMMERCE ELECTRONIQUE**

Remarques : *Mme Renah Persofsky, President, Cebra, Inc.*

13:00 **DEJEUNER, Salon Colonel By**

Remarques : *M. William V. Catucci, Président-directeur général AT&T Canada*

14:30

SESSION PLENIERE 3A
ETABLIR LES REGLES FONDAMENTALES REGISSANT LE
COMMERCE ELECTRONIQUE MONDIAL : LE ROLE DE LA
COOPERATION INTERNATIONALE

En prologue à la session plénière 3 B sur le plan de travail des organisations internationales, cette session permettra aux participants à la Conférence d'examiner et de discuter, à partir des vues et perspectives des gouvernements et de l'industrie, le rôle que pourrait jouer la coopération internationale.

Moderateur : *M. Andrew Crockett, Directeur général, Banque des règlements internationaux (BRI)*

Orateurs : *M. Martin Bangemann, Commissaire, Commission européenne*

M. Ira Magaziner, Senior Advisor to the President, United States

M. Sanzo Hosaka, State Secretary for International Trade and Industry, Japan

Mme Maria Livanos Cattau, Secrétaire générale, Chambre de commerce internationale

15:30

SESSION PLENIERE 3B
ETABLIR LES REGLES FONDAMENTALES REGISSANT LE
COMMERCE ELECTRONIQUE MONDIAL : ACTIVITES ET
INITIATIVES INTERNATIONALES

Dans le contexte de l'interdépendance des questions qui doivent être résolues pour concrétiser le potentiel du commerce électronique mondial, les dirigeants des organisations internationales examineront leurs rôles, les enjeux essentiels et les travaux actuels et futurs relatifs aux questions gravitant autour du commerce électronique. Les orateurs sont encouragés à rechercher les éventuelles possibilités de coopération entre les organisations internationales et de collaboration avec le secteur privé.

Seront présentes à la Conférence les organisations internationales suivantes : la Banque des règlements internationaux ; le Conseil de l'Europe; l'Association européenne de libre-échange; l'Union internationale des télécommunications ; les Nations Unies (représentant la Commission des Nations Unies pour le droit commercial international) ; la Conférence des Nations Unies pour le commerce et le développement ; la Commission économique des Nations Unies pour l'Europe; l'Organisation des Nations Unies pour l'éducation, la science et la culture ; l'Union postale universelle ; la Banque mondiale ; l'Organisation mondiale des douanes; l'Organisation mondiale de la propriété intellectuelle ; l'Organisation mondiale du commerce.

Principales questions à débattre:

- Quel rôle les organisations internationales devraient-elles jouer dans l'instauration d'un environnement propice au commerce électronique ? Quelles sont, le cas échéant, les mesures requises pour garantir leur efficacité ?

- Quel rôle les organisations internationales peuvent-elles jouer pour promouvoir un environnement sans faille permettant l'interopérabilité des infrastructures et des applications et permettant de combler les écarts entre les différentes approches nationales ou régionales ?
- Étant donné les défis nouveaux que pose la nature horizontale des problèmes liés au commerce électronique, quelles mesures les gouvernements, le secteur privé et les organisations internationales doivent-ils prendre pour y répondre ?
- Les accords internationaux en vigueur sont-ils suffisants pour favoriser le commerce électronique ? Comment l'application des accords peut-elle le mieux être réalisée ?

Modérateur : *Mme Joanna Shelton, Secrétaire générale adjointe, OCDE*

Orateurs : *M. Renato Ruggiero, Directeur général, Organisation mondiale du commerce (OMC)*

M. Kamil Idris, Directeur général, Organisation mondiale de la propriété intellectuelle (OMPI)

M. Hans Corell, Secrétaire général adjoint, Nations Unies (représentant la CNUDCI)

M. Henry Chasia, Vice-secrétaire général, Union Internationale des télécommunications (UIT)

M. James Shaver, Secrétaire général, Organisation mondiale des douanes (OMD)

M. Andrew Crockett, Directeur général, Banque des règlements internationaux (BRI)

M. Kjartan Jóhannsson, Secrétaire général, Association européenne de libre-échange (AELE)

M. Thomas E. Leavey, Directeur général, Bureau international, Union postale universelle (UPU)

SESSIONS PARALLELES

16:45

SESSION PARALLELE A
REUNION DES MINISTRES DE PAYS MEMBRES DE L'OCDE :
LA CONTRIBUTION DE L'OCDE AU PROGRAMME MONDIAL

L'accès à cette session est restreint aux ministres de l'OCDE et aux délégations nationales des pays Membres de l'OCDE.

La réunion portera principalement sur les travaux actuels et futurs par lesquels l'OCDE contribue à un environnement favorable au développement du commerce électronique mondial.

I. Introduction du Président

M. John Manley, Ministre de l'Industrie, Canada

II. Orateurs principaux
Renforcer la confiance des utilisateurs et des consommateurs :

M. Ole Norrback, Minister for European Affairs and Foreign Trade, Finland

Etablir les règles fondamentales régissant le marché numérique :

M. Herb Dhaliwal, Ministre du Revenu national, Canada

Améliorer l'infrastructure de l'information pour le commerce électronique :

M. Soon-Hoon Bae, Minister of Information and Communication, Corée

Optimiser les avantages :

M. Caspar Einem, Federal Ministry for Science and Transport, Autriche

M. José Mariano Gago, Minister for Science and Technology, Portugal

III. Discussion
IV. Décisions des ministres sur l'adoption formelle des documents

16:45

SESSION PARALLELE B**REUNION DES CHEFS D'ENTREPRISE :
LES PRIORITES DU COMMERCE ELECTRONIQUE**

- Les chefs d'entreprise exposeront les principes fondamentaux qu'ils croient propres à stimuler la croissance et le développement du commerce électronique.
- Les chefs d'entreprise souligneront et discuteront ensuite certaines des initiatives les plus importantes prises par l'industrie en matière de commerce électronique.
- Les chefs d'entreprise présenteront aussi leur perspective sur les différents travaux, exposés et déclarations de la Conférence ministérielle, et indiqueront les vues des entreprises sur la façon d'avancer sur ces sujets.
- Les chefs d'entreprise prendront acte du Plan d'action de l'OCDE pour le commerce électronique et du Rapport sur les organismes internationaux et régionaux : Activités et initiatives relatives au domaine du commerce électronique, et ils examineront et approuveront les Conclusions de la Conférence.

Un compendium des principes fondamentaux et des initiatives prises par les entreprises en matière de commerce électronique se trouve dans le document "Un plan d'action global préparé par l'Industrie du commerce électronique avec des recommandations pour les gouvernements." En suivant la structure de la Conférence, les questions essentielles relatives au commerce électronique ont été classées par catégories dans ce Plan d'action, selon les thèmes de la session plénière. Les entreprises seront heureuses d'accueillir à cette session les gouvernements, la presse et les autres participants.

Président : *M. Richard McCormick, Chairman, US West, Inc.*

Rapporteur : *Mme Diana Sharpe, Chair, International Telecommunication Users' Group (INTUG)*

I. Allocution de bienvenue de la représentante du milieu des affaires de l'industrie canadienne

Mme Carol Stephenson, Présidente, Association canadienne de la technologie de l'information

II. Remarques d'introduction du Président

III. Les prochaines étapes pour les milieux d'affaires mondiaux : Mettre en œuvre le plan d'action

1. Fournir les moyens technologiques et améliorer l'autoréglementation

M. Al Hurd, Chairman of the Board, Smarthealth, Inc.

Mme Pearleen Chan, Managing Director, Singapore Network Services, Pte, Ltd.

M. Ragnar Nilsson, Director, Karstadt AG (Chief Information Officer)

2. Avancer à partir du réseau mondial d'initiatives des entreprises

M. Derrick H. Cogburn, Executive Director, Global Information Infrastructure Commission (GIIC)

M. Peter Gerard, Divisional Board Member, Deutsche Bank AG

M. Eiichi Yoshikawa, Senior Vice President, NEC Corporation

M. Peter Blanchard, Manager, Marketing & External Relations, Tradegate/ECA (Electronic Commerce Australia)

IV. Que peuvent attendre les entreprises des gouvernements au niveau mondial ?

M P.J. (Phil) Saunders, Chairman, International Telecommunications Committee, Canadian Council for International Business (CCIB)

Mme Diana Sharpe, Chair, International Telecommunication Users' Group (INTUG)

V. Remarques de conclusion du Président

16:45

SESSION PARALLELE C**REUNION DES DIRIGEANTS D'ORGANISATIONS SYNDICALES ET D'ONG : LES PERSPECTIVES SOCIALES RELATIVES AU COMMERCE ELECTRONIQUE MONDIAL**

- Les représentants des organisations syndicales, des consommateurs et des intérêts sociaux examineront et discuteront les quatre grands thèmes de la Conférence et leurs conséquences pour les travailleurs, les consommateurs et les particuliers.
- Dans ce contexte, les représentants des organisations syndicales, des consommateurs et des intérêts sociaux présenteront leurs points de vues sur la façon de faciliter l'utilisation et la croissance du commerce électronique mondial afin de faire en sorte que les obstacles soient cernés et abordés.
- Les représentants des organisations syndicales, des consommateurs et des intérêts sociaux s'uniront pour recommander que les rôles et les responsabilités assignés au secteur privé, aux gouvernements, aux organisations internationales et aux citoyens soient clairement définis afin de faire en sorte que le développement du commerce électronique mondial contribue à réaliser les objectifs d'intérêt public.

Les représentants des organisations syndicales, des consommateurs et des intérêts sociaux accueilleront avec plaisir à cette session les gouvernements, la presse et d'autres participants.

Président : *M. Angelo M. P. Gennari, Director of Studies and Research, CISL (Italian Confederation of Workers Trade Unions)*

I. Allocutions de bienvenue

M. David Johnston, Conseiller spécial du Ministre de l'Industrie du Canada pour l'autoroute de l'information

M. Bill Connor, General Secretary of the Union of Shop, Distributive and Allied Workers

II. Orateur principal

M. Jay Naidoo, Minister of Telecommunications, South Africa

III. Discussion 1 : Accès universel et participation à part entière

M. Sid Shniad, Research Director, Telecommunications Workers' Union

IV. Discussion 2 : Renforcer la confiance des utilisateurs et des consommateurs

Mme Louise Sylvan, Vice-President, Consumers International; CEO, Australian Consumers' Association

M. James Love, Director, Consumer Project on Technology

V. Discussion 3 : Conséquences économiques et sociales : Concrétiser les avantages

M. Joel Yudken, Senior Economist, American Federation of Labor – Congress of Industrial Organizations (AFL-CIO)

M. Andrew Jackson, Senior Economist, Canadian Labour Congress

VI. Une vision commune : Aller de l'avant ensemble

M. Roland Schneider, Senior Policy Advisor, Trade Union Advisory Committee to the OECD (TUAC)

M. Marc Rotenberg, Director, Electronic Privacy Information Center (EPIC)

VII. Mot de clôture

M. David Johnston, Conseiller spécial du Ministre de l'Industrie du Canada pour l'autoroute de l'information

19:00 **CLÔTURE**

20:00 **DÎNER**

Remarques :

*M. Gordon J. Feeney, Vice-président, Groupe financier Banque Royale
M. John Manley, Président de la Conférence, Ministre de l'Industrie, Canada*

VENDREDI 9 OCTOBRE 1998

07:00 **PETIT DÉJEUNER***Remarques: M. Derek Fry, Président, Association Visa Canada*09:00 **RAPPORT SUR LES SESSIONS PARALLÈLES : PROGRESSER ENSEMBLE**

Les rapports de la réunion des ministres des pays Membres de l'OCDE, de la réunion des dirigeants d'entreprise et de la réunion des représentants de syndicats et d'ONG seront fournis. Les rapports donneront les grandes lignes des résultats de ces sessions, en faisant ressortir les questions relevant des quatre domaines thématiques qu'il conviendra d'approfondir au moment où la Conférence examinera les travaux futurs.

09:30 **SESSION PLENIERE 4 : TABLE RONDE
OPTIMISER LES AVANTAGES DU COMMERCE ELECTRONIQUE
MONDIAL**

Le potentiel économique et social du commerce électronique ne se concrétisera pleinement que par son utilisation généralisée par les entreprises, les consommateurs et les institutions. L'utilisation du commerce électronique dépend de la disponibilité et du coût abordable de l'accès à l'infrastructure de l'information, ainsi que du savoir-faire et des connaissances des citoyens. L'infrastructure de l'information et le commerce électronique créent également la possibilité d'un « patrimoine électronique commun » qui favorise la cohésion sociale en reliant les citoyens les uns aux autres et au monde entier.

La table ronde analysera les défis que pose le développement de l'infrastructure à haute vitesse qu'exige le commerce électronique, notamment la convergence, la politique et la libéralisation des télécommunications, l'infrastructure et la largeur de bande passante des réseaux ainsi que le soutien d'applications ciblées.

La table ronde abordera aussi le contexte plus large dans lequel doivent se prendre les mesures visant le commerce électronique, notamment l'incidence sur la croissance, la productivité et l'emploi dans le monde tant industrialisé qu'en développement.

Principales questions à débattre :

- Comment peut-on approfondir la connaissance et la mesure de cette activité économique? Quelles sont les questions clés ?
- Comment le commerce électronique mondial peut-il améliorer les possibilités d'emploi ? Quelles mesures peut-on prendre pour atténuer toute incidence sociale potentiellement négative?
- Quelles mesures devraient être prises et par qui afin de développer dans les entreprises (en particulier les PME), au sein des organisations et chez les consommateurs les compétences et la prise de conscience qu'exige le commerce électronique ?

- Comment peut-on stimuler l'innovation et la valorisation du potentiel technologique afin d'intensifier le développement et la participation mondiale ?
- Comment les gouvernements peuvent-ils le mieux faciliter la convergence des technologies de l'information et des communications et accélérer la disponibilité de l'infrastructure nécessaire au commerce électronique ? Comment les concepts du service universel devraient-ils s'appliquer au commerce électronique ?

Modérateur : *M. Francis Lorentz, Président de la Mission Commerce Electronique, Ministère de l'Economie, des Finances et de l'Industrie, France*

Principaux *M. Lester Alberthal, Jr., Chief Executive Officer, EDS Corporation*

orateurs :

Mme Seiko Noda, Minister of Posts and Telecommunications, Japan

M. Bill Connor, General Secretary of the Union of Shop, Distributive and Allied Workers

Intervenants *M. Jan Stahl, Ambassador, Embassy of the Kingdom of Sweden*

principaux :

M. Andrea Camanzi, Director, Department of Institutional and Regulatory Affairs, Olivetti Group

M. José Manuel Serra, Secretary of State for Industry and Energy, Spain

M. Joel Yudken, Senior Economist, American Federation of Labor – Congress of Industrial Organizations (AFL-CIO)

M. Thomas Falk, Director, Department of Industrial Policy, Federation of Swedish Industries

M. Odd Hellesnes, State Secretary, Ministry of Trade and Industry, Norway

M. Seok-Hyun Hong, President and CEO, Joong-ang Ilbo

M. Guisepe Rao, Director General, International Relations, Ministry of Communications, Italy

M. Harris Miller, President, Information Technology Association of America (ITAA) / World Information Technology and Services Alliance (WITSA)

M. Franz Blankart, Secretary of State, Foreign Economic Affairs, Switzerland

M. Marc Rotenberg, Director, Electronic Privacy Information Center (EPIC)

12:00 **SESSION PLENIERE 5 : SESSION DE CLOTURE**
UN PLAN D'ACTION POUR LE COMMERCE ELECTRONIQUE
MONDIAL

Dans le contexte des Conclusions de la Conférence (y compris le Plan d'action de l'OCDE pour le commerce électronique, le Rapport sur les organismes internationaux et régionaux : Activités et initiatives dans le domaine du commerce électronique, et la contribution de l'industrie, Un plan d'action global préparé par l'Industrie du commerce électronique avec des recommandations pour les gouvernements), les orateurs feront des exposés esquissant les conclusions dégagées relatives aux meilleures façons de créer un marché sûr et dynamique pour le commerce électronique. Les sujets abordés dans les commentaires comprendront notamment la définition des rôles et des responsabilités, l'étude des plans d'action proposés, les engagements et les échéanciers.

Président : *M. John Manley, Ministre de l'Industrie, Canada*

Orateurs : *M. Donald Johnston, Secrétaire général, OCDE*

*Mme Barbara Roche, Parliamentary Under-Secretary of State for Small Firms,
Department of Trade and Industry, United Kingdom*

M. Jean Monty, Président-directeur général, Entreprises Bell Canada

*Mme Louise Sylvan, Vice-President, Consumers International; CEO, Australian
Consumers' Association*

13:30 **CONFERENCE DE PRESSE**

Remarques : *M. John Manley, Ministre de l'Industrie, Canada*

M. Donald Johnston, Secrétaire général, OCDE

M. Jean Monty, Président-directeur général, Entreprises Bell Canada

*Mme Louise Sylvan, Vice-President, Consumers International; CEO, Australian
Consumers' Association*

14:15 **DEJEUNER**

Orateur : *M. Jay Naidoo, Minister of Telecommunications, South Africa*

III. SELECTION DE DISCOURS PRINCIPAUX

Discours pendant les dîners et les déjeuners

M. Renato Ruggiero, Directeur général, Organisation mondiale du commerce
M. Jay Naidoo, Minister for Posts, Telecommunications, and Broadcasting, South Africa

Accueil officiel et allocutions d'ouverture

Le très honorable Jean Chrétien, Premier ministre du Canada
M. Donald Johnston, Secrétaire général, OCDE
M. John Manley, Président de la Conférence, Ministre de l'Industrie du Canada
M. Louis V. Gerstner Jr., Chairman of the Board and Chief Executive Officer, IBM Corporation
M. William Daley, Secretary of Commerce, United States of America

Session plénière 1

M. Christian Pierret, Secrétaire d'Etat à l'Industrie, France
M. Jim Murray, Directeur, Bureau Européen des Unions des Consommateurs (BEUC); Representative, Consumers International
M. Albert Gidari, Jr., Executive Director, Internet Law and Policy Forum

Session plénière 2

M. Jan Trøjborg, Minister of Research and Information Technology, Denmark
M. David Kerr, Chief Executive, Internet Watch Foundation
Mme Moira Scollay, Federal Privacy Commissioner, Australia

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M. Martin Bangemann, Commissaire, Commission européenne
M. Ira Magaziner, Senior Advisor to the President, United States of America
M. Sanzo Hosaka, State Secretary for International Trade and Industry, Japan
Mme Maria Livanos Cattai, Secrétaire générale, Chambre de commerce internationale

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M. Renato Ruggiero, Directeur général, Organisation mondiale du commerce (OMC)
M. Kamil Idris, Directeur général, Organisation mondiale de la propriété intellectuelle (OMPI)
M. Hans Corell, Secrétaire général adjoint, Nations Unies (représentant la CNUDCI)
M. Henry Chasia, Vice-secrétaire général, Union Internationale des télécommunications (UIT)
M. James Shaver, Secrétaire général, Organisation mondiale des douanes (OMD)
M. Andrew Crockett, Directeur général, Banque des règlements internationaux (BRI)

M. Kjartan Jóhannsson, Secrétaire général, Association européenne de libre-échange (AELE)
M. Thomas E. Leavey, Directeur général, Bureau international, Union postale universelle (UPU)

Rapport sur les sessions parallèles

M. John Manley, Président de la Conférence, Ministre de l'Industrie du Canada
Mme Diana Sharpe, Chair, International Telecommunication Users' Group (INTUG)
M. David Johnston, Conseiller spécial du Ministre de l'Industrie du Canada pour l'autoroute de l'information

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M. Lester Alberthal, Jr., Chief Executive Officer, EDS Corporation
Mme Seiko Noda, Minister of Posts and Telecommunications, Japan
M. Bill Connor, General Secretary of the Union of Shop, Distributive and Allied Workers

Session plénière 5 : Session de clôture

M. Donald Johnston, Secrétaire général, OCDE
Mme Barbara Roche, Parliamentary Under-Secretary of State for Small Firms,
Department of Trade and Industry, United Kingdom
M. Jean Monty, Président-directeur général, Entreprises Bell Canada
Mme Louise Sylvan, Vice-President, Consumers International, CEO, Australian Consumers' Association

* Tous les discours qui ont été rendus disponibles auprès du Secrétariat de l'OCDE peuvent être consultés sur le site Web de l'OCDE à l'adresse suivante : <http://www.oecd.org/dsti/sti/it/ec/news/ottawa.htm>

**Dinner Address
to the OECD Ministerial Conference
7 October 1998, National Gallery, Ottawa**

**Mr. Renato Ruggiero
Director-General
World Trade Organization**

I first want to say how delighted I am to be here tonight. And I also want to congratulate the OECD and the Canadian government for hosting this very important and timely event. Today we find ourselves in an increasingly global economy, but it is an economy that presents two contradictory faces – new technologies, greater wealth, and rising living standards for millions of people; and at the same time, new instabilities, new risks, new uncertainties – as we have seen so starkly during the current financial crisis.

In some ways the Internet has come to symbolise this powerful – yet uncertain – world. For we are not just talking about a new service or a new communications network. We are talking about technologies that are shaping a new kind of global economy – the closest thing yet to a single, "borderless" world market.

This development has many implications, but the most important is that it is greatly accelerating the process of globalisation - and making it even more irreversible than it already is.

First, the electronic marketplace is rapidly spreading the very factors of production that make globalisation possible – technology and information. It is already transforming the way ideas-based products move across borders – from financial services, to data processing, medical information, and entertainment. But something more fundamental is also going on. The electronic market is changing the way economies function by making technology and information more accessible than ever before. It is making itself felt in the way skills or expertise can be sourced from around the world. In the way production can be integrated, 24-hours-a-day, across times zones and borders. In the way information on design, costs, or marketing can be shared everywhere - instantly. This widening circle of technology can – and I believe will - have a massive levelling effect in the world economy: helping to bridge the economic divisions between countries and individuals, by equalising access to the most important resource of the 21st century – knowledge and ideas. This would be a real revolution.

Second, the electronic marketplace has, by definition, a global rather than a national or regional dimension. The global market is becoming an internal market – and *vice versa*. This reality means that governments are being pushed to work together, plan together, and pool their efforts as never before – creating what Lou Gerstner of IBM has called "global public policy". Four years ago, when I became Director-General of the WTO, it was almost universally accepted that regionalism would be the new shape of world trade. Today the reverse is true. In a digital world – where Singapore is as close to Toronto as Chicago – the idea of regional preference and integration begins to lose its logic. Regional arrangements still have an important role to play, but increasingly as catalysts for the global system, not as alternatives. They are obliged to turn outwards, not inwards.

The third - and most important – point is that the electronic marketplace is redefining our notions of interdependence. Already a quarter of global output is exported – up from just seven per cent in 1950. For the developing countries, this share is even higher, almost forty per cent. But it is no longer just goods and raw materials that cross borders. Increasingly we share in a global market for each other's services, entertainment, culture, media - even environmental, social and political concerns are increasingly shared.

There is a globalisation of our hopes and fears. And this interdependence of ideas and images is creating a far more immediate and intimate bond among peoples than trade in goods ever did.

The acceleration of globalisation has huge potential to improve the lives of billions around the world. But how to manage the forces it has unleashed? How to help peoples and societies adjust? And how to ensure that its benefits are widely shared – so we don't see a widening gap between those who are part of the global economy and those being left behind? In a certain sense, we find ourselves between two worlds - between an economic system that is increasingly global, and institutions and structures which have not caught up with this complex world. The challenge we face is to bring these worlds together - by reshaping the global rules and policies needed to support our globalising economy.

Let me suggest three areas where we need to focus our attention: First, we clearly need to build a global policy framework for the electronic marketplace. Free trade does not mean freedom from rules. On the contrary, rules and institutions are central to making markets work - and the electronic marketplace is no exception. Part of this framework is already in place. For example, the Services Agreement of the WTO applies to much of electronic commerce – because digital trade is really trade in services through a new medium. Likewise, the Intellectual Property provisions of the WTO address another major concern – the security of Internet transactions such as the selling or licensing of information, or trade in cultural products like films and music. But there is clearly more to do in these and other areas.

The second priority is to expand the physical infrastructure of the global electronic marketplace - which means making computer and telecommunications networks available and compatible world-wide. The Internet revolution has not developed in a vacuum. It stands on the shoulders of an equally profound revolution in global telecommunications. Here again the trading system is playing an important part. In February last year, 69 countries representing 95 per cent of the global market concluded a massive agreement to free telecommunications services - opening many markets which had been up till then dominated by state-owned monopolies. Two months later, 40 countries accounting for over 90 per cent of world trade in IT products, agreed to the elimination of tariffs on computer and telecommunications products by the start of the year 2000.

Which leads me to a third challenge - the need to widen the knowledge base of people, especially in the developing world, so that everyone has the potential to be part of the information economy, not just a fortunate few. The least-developed countries have ten per cent of the world's population but do less than half of one per cent of world trade. This marginalisation is dangerous – absolutely unacceptable – and it risks worsening if these countries are left behind by the next wave of globalisation. Electronic trade, which can abolish distances and frontiers, can also provide an escape route from marginalisation. But without investments in the human infrastructure – skills, training, know-how – no amount investment in physical infrastructure will help. With this in mind, the WTO is helping to provide least-developed countries with computers equipment and the know-how needed to access the great volume of trade information which is available on the WTO Website.

I am not suggesting that everything we need is already in place. On the contrary, one of the fundamental challenges that governments face is trying to keep pace with a technological revolution that is literally changing with the speed of the Internet – with the risk that regulations or rules will be obsolete before they are even in place. In all of the areas I have mentioned – telecommunications, information technology and intellectual property – we must continue to work to keep up with this revolution.

At our second Ministerial Conference in May this year, all WTO Members adopted a Declaration on Global Electronic Commerce with two major results: We agreed not to impose customs duties on electronic transmissions until Ministers reconsider the matter at the end of next year. We agreed to launch a future programme of work on electronic commerce under which the relevant bodies in the organisation will examine and report back on any trade-related issues arising from electronic commerce which Members wish to raise.

What does this work programme – which will begin this month – entail? First we will confirm the rules on electronic commerce that already exist in the WTO – to avoid undermining existing rights and obligations by treating electronic commerce as if it were outside the normal trade regime. Second, we will identify any weaknesses in the existing legal structures that need to be strengthened or clarified. And third, we will see if there are any areas not covered by WTO disciplines where Members agree that it might be appropriate to move forward.

But what is perhaps most significant about this very ambitious work programme is that it was agreed by all 132 Member governments on the basis of consensus – and all in a matter of weeks. Why? Because with so much of our economies dependent on one another, no country any longer has an interest in closing off markets or weakening its ties with the rest of the world. And certainly no country, developing or developed, has an interest in building walls against technology and investment flows from outside – flows that will determine whether it is equipped to participate in the new global economy, or is left behind. This represents a sea-change in the global trading system – and stands as a powerful symbol of optimism for the future

We hear many critics – in this period of time – of globalisation and its role in the present crisis. But globalisation is not a policy - to be judged right or wrong. It is a process - driven by the realities of economic and technological change. Two hundred years ago, steam power launched the first industrial revolution. A hundred years later, mass production and mass transport launched a second industrial revolution. Each led to a fundamental change in the organisation of production and in the role of governance. Now a revolution in communications and informatics – the digital revolution – is reshaping the global economic landscape in equally powerful ways.

The advent of a borderless economy has enormous potential to generate growth, to spread the benefits of modernisation, and to weave a more stable and secure planet. But it also challenges the *status quo*. It demands that we adapt. The real issue before us is not the debate about globalisation but to see how technological process can be better channelled to promote more growth, more trade and greater modernisation – and so help the world economy to re-emerge from its present difficulties. This is a complex challenge – a challenge that will require vision and patience. But let us begin to meet this challenge now, knowing that with electronic commerce we have another, very powerful tool in our hands.

**Opening Speeches
to the OECD Ministerial Conference
7 October 1998, National Gallery, Ottawa**

**The Right Honourable Jean Chrétien
Prime Minister of Canada**

Ministers and delegates, I am pleased as Prime Minister of Canada to welcome you to the first OECD ministerial conference ever to be held in Canada.

And I am doubly pleased that it touches on a subject that is at the very heart of our government's agenda for preparing Canadians for the 21st century.

Electronic commerce is at the centre of a strategy we call *Connecting Canadians*. And *Connecting Canadians* is about ensuring that Canadians have a fast-lane on the information highway. About creating a framework and climate that will promote investment in new information products and services. About giving Canadians the best choices and options in a "wired world."

We want to harness the transforming power of the information highway not as an end in itself, but as a means to further broader social objectives:

- increase our national wealth and quality of life;
- empower our people with more choice, information and better services; and,
- to create a closer sense of national community.

But in order to make the most of that potential, we must deal squarely with key challenges. Of access. Of fierce competition. And the risk of creating new barriers if countries act on their own.

Through *Connecting Canadians* we have made great progress on the first two. But your work here will be essential to meeting the last one: the need for international co-operation.

The growth of Electronic Commerce gives us a chance - as nations and as a community of nations - to build from the ground up. To forge understanding and co-operation from the very outset. So that all of our people can reap the benefits.

A whole new kind of market place is emerging. Whose potential has no limit. But whose potential could soon fade if we lack the vision and wisdom to make the right choices.

We have a chance now to work together. To build trust and confidence in this new marketplace. To clarify the rules. To remove existing barriers. And refrain from creating new ones. To develop new approaches with business. To build the infrastructure needed to sustain digital commerce. And to make sure that all countries benefit.

Over the next two days, you will be discussing how best to take advantage of the new economy, how best to deal with the challenges it poses.

In close consultation - with business, consumers and all interested parties - Canada has set out our strategy for electronic commerce. And we have done so with full knowledge and understanding of

what is happening beyond our borders. We have shaped it to complement the initiatives of other countries' initiatives because that is the only way it can work.

Business and consumers will determine whether this new digital marketplace will grow and prosper. Governments can help in creating the right conditions for business and consumer confidence.

That is what we all hope you will be able to make progress on during this conference.

I am pleased to declare this conference officially open. And I look forward to hearing from the Chair of the Conference, my Minister of Industry, that you have achieved your goals. He knows that I have high expectations!

**Opening Speeches
to the OECD Ministerial Conference
8 October 1998, Ottawa Congress Centre**

**Mr. Donald Johnston
Secretary-General
Organisation for Economic Co-operation and Development**

Mr. Prime Minister, many thanks for being with us this morning. We all very much appreciate your coming and taking the time to share your thoughts with us at the beginning of this very important conference.

I am delighted, on behalf of the OECD, to welcome you all to this Conference, which I am convinced, will be seen as a critical step in the development of what will become one of the most important media in the next century: Electronic Commerce. I want, at the outset, to thank Minister Manley, the Governor of Canada, and all those who have worked so hard to organise this very exciting and important event.

If I may, let me be nostalgic for just a moment, because some 15 years ago, I was the Minister of Science and Technology of the Canadian Government and the first Conference that was ever held in this facility was a science and technology conference entitled: Canada Tomorrow. It brought together scientists, academics and industrialists from across the country to consider what Canada would look like in the future. And I can tell you that the Canada Tomorrow that we imagined then certainly does not look like the Canada of today, 15 years later. And that's largely because of the extraordinary revolution in communications technology. No one could have foreseen at that date the extraordinary changes that have taken place.

Futurology has always been a hazardous activity. Back in 1893, the Chicago World Fair brought together a hundred of the great minds of the day to make projections as to what the world would be like in 1993, and I recall some of their conclusions: transportation might be by air, not by aeroplane, but by balloons, tethered to cables that will go from one city to another and that much of the delivery and transportation of goods would be by pneumatic tubes because this technology already existed and was widely used in Paris, London and elsewhere.

There is no question that there are dangers in doing linear projections of existing technologies. Nonetheless, I think we all feel that with electronic commerce, we have a transformational technology that will very much change the world of the 21st century. It is therefore important, in fact, essential, that the leaders today establish the framework for the evolution of that technology and the full exploitation of its potential. When I speak of leaders, I am not speaking simply of governments. I am therefore especially pleased to see that we have here, in Ottawa, quite extraordinary representation from senior officials of governments, but also from business, Trade Unions, NGOs and international organisations, including the heads of the World Trade Organisation, the World Intellectual Property Organisation and the Bank for International Settlements, just to name a few. So we have very broad representation of stakeholders with us here, and that, of course, is essential. I think we all believe that electronic commerce has extraordinary potential for creating jobs, boosting economic growth, improving delivery of health and education services and alleviating poverty in the developing world.

We are very grateful that you have taken the time out of your busy schedules to come to Ottawa for an event which I think will be an important milestone in moving ahead with the Agenda of Electronic

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Commerce towards the 21st century. Now, Ladies and Gentlemen, I would like to call upon Minister John Manley, who is the President of this Conference, and invite him to address you. Thank you.

**Opening Speech
to the OECD Ministerial Conference
8 October 1998, Ottawa Congress Centre**

**The Honourable John Manley
Minister of Industry
Canada**

Distinguished colleagues, honoured guests, ladies and gentlemen:

To what the Prime Minister and the Secretary-General have said, I would like to add that this conference represents an opportunity to build a global economy at a time when we can work on a clean canvas.

This is a historic opportunity. It demonstrates the evolution of commerce and the growing interconnectedness of national marketplaces into a new marketplace where borders are becoming less relevant.

There was a time when commerce even between *cities* was made difficult because of various tariff barriers and requirements. One of the great achievements of the rise of the nation states was to open up commerce within national borders. This required an infrastructure of roads and, in due course, railroads. It required tax laws that did not penalise commerce. It required a system of justice to provide confidence that sellers would be paid, and buyers have recourse if required. In the process, each nation adopted its own rules and procedures, standards and taxes.

This state-based system of protecting and encouraging commerce evolved over centuries. It has been only in the past fifty years that nations have worked together systematically to move to the next phase of commerce. The bilateral and multilateral trade agreements of the past half century have gone a long way to create a more open global economy.

But the process of standardising practices and removing both tariff and non-tariff barriers has been slow, and disruptive for many industries that grew under the protection of national rules. It is a process that nations want to avoid as we establish a new era of electronic commerce.

And so we have gathered here at a time when the opportunity is open to us to start fresh. We can create a world-wide system of rules, standards, and procedures that will enable commerce to flourish.

We can only guess at the impact information technology may eventually have on commerce. We can look to the past to see the impact that new technology has had: the impact of the railroad, or the automobile, for example.

One lesson learned from these technologies has been that standards and procedures must be adopted in a way that lets commerce cross borders. Who will set the standards for electronic commerce? Will it be, as in the case of early railroads, the private sector? The railroads built their own infrastructure and did not require legislation to tell them what gauge to build their tracks. Will it be, as in the case of automobiles, where highway codes had to be legislated to dictate whether drivers kept to the left- or the right-hand side of the road?

Eventually, with both railways and the automobile, a combination of legislation, regulation, and industry-enforced procedure evolved. Around the world, people count on these to ensure safety and promote efficient transportation. Individual states have authority over transportation within their borders,

but nations and businesses have acted wisely to co-ordinate policies and procedures to meet the needs of international traffic. Commerce has benefited as a result.

This conference has been built around the premise that governments, industry, labour, and non-government organisations can work together now to improve our understanding of the challenges that lie ahead. Together, we can create an environment in which electronic commerce can flourish. Together, we can establish rules, regulations, standards, and procedures that do not erect barriers.

We've gathered to discuss electronic commerce at a time when the technology is very new, but its impact has grown phenomenally. To achieve its social and economic benefits, we don't have decades to establish laws and codes, as was the case with rail and automobile. We must act quickly.

This conference has four broad themes. Each has a major impact on electronic commerce:

- building trust in the digital economy;
- clarifying marketplace rules;
- strengthening the capacity of the information infrastructure; and,
- realising the opportunities.

To begin the discussions, we have invited, as a keynote speaker, an individual who has had enormous influence on the technology that has made electronic commerce possible. I'm pleased to introduce Mr. Louis V. Gerstner Jr., Chairman of the Board and Chief Executive Officer of IBM Corporation. Mr. Gerstner.

**Opening Speeches
to the OECD Ministerial Conference
8 October 1998, Ottawa Congress Centre**

**Mr. Louis V. Gerstner Jr.
Chairman of the Board and Chief Executive Officer
IBM Corporation**

Secretary-General, Minister, and honoured guests, good morning, and thank you for the opportunity to join this important discussion.

I can't think of a more worthy topic or a more vital challenge than "Securing the Future of E-commerce" -- because I hope we all recognise that this could be the leadership challenge of a lifetime: one that requires working policy in areas that include security and encryption, privacy, and access for all.

That's why we're here, and this forum is a very positive sign that while we may not all agree on all of the answers yet, we do agree that our work must be grounded in communications, co-operation and a lot of thought.

This is no time for hasty or unilateral decisions, expedient answers, or even very thoughtful actions based purely on some time-honoured process for what has worked in the past -- because I will tell you that there are no pre-existing models for what many now call a "networked society" or a "networked economy."

The rise of these powerful networks is about many things, but most fundamentally it's about a transfer of control. Control of this medium, which was born in government and academia, has been tacitly transferred into the hands of tens of millions, soon to be hundreds of millions, of users world-wide. And the momentum is irresistible.

Now, there's a faction inside the information technology industry that sees this and concludes there's no role for government in crafting any policy framework for electronic commerce. I disagree, and a number of my industry colleagues share the view that working out solutions for the governance of this new medium falls to industry and government. We appreciate the variation in tradition among OECD members and the reluctance in some to surrender regulatory powers and industrial policy to the free market -- especially given the current economic uncertainty in many regions.

But we in industry also believe now more than ever that what is required is a market-based approach. We believe a new regulatory regime is required for these reasons:

First, as I said, the existing models simply do not apply. Not only is e-commerce screaming ahead, moving much faster than any bureaucracy, committee, or legislature process ever could, it's a grave error to think the Internet will develop under the kind of regulation we could apply to, say, the phone system back in the days when coal and steel were determinants of a nation's greatness and many markets were under developed.

Next: we have to be patient. That's hard to do in the face of discontinuous change; and when all of our experience, training and even instincts tell us to act. But right now, we simply don't have enough data to reach reasonable conclusions. To act is to risk allowing old thinking or traditional policy approaches to distort this nascent economic engine.

Third: any decisions we must make should be grounded in a deep understanding of the technology itself -- both its technological potential and its limitations.

And finally, we must reach every decision with an understanding that, by definition, we must have global solutions. The policies and the issues aren't new, but the Net adds significant new dimensions. The Net does not adhere to existing concepts of national borders or regional alliances. It transcends geography, culture, language; and it can even re-define our notion of the nation state and conventional structures of jurisdiction and sovereignty. So agreements on these issues are going to require a new level of international co-operation and global policy formation.

So perhaps for the first time doing the right thing for your nation and its people means you must think beyond national borders and national agendas.

By the turn of the century, Net-based commerce should have grown to about \$200 billion U.S. dollars. Last year, more than 80 percent of the Internet commerce was generated inside the United States, but the rest of the world is moving to capitalise on this in a very serious way. Internet commerce generated outside the US will represent about 35 percent of the world total by the year 2002. By then, Nicholas Negroponte of the M.I.T. Media Lab says e-commerce will have cracked the trillion dollar mark.

The numbers are interesting, but the real important question for any of us is, what are all these individuals and the world's leading institutions doing on the Net? Until very recently, most of the attention centered around consumer-oriented applications like access to twenty-four hours a day sports scores or weather reports. But as early as 1996, IBM was saying the Net is about business, not browsing; and about conducting real commerce, not merely accessing a bottomless reservoir of content.

Last year we started using the term "e-business" to describe all of the ways individuals and institutions will derive value from the Net. We coined this term because what's going on here transcends just e-commerce. E-business includes transactions among employees inside an enterprise; among trading partners in a supply chain; and it includes the way governments deliver services to citizens, educators teach students, and physicians treat patients.

The real revolution isn't about the end user experience, and it's not even about the technology. The real revolution is about banks, universities, government agencies and commercial enterprises making fundamental changes in the way they currently do things. And as we all know, institutional change is hard. But more and more organisations are changing because the incentives of e-business are powerful.

Governments are finding they have similar opportunities to create new competitive advantage, increase service and build productivity. In fact, I believe that governments that in the past competed for industrial investment or jobs based on incentives like tax structures or access to skilled labour will compete in the future in large measure on their electronic readiness and capability.

How do you gauge your preparedness? How do you think through what steps to take? Industry has to help you make this assessment, and we're building tools to do just that. The Computer Systems Policy Project is one good source.

Initially some of your biggest opportunities are going to be found in the area of procurement. This summer, the US Air Force started putting the first of nearly \$30 billion U.S. dollars in annual requests for bids -- everything from erasers to jet engines -- on the Net. They expect to cut weeks out of the purchasing process and cut costs by millions.

Singapore is upping the ante in the competition for primacy among Asian seaports. They're putting ten thousand suppliers online, cutting costs and cycle times. And the island expects to do \$1 billion in Net-based commerce by the year 2001.

The next level of opportunity comes when governments realise that citizens are technically sophisticated enough to use electronic channels to access all the products and services they want. In fact, for many people today and for all future generations, this kind of convenience will be assumed.

I think it is clear that what is going on is much more important than publishing more information to more people -- and it's bigger than electronic retailing. Those things, and the much more important human and societal benefits, are possible. They're possible, but not inevitable.

All this potential rides on a fundamental dependency, and it's not technology; it's policy. It's our ability to come together to forge an industry-driven self-regulating code of conduct for this new economy.

Let me open this discussion of policy with the subject of taxation. Governments hold the reins here and can give this new economic opportunity its head or bring it to its knees. And if governments refuse to co-operate on this one, the latter is destined to happen -- because unilateral or uncoordinated tax policies will cause confusion and stifle growth. By the way, there is no evidence to date that e-commerce causes tax erosion in your traditional base.

I would suggest that any cyber tax code be based on these principles. First, existing policies should be applied and where necessary, adopted to e-commerce. I stress "existing tax policies" -- we're not looking for preferential treatment here. We just don't think electronic commerce requires new tax codes.

Next, e-commerce should not be subjected to unique or higher tax burden than transactions in the physical environment.

And finally, policy makers must guard against double taxation when tax jurisdictions overlap.

I think you can count on most businesses to comply with cyber tax law. Gearing policies to our worst fear of cyber cheats will only punish the 99 percent honest traders.

The information technology industry heartily supports the leadership of the OECD on this issue. And I would further encourage you to consider an official time-out similar to the one being contemplated by the U.S. Congress. Again, patience, restraint. Let's commit to allow this new kind of commerce to chart its natural pattern and then explore how a predictable and neutral tax regime might be superimposed on it.

Next, privacy -- this one has been around a long time, but the implications grow exponentially in a digital economy of a billion connected users. These users -- consumers in every nation -- are going to embrace this electronic marketplace only to the degree that they trust its proprietors to protect their personal information: confidential medical or financial records, buying habits and life histories.

How the different political traditions of OECD nations are approaching this, basically yielding two different approaches. The U.S. seems headed for a more voluntary, self-governing policy that builds on existing laws. This puts industry in a highly-accountable position to an extremely powerful source of

authority: our customers. Europe and others appear ready to apply a more traditional government-mandated privacy policy. The European Union will begin to follow the EU data protection directive in a few days.

I personally think self regulation can and will work better, but I'm also a realist and it may be that the only workable solution will be to respect each other's differences and hammer out a working relationship. If, however, you were to take a market-driven path, I'll offer you for consideration a few key elements of such a system.

First, consumers would have easy access to a company's privacy policy telling them what information is being collected when they visit a Web site and how it would be used. Consumers would have the choice to opt out of providing any information, and they would have in some way. They could seek redress if they felt their expectations had not been met.

These principles are being implemented now in the United States through important efforts like the Online Privacy Alliance with very encouraging early returns.

As an example, IBM is among many companies that have adopted a global privacy policy. Customers get to this policy from the first screen of the IBM home page. We tell them they have the right to come to our site without revealing any personal information, and we tell them that we'll alert them before we ask for any.

Private groups like the Better Business Bureau and TRUST-e are implementing privacy labelling systems that tell users when a site adheres to their privacy guidelines.

It's industry's responsibility to show government that we can make this work on our own. We need to broaden industry participation and replicate this model in other countries.

Next, security. There was a time when security and encryption were the exclusive province of military or intelligence agencies. Those days are gone. The world's leading private and public sector institutions demand strong encryption, and they understand that for encryption standards to be practical they must be international. So the answer must be an unrestricted market for encryption products that interoperate globally.

Obviously there's more at stake here than safeguarding the cross-border transmission of business and personal information. Government agencies rightly point to threats to our power grids, our system of air traffic control, our financial markets; and argue that strong encryption will slow the work of intelligence agencies, the military and law enforcement.

No one, least of all me, disputes the value of the blanket of security we all sleep beneath every night. But governments must recognise that while stronger encryption may in fact make it harder to catch spies and crooks, stronger encryption simultaneously affords us much better protection of the critical national infrastructures.

Industry recognises the balance that must be struck here, and we're committed to work with governments to achieve it. But the first step must be agreement that industry should lead the development and delivery of security solutions. The Internet is the most democratic medium ever conceived. If the public doesn't want a particular electronic solution, that solution has virtually no chance of being pervasively deployed. Governments cannot expect to mandate unwanted encryption solutions. However, if governments' goals and objectives can be matched with marketplace demand, then the balance we all seek can be achieved.

Security solution providers want to build these products, and they want to build them in the context of governments' concerns. I think it's an extremely positive sign that most OECD nations have concluded that benefits of strong encryption far outweigh the threats, and the right solution here will result from technology, trust and innovation; not regulation.

If your nation is among those that have not yet done a careful assessment of your infrastructure, I encourage you to do it quickly and to do it in partnership with industry in your country. And I'll make the same point about the year 2000 clock roll-over: senior leaders in government and industry have to make this a priority and ensure that the work gets done on time. The issue here is one of leadership and co-operation. The greatest challenges aren't technical; some organisations are ready now. Everybody else has less than five hundred days.

The final aspect of policy I'll comment on is access -- access to the information infrastructure including robust bandwidth.

The central question here is whether we're going to allow this technology to cleave the world into two camps: one with access to the technology and one without.

I think that danger exists, but it is not inevitable -- because this technology will allow sophistication developed anywhere to be spread everywhere as long as the world's people have fair, affordable access. And that access hinges on a couple of things:

First, governments have to end monopolistic structures in telecommunications and encourage competition. Globally, markets must be open to network operators and service providers.

I cannot imagine that e-commerce would have enjoyed anything like its current growth in the United States if users faced the leased line rates that prevail in Europe -- if the market for Internet services was closed, or people had to deal exclusively with government-certified providers.

The World Trade Organization took an important first step toward more open access with a general agreement on basic telecommunications; now it's up to individual countries to step up and implement their commitments and begin to think about even more ambitious ways to liberalise their telecommunications infrastructures.

Second: equal access requires a change in the current model of personal computing. And this one is happening fast. Today access equates to a full-blown personal computer -- an investment that far exceeds the annual income of more than one billion people world-wide. And by the way, a device that is very difficult to deal with.

Tomorrow, however, access to the Net will come through a whole new spectrum of emerging devices, from wireless handheld computers to public access kiosks in marketplaces or government buildings.

The main point here is that there will be lots of ways -- lots of low-cost ways -- for people to get on the Net and participate in this new economy.

So, together we will have a greater opportunity to take unprecedented levels of service and information to the entire world regardless of an individual's social or political standing, or personal buying power. It's a big opportunity -- one of many that are within our power to deliver.

As you return to your countries I hope you carry a commitment to:

- Ensure your existing tax policies are the only ones you apply to e-commerce, and that they're applied in a non-discriminatory fashion.
- Engage with your private sector on the issue of privacy.
- Allow the marketplace to determine appropriate standards for encryption and you work toward international agreements.
- Foster a competitive telecommunications environment -- because we will never realise the full benefits of e-commerce until the cost of bandwidth is set by markets, not monopolies.
- And finally, that you assess your readiness to harness this powerful medium to advance your social and economic goals.

I'll close on one final point: while we can rarely see or predict the final destination of an evolutionary process, to stop or strictly control the flow of technical or economic evolution based on nothing stronger than uncertainty is wrong.

The choice here is to embrace or to resist; to enable or to inhibit; to change or to stand pat. Either choice implies pain -- but I believe the first option also implies progress and potential.

The latter implies a premature fatalism or a world weariness at precisely the moment when we're ready to step across the threshold into an entirely new world of economic opportunity and new levels of prosperity and security for your people.

We've set an ambitious agenda, a global agenda -- an agenda worthy of our best efforts. Working together, we can make it happen and all of our lives will be better for it. I wish you luck in your deliberations, and thank you very much.

**Opening Speech
to the OECD Ministerial Conference
8 October 1998, Ottawa Congress Centre**

**Mr. William Daley
Secretary of Commerce
United States of America**

Thank you very much, my fellow colleagues, Ministers, Delegations, who are with us. To Minister Manley, thank you for your hospitality. To the Prime Minister, to the people of Canada, we appreciate the hospitality that has been shown to all of us during this brief but most important gathering of so many leaders of the world. To Donald Johnston, the Secretary-General of the OECD, we thank you and the staff of the OECD.

Once again the OECD is at the forefront of bringing all of us together to deal with issues that are about the future of the world.

I am extremely proud to lead the US Delegation. As you would imagine, and as is customary, we have a very large delegation. The Commissioner of the Internal Revenue Service, Commissioner Rossotti, the Senior Adviser to President Clinton, Ira Magaziner, Commissioner of the Federal Trade Commission, Commissioner Thompson, and a whole host of other participants, and our Delegation look forward to the many panels this afternoon, and to the exchange and opportunity to spend time with so many of our colleagues.

It is both a pleasure to be in Ottawa, and a very good time to be out of Washington. It's to some degree a home-coming for me to be back in Canada because for me I got my start to a large degree in global politics by helping President Clinton work to pass the North American Free Trade Agreement, which, as many of you may know, was a very difficult battle. But in the end, despite the naysayers, workers and businesses in all three of our countries benefited and have benefited immensely. Trade is up, and we have created many more jobs than have been lost.

Since then neither I nor my government have lost our passion for free and open trade. In fact, my job as Commerce Secretary has made me more committed to the benefits of this open trading system. Every place I have gone to in the last year and a half in 31 countries, people ask: "How can we grow as you in America are growing?" "How can we do more business with American businesses?" My answer is basically the same wherever we go, and that is to create a business environment that encourages investment and trade. Listen to your customers and open your markets.

This is no different for electronic commerce. In fact we have a chance to start fresh, to avoid the past where we had not always had complete and fair access to the marketplace. The potential is there to make this the most open market the world has ever seen. And as Lou Gerstner just said, there is boundless opportunity in this incredible exploding market. I think that this will be the export market of the 21st century. In America, information technologies have accounted for a quarter of our economic growth in an economy that is the best in a generation in America despite the current difficult financial global situation. President Clinton is obviously well aware of this and over a year ago, he asked us to figure out how we should move forward. To be sure, he does not want government doing anything that would mess up the progress and the incredible promise of e-commerce.

So our approach has been to encourage the private sector to lead. Let the market figure out how to satisfy their customers. But frankly, as we all know, it is also the government's duty to make sure that

companies behave responsibly. We have to protect the consumers, we have to protect children, we have to protect and respect our citizens. Companies that don't understand this are obviously short-sighted and do tremendous damage to all of us. Clearly the best way to proceed is as partners for the private sector.

This Conference is a terrific forum to exchange our views and our ideas by including the private sector and consumer advocates, so that this Conference will be even much better and even much more helpful than originally planned. Other international organisations are hard at work, including the UN and the World Trade Organization. So we must co-ordinate our activities and avoid any unnecessary overlap. But a word of caution: we must not be too hasty in our actions. The last thing we want is for governments to stifle information technology industries before e-commerce has a chance to grow and to truly prosper. This is not like a battle where the soldiers control the field. 90 per cent of the computer infrastructure is in the private sector's hands. So as policy makers, we must always keep in mind the cost of our actions. If regulation would add just a penny to every dollar worth of transactions on the Internet, it could mean 10 billion dollars in higher costs. And who do you think would pay that? You and I, and our fellow consumers.

To our business friends, I say "work with us and take the lead but do not delay" for delays will breed suspicion. Some 250 bills relating to the Internet are pending in our Congress alone. You can be sure that they will be offered again next year when Congress convenes and I am sure in legislative bodies all over the world, the same situation is recurring. If you want to avoid the heavy hand of government, industry must be a real leader and a global leader. But with leadership comes responsibility. Do not forget the values that make businesses successful: a reliable product that consumers want, a responsible company that stands behind it, and fair treatment for its customers including any information that they provide. In e-commerce you have a wonderful opportunity to enhance these values and to grow this market. So let's not miss the opportunity by failing to build the system that our people can rely on. Let me say one more thing before commenting on what shall be achieved at our Conference.

What we are doing here in Ottawa is about more than e-commerce or e-trade or e-mail. It's about the "E" in "economic opportunity". It's about enabling businesses, workers and consumers in ways that has never been done before. It's about making sure that this works to the good of all of our businesses, large and small, manufacturing and service, in or out of the OECD. This is about whether we can give workers the skills to be part of this tremendous potential. And whether e-commerce is what consumers want. At the end of the day they are the ones who have the votes. We can hook them up to the Internet, but they have to like it. If they don't, technology loses the election. After all, what good is any technology if nobody wants to use it?

Let's talk about the achievements we hope to make today in Ottawa. First and foremost: privacy. To me this is the make-or-break issue of all of electronic commerce. If consumers feel, when they buy a book or browse a magazine online, that someone is misusing personal data or stealing their credit card numbers, they'll stop buying books on this medium. We have an obligation to protect them and at the same time, no country should be overly restrictive. The success of this market depends on the unfettered flow of data around the globe so I am pleased, very pleased on behalf of our delegation, with the Declaration on Privacy. I welcome the commitment to work together to find common grounds on this incredibly vital issue. We believe that our self-regulatory approach can co-exist with the approaches being taken by other governments. To be honest, as we all know, it will not be easy. But with careful thought and hard work we honestly do believe that we can get this job done. I believe the same is true in our talks with the European Union. We have been working hard to bridge the differences on the Internet privacy issue with the European Union and we have made considerable progress. I am hopeful we will conclude our talks and achieve consensus very shortly. To be frank, we must succeed or millions of transactions between the United States and Europe may be blocked.

The second issue involves electronic contracting and authentication. How can people know that contracts they make over the Internet will be enforceable? How will they know that the method used to

authenticate or to sign this transaction will be recognised and will be enforced? To address these concerns we are proposing an international convention. It would remove the paper-based barriers to electronic commerce. It would ensure that electronic contracts are enforceable. It would allow people to freely determine how to authenticate contracts. And this will prevent legal constraints from stifling innovation, both in the development of new technologies and also in business practices. The convention would be compatible with a wide variety of domestic approaches to this problem. The OECD Declaration affirms these principles. For that we are very pleased.

Finally taxation. Obviously the expert on taxation in our Delegation is the Commissioner of the IRS, Commissioner Rossotti who you will hear from later in the panels. But let me say this. Co-ordinating our tax policies is most critical. We must make sure that they do not become trade barriers, for that would be an enormous mistake for all of us. Nor should these new technologies become great new tools for tax cheats or for criminals. Therefore our governments need to work closely to solve this problem.

Before closing I would like to mention another technology issue, one that Lou Gerstner also mentioned, and that is the Year 2000 computer problem. We are working in our government very hard to be Y2K ready. We are working in the government and we are working very closely with private industry, and I urge all of you to put an extra effort into this for in our opinion, this is a very serious problem for all of us. We know it is coming and if we fail to deal with it quickly, we will be facing major-league disruptions in global economic activity.

I will close on this. I will be the last American Commerce Secretary of this century, assuming I do everything right for the next two years. I obviously do not know of another Commerce Secretary in this century who saw as I am seeing and all of us are seeing, a technology totally change and has the potential to totally change the way commerce is done. Here is a technology that could give every business, regardless of size, the ability to sell products to every corner of the planet as only the Fortune 100s are able to do. This is an era of incredible sweeping change for all of us. So I hope many good things come from this Conference. Let's talk about telecommunications competition in developing infrastructure which will give us low costs and hassle-free access to the Internet. Let's talk about protecting consumers so that they will have confidence when they use the Internet. Let's work with our private sector to ensure we help and not hinder them in growing this market; let's pledge to do whatever it takes to guarantee that today's infant grows to be a trillion-dollar market in the next century and a benefit to all of the citizens of the world. Thank you very much.

**Speech given during
Plenary Session 1 Roundtable
Building Trust for Users and Consumers :
Roles and Responsibilities
8 October 1998, Ottawa Congress Centre**

**Mr. Christian Pierret,
Secrétaire d'Etat à l'Industrie,
France**

Je souhaiterais, tout d'abord, remercier le Gouvernement canadien et le Secrétariat Général de l'OCDE d'avoir pris l'initiative d'organiser cette Conférence et vous exprimer la satisfaction que j'éprouve à participer à cette manifestation. Le Gouvernement français est particulièrement sensible à tous les sujets dont nous allons débattre ensemble au cours de ces deux jours. Comme d'autres pays représentés dans cette enceinte, nous avons déjà engagé un certain nombre de réflexions et d'actions pour faire entrer notre pays dans la société de l'information et participer au développement du commerce électronique. Un programme d'action gouvernemental, rendu public en janvier 1998, a fixé le cadre de cette action.

Nous partageons le sentiment général, qui nous réunit ici, que l'instauration de la confiance sur les réseaux est une condition nécessaire pour que le commerce électronique apporte davantage de bien-être et davantage de croissance pour tous.

Pour instaurer cette confiance, nous devons faire preuve de pragmatisme. Nous avons besoin des entreprises, des utilisateurs et des Etats pour rendre le commerce électronique aussi sûr que le commerce traditionnel.

En même temps, il importe que cette coopération entre les acteurs se développe au niveau international.

1) Il appartient au secteur privé de développer les pratiques et les outils pour instaurer la confiance.

Tout d'abord, nous comptons fortement sur la mobilisation des entreprises et des utilisateurs pour instaurer la confiance. Nous avons en France, comme dans d'autres pays, apprécié la capacité des acteurs privés à apporter des solutions aux questions complexes soulevées pour le développement du commerce électronique. Je voudrais en donner deux exemples qui, vous m'en excuserez, sont tirés d'expériences françaises :

Le premier exemple, vous le connaissez sans doute, est celui de la télématique. Vous savez que la France a acquis un certain savoir-faire en développant une pratique significative du commerce électronique, puisque grâce au Minitel, ce sont plus de 16 millions de personnes qui, chaque jour, vivent la relation écran/clavier/transaction. Nous avons ainsi été confrontés à des problèmes proches de ceux dont nous discutons aujourd'hui. Dès les premières années du développement du Minitel, des activités et des contenus préjudiciables et illégaux sont apparus. Il n'a pas été nécessaire pour faire face à ces problèmes de créer un droit spécifique. Le droit classique s'est appliqué. En revanche, les Pouvoirs publics, les professionnels et les utilisateurs se sont réunis au sein d'instances créées sous l'égide des Pouvoirs publics et chargées - je crois avec succès - de concevoir et de faire respecter les règles éthiques appropriées.

Le deuxième exemple concerne la publicité. Dans ce secteur, une structure d'autorégulation, le Bureau de Vérification de la Publicité, a été créée. Elle réunit les acteurs de la profession et a pour mission

d'assurer le respect d'un certain nombre de règles éthiques en matière de message publicitaire. On peut là aussi estimer que cette structure permet une discipline efficace de la profession.

J'ai déjà indiqué à la Conférence de Bonn, en juillet 1997, que le secteur privé, par l'autorégulation ou le développement d'outils technologiques, a un rôle fondamental à jouer dans le développement de la confiance. A cet égard, les Pouvoirs publics, en France, ont incité les acteurs à mettre au point une démarche d'autorégulation pour les communications sur Internet et les services en lignes. Cette initiative devrait trouver un débouché concret.

D'une manière plus générale, de nombreuses questions juridiques se posent quant aux conséquences du développement d'Internet. Ces interrogations ont conduit le Premier ministre à demander à la plus haute instance juridictionnelle administrative française, le Conseil d'Etat, de réfléchir à l'adaptation de notre droit à la réalité des réseaux. Ce rapport, rendu public cet automne analyse le rôle des différents acteurs et les évolutions souhaitables. Il est à votre disposition pour enrichir une réflexion collective. Le Gouvernement entend en tirer rapidement les conclusions.

2) Si les entreprises et les utilisateurs doivent être les principaux inspirateurs de la confiance, les Gouvernements sont les garants de l'intérêt public.

Les Etats ont des responsabilités propres à l'égard des citoyens qu'il leur appartient d'exercer, en fonction de leurs traditions juridiques spécifiques. A celles-ci s'ajoute l'édification, pour les Etats-membres de l'Union européenne, d'une vision coordonnée qui doit conduire à une pratique commune et même un jour à une pratique unique sur les principaux problèmes évoqués aujourd'hui.

La mise en œuvre effective de ces responsabilités publiques est elle aussi une condition essentielle de la confiance des acteurs dans la pratique du commerce électronique.

En premier lieu, la confiance nécessite un cadre juridique sûr, stable et qui préserve les intérêts légitimes de tous les acteurs. Ce cadre juridique, et je tiens à le rappeler avec force, existe. Nous ne sommes pas dans un espace de non-droit. Certes, nous devons être prêts à envisager l'adoption de règles spécifiques dans les cas particuliers où le droit général serait inopérant. Mais il est souhaitable de faire application en priorité des règles applicables à l'ensemble des transactions commerciales. Certains principes de nos droits nationaux peuvent se révéler particulièrement utiles dans le nouveau monde des réseaux, par exemple pour traiter l'allocation des ressources rares.

En second lieu, les citoyens sont attachés à ce que l'Etat préserve l'intérêt public, c'est-à-dire pour une large part la protection des plus faibles. Les Pouvoirs publics doivent veiller à ce que la concurrence s'exerce loyalement entre les acteurs. Ils doivent s'assurer que le fonctionnement du marché accorde une protection adéquate au consommateur, car les deux parties à la transaction ne sont le plus souvent pas en situation d'égalité, notamment dans les transactions électroniques transfrontalières. La protection de la vie privée et des données personnelles est également un droit dont les Pouvoirs publics sont en dernier ressort les garants, tout comme ils sont les garants de la prévention et la répression des activités criminelles, ou simplement illégales. Enfin, la fiscalité relève à l'évidence des Pouvoirs publics à qui il incombe de sécuriser la ressource publique et d'éviter toute distorsion inéquitable à l'égard du commerce traditionnel. Nous sommes attachés, comme le montrent les travaux récents et à venir de l'OCDE, à une concertation avec le secteur privé dans ce domaine.

Je suis donc persuadé que les initiatives du secteur privé et la responsabilité des Pouvoirs publics sont complémentaires.

3) A terme, la confiance dans les réseaux reposera sur la capacité, des uns et des autres, à coopérer davantage.

Il importe à mon sens de nous engager encore plus avant dans la voie de la coopération. Dans mon esprit, il y a la place pour deux types de coopération :

D'une part, une coopération entre l'industrie, les utilisateurs et l'administration pour s'assurer d'un fonctionnement du réseau respectueux des grands principes déontologiques.

En France, nous poursuivons, depuis 1996, une concertation spécifique avec les utilisateurs, au sein du Conseil National de la Consommation, organisme paritaire, qui veille par les avis qu'il rend, à la loyauté des transactions.

Outre cette concertation spécifique, le ministère de l'économie, des finances et de l'industrie a confié, dès septembre 1997, à Francis Lorentz une mission générale de proposition qui a été une première occasion d'associer l'ensemble des acteurs, publics et privés, pour mieux comprendre les enjeux du commerce électronique et définir les actions prioritaires pour en permettre le développement.

De même, la collaboration entre le secteur privé, les utilisateurs et les Pouvoirs publics peut s'avérer utile pour définir des normes techniques.

Enfin, nous considérons que la gestion des noms de domaines, qui constitue d'une certaine manière une ressource rare, doit permettre aux Etats d'exprimer leur point de vue qui est le leur, non seulement comme utilisateurs, mais aussi au regard de l'intérêt général.

D'autre part, la confiance ne pourra se développer sans qu'un deuxième type de coopération, à savoir la coopération internationale, se poursuive et s'intensifie. De ce point de vue, nous ne pouvons que nous satisfaire du rôle joué par l'OCDE et de l'ensemble des travaux que cette Organisation entreprendra après cette Conférence. Je pense plus particulièrement à la préparation des Lignes Directrices sur la protection du consommateur ou encore aux travaux sur la mise en œuvre sur les réseaux mondiaux des principes de protection de la vie privée et des données personnelles. Ces travaux doivent compléter utilement ceux menés sur ces questions ou dans d'autres domaines par l'Union Européenne, le Conseil de l'Europe ou encore la CNUDCI. Le Gouvernement français a déposé, auprès des Etats-membres de l'Union européenne un mémorandum sur le développement du commerce électronique. Ce document invitait l'Union européenne et les Etats membres à rechercher le plus grand accord au plan communautaire et international sur les questions à résoudre pour aboutir à la création d'un marché sans frontières du commerce électronique.

En conclusion, je suis convaincu que la confiance des utilisateurs dans le commerce électronique reposera sur :

- premièrement l'action des entreprises en coordination avec les consommateurs et en coopération avec les Pouvoirs publics ;
- deuxièmement l'exercice pondéré mais sans complexe par les Gouvernements de leurs responsabilités ;
- et enfin, une collaboration entre les Etats pour répondre aux enjeux nouveaux que constituent les réseaux mondiaux.

**Speech given during
Plenary Session 1 Roundtable
Building Trust for Users and Consumers :
Roles and Responsibilities
8 October 1998, Ottawa Congress Centre**

**Mr. Jim Murray,
Directeur,
Bureau Européen des Unions des Consommateurs**

I speak here as a representative of Consumers International. I am grateful for the invitation to speak at this conference but I am disappointed that the consumer interest and consumer concerns have not been given adequate weight, in the work done within OECD to date and in the draft declaration for this conference.

Within OECD, business has been able to exert substantial influence through BIAC and our friends in TUAC have had the enormous task of trying to cover all the social, consumer, cultural and other concerns. In the continuing work on the Guidelines I ask OECD to ensure a place at the table for representative of consumer organisations, and Consumers International in particular.

We are asked to comment on the respective roles of governments and business, among others, in the development of electronic commerce. Governments have first and foremost the primary responsibility of promoting, defending and vindicating the rights of consumers/citizens and ensuring that these rights are respected. That is not to argue for direct government intervention in every case, but governments must set out certain public policy objectives and ensure that these objectives are met, whether by government intervention or otherwise.

If, as is envisaged, self-regulation has an important role to play in the development of electronic commerce, then self-regulation must be judged by the extent to which it is shown to meet public policy criteria and objectives - it cannot be seen any longer as a purely private initiative.

Self-regulation must be guided by certain principles. Criteria for judging and measuring the effect of self-regulation must be developed for each sector that wants to apply such regulation. This perspective on self-regulation is almost entirely missing in the work done to date.

We must ask also what kind of inter-relationship might exist between self-regulation and legal regulation?

The problems of legal regulation are much emphasised, and reference is often made to the difficulty of regulating rogue or maverick operators. While self-regulation may influence the action of mainstream operators who are in the market for the long term and wish to build up consumer confidence and loyalty, it is not so evident how self-regulation can affect the rogue operators in the same way.

In assessing the potential value in OECD guidelines we must look at the record, and in particular the guidelines on data protection and privacy which we have now had for eighteen years. By and large the principles in the guidelines are observed in practice mainly where they are reflected in laws, whether in general laws as in Europe or in sectorial laws as in the US. On the Internet those principles are violated every time we log on.

The draft Declaration is timid and limited. It talks of “building confidence and trust” or “reviewing or adapting laws”; “input from consumer organisations”. What we would like to see is a clear statement that long-established principles of consumer policy including the right to information, redress, protection of economic interest, representation and the right to personal privacy should apply to electronic commerce as to other forms of commerce.

Electronic commerce has potentially huge benefits for consumers but it also potentially threatens established consumer rights, such as the right to privacy, and to protection from abusive marketing practices, and the right to retain national rules in line with national culture and traditions. These are serious concerns which must be addressed seriously.

One particular area of concern are new forms of commercial communication which are interactive, which may increasingly be adapted to individual personalities and which blur or indeed abolish the traditional distinction between advertising on the one hand and editorial or programme content in the other. This trend is already visible in traditional media and will be accentuated in the new media in which electronic commerce will develop. These concerns are not tackled in the draft declaration and guidelines. They are not easy to tackle but we must begin to do so.

**Speech given during
Plenary Session 1 Roundtable
Building Trust for Users and Consumers :
Roles and Responsibilities
8 October 1998, Ottawa Congress Centre**

**Mr. Albert Gidari Jr.
Executive Director,
Internet Law and Policy Forum**

The Internet Law & Policy Forum ("ILPF")² is an international, non-governmental organisation dedicated to fostering the growth of electronic commerce and the Internet. ILPF provides a neutral and objective venue for research and development of solutions to the legal and policy issues surrounding Internet commerce and communications. ILPF is pleased to participate in the Ministerial Conference of the Organisation for Economic Co-operation and Development (the "OECD") and to share ILPF's observations on the state of self-regulation on the Internet.

A. *Background of ILPF Self-Regulation Initiative*

ILPF entered the debate over the efficacy of industry self-regulation in January 1998 when it approved a multiphase project to examine this issue.³ In the first phase of the project, ILPF compiled and analysed a wealth of primary and secondary materials regarding Internet governance, resulting in the creation of the *Bibliography of Internet Self-Regulation*.⁴ The *Bibliography* was a path-breaking exercise that continues today with regular updates of the survey and analysis of the resulting trends.⁵ The *Bibliography* disclosed that, while there seemed to be broad consensus that self-regulation of the Internet was critical to its future growth, there was little consensus about the term's meaning or how to achieve or implement a self-regulatory regime.

The second phase of the project involved an examination of the various methods of self-regulation and an assessment of their effectiveness. ILPF will publish the results of its findings upon completion of the project in December 1998. Based on work to date in its self-regulatory initiative, ILPF is able to make several preliminary observations on the state of self-regulation on the Internet and the surrounding debate.

The self-regulation discussion takes place at a time when the growth of electronic commerce and the Internet is unprecedented and highly dynamic with new innovations, applications and services coming almost daily. The OECD announced this Ministerial conference with the acknowledgement that the emergence of electronic commerce is so profound that it is creating a "new economic order, changing the ways people participate in society as citizens, consumers, workers and entrepreneurs."⁶ Private sector

² <<http://www.ilpf.org>>.

³ <<http://www.ilpf.org/selfreg/announce.htm>>.

⁴ <http://www.ilpf.org/selfreg/bib4_18.htm>.

⁵ The *Bibliography* is the creation of Matthew J. McCloskey in cooperation with ILPF members. Comments on the *Bibliography* can be submitted by email to <malenfant@ilpf.org> or <self-reg@ilpf.org>.

⁶ <<http://www.ottawaoecdconference.org/english/homepage.html>>.

participants in the OECD conference agree, stating in similar terms that "[t]he emergence of global networks has already begun profoundly to influence the way individuals interact with each other, businesses conduct their affairs, and governments provide services to their citizens."⁷

Governments and industry have embraced the proposition that the private sector should lead the development of electronic commerce with government action only where necessary to support a predictable legal environment.⁸ The debate between industry and governments today regards how to address social dislocations and anomalies that occur in times of such rapid change without sacrificing the promise of electronic commerce. Self-regulation instead of direct government intervention has become widely accepted as the appropriate policy direction.

B. *Building Trust for Users and Consumers Through Self-Regulation*

The OECD has identified "building trust for users and consumers" as a primary factor in the future growth and sustainability of electronic commerce. In its *Global Action Plan*, industry agrees and urges that the "protection of users, in particular with regard to privacy, confidentiality, anonymity and content control should be pursued through policies driven by choice, individual empowerment, industry-led solutions, and should be in accordance with law where applicable."⁹

1. Individual Empowerment

When governments speak of self-regulation, the "self" to which they refer generally is the business sector alone. This conception of self-regulation places too much of the burden on industry to solve the legal and policy issues raised by electronic commerce and fails to recognise individual users of Internet services and participants in electronic commerce as independent Internet stakeholders and possible administrators in a larger self-regulatory regime.

Individual empowerment is one of the dramatic possibilities of the Internet. There is no bound to the amount of information available to individual consumers of Internet services today, ranging from cost-effective means and modes of access to the Internet to the nature and kind of business practices in use for electronic commerce. Indeed, individual choice is celebrated in the very nature of the Internet where an individual self-determines what sites to visit, what content to view, and whether to do so anonymously or with the necessary identification to complete a transaction.

In response to strong consumer demands, technological tools have been and are being developed to protect privacy, permit secure electronic transactions, and protect against inadvertent exposure to undesired content. In addition, technological complexity is giving way to pre-set preferences; information glut and disorganisation are being replaced by third-party services that organise, rate or filter according to user instructions. Virtual communities of like-minded individuals form and re-form in an ever-expanding web of information-sharing connections. Businesses, ever alert to consumer preferences, respond to these demands by adopting practices and providing services that meet the needs and desires of their customers. Any other course would be disadvantageous on the Internet.

⁷ A *Global Action Plan for Electronic Commerce prepared by Business with Recommendations for Governments* at 6 ["*Global Action Plan*"].

⁸ See *A Framework For Global Electronic Commerce* (U.S.), <<http://www.iitf.nist.gov/eleccomm/ecom.htm>>; *A European Initiative in Electronic Commerce* <www.cordis.lu/esprit/src/ecomcom.htm>; *Europe and the Information Society - The Policy Response to Globalisation and Convergence* (Bangemann) <www.ispo.cec.be/infosoc/promo/speech/venice.html>; *Towards the Age of the Digital Economy* (Japan, MITI) <<http://www.miti.go.jp/intro-e/a228101e.html>>.

⁹ *Global Action Plan* at 9.

To be sure, not all individuals have or will achieve complete control over all aspects of electronic transactions. Individual empowerment, however, is a capable regulatory tool that governments must recognise when considering the need for and nature of any direct regulation. Governments should ask first whether and to what extent self-help and self-organisation can address the perceived problem.

2. *Scope of Industry Self-Regulatory Efforts*

In those cases where governments consider industry as the "self" in self-regulation with the responsibility to develop the desired solutions, government standards for measuring the success and effectiveness of self-regulatory outcomes have been unreasonable. In the discussion to date, governments have failed to recognise that the Internet industry is not monolithic and that there is no single "industry" that speaks for the whole of the Internet. Self-regulatory solutions are more appropriately developed on a sector-by-sector basis, on a timetable that fits the needs of that industry sector, and with due recognition and balancing of the extent of the perceived problem (risk of harm) against the risk of regulatory intervention (risk of diminished benefits).

Governments have threatened, both overtly and implicitly, to directly regulate electronic commerce if industry fails to deliver some omnibus self-regulatory solution in the immediate future. ILPF rejects this false sense of urgency. No one can seriously argue that the Internet suffers from some systemic dysfunction that can only be cured through government direct regulation or an immediate change in business behaviour or practices. The vast majority of businesses are responsible Internet participants. While there are genuine concerns that need to be and are in fact being addressed the actions of the 80 million or more Internet users and consumers give lie to the "big scare" and have embraced the cornucopia that is the Internet.

Moreover, the history of self-regulatory initiatives proves that snapshot solutions are ineffective. Instead, the basic premise of self-regulation is continuous improvement to meet the needs of the particular business in the most efficient manner (with "needs" encompassing company growth and consumer demand as well as the prevention and detection of unlawful or liability-producing conduct). For example, third-party or internal audits are proven self-regulatory tools. Successful audits build on prior audit results and become management tools for future improved performance. The process is iterative and repetitive, resulting in best practices that often are adopted or emulated by others in the same industry to remain competitive.

Similarly, adaptive management in a dynamic environment permits agile business responses to unforeseen or unexpected circumstances. Given the rapidly changing environment for electronic commerce driven by an unprecedented rate of technological change, adaptive management recognises that prescriptive rules are obsolete before they even take hold. This mode of self-regulation works extremely well in those cases where governments delegate to industry the manner of compliance with high-level objectives. It also ensures technological neutrality and avoids technology lock-in.

Industry association codes of conduct establish normative rules of behaviour that become standards for performance. Industry association codes of conduct and standards ensure a level playing field for all members but cannot guarantee that bad actors or free riders will not seek to gain a competitive advantage by failing to conform to the requirements. Companies that attempt to avoid the law or that adopt an industry code and then fail to follow it may face enforcement actions under state consumer protection laws for unfair or deceptive practices -- a remedy for consumer protection violations widely recognised in most jurisdictions. These bad actors also are likely to face the sanction of the Internet community.

More than in any other industry, Internet-centric companies have come to depend on standards to ensure interoperability and ubiquitous adoption of technology. Standards are a self-regulatory mechanism. Standards, like all self-regulatory initiatives, are voluntary and consensus-based. They reflect the marketplace, are technology-neutral and provide both forward and backward compatibility (unlike most

direct regulation). Standards are not limited to technical requirements and have been used to develop quality assurance models, management procedures and model agreements. Standards are "enforced" through auditing and reporting (and in the case of public companies, disclosure when findings raise possible material issues for investors). Standards become "living documents" by virtue of revisions and new releases that build on past experience.

Despite the urgency seen by some governments, it is not possible to construct a self-regulatory framework from these tools overnight. Governments themselves should understand this because it takes much longer to develop the international consensus needed for codification of even basic international norms such as human rights protection or to achieve trade liberalisation. Notwithstanding, the *Global Action Plan* and other private sector-led, international efforts such as the TransAtlantic Business Dialogue and the ILPF's international working group on electronic authentication demonstrate the ability of industry to be more agile and responsive to concerns than governments in the first instance. These modes of private sector communication and co-operation should be encouraged by governments and looked to as the primary source of policy input when examining the nature of any electronic commerce issue.

Governments must also temper their expectations because self-regulation is a voluntary mechanism; it cannot command 100% compliance nor can it fully enforce its norms against bad actors or free riders. Indeed, no one can dispute that the borderless, open, distributed nature of the Internet ensures that governments themselves cannot command 100% compliance with any law. Industry should not be put to a higher standard. (This is not to say that there are no consequences for failing to adhere to a code of conduct or for breach of contract as noted above. The Internet itself is a global clearinghouse for information about those that break the rules and individuals have recourse to the legal regimes of their countries to remedy conduct that would be illegal or actionable whether or not it takes place on-line or electronically.) And governments must appreciate that industry co-operation in some areas may be limited by competition law concerns. Thus, self-regulation is not a 100% solution, but then neither is direct regulation.

In the commercial context, freedom of contract is the penultimate self-regulatory mechanism. Parties should be free to agree to the form of validation or authentication needed to enable the transaction. Governments should take steps to remove existing legal and regulatory barriers to such recognition and forbear from enacting new regulations. Freedom of contract principles in the first instance can address dispute resolution, liability, and jurisdiction questions.

3. *Direct Regulation and the Role of Governments*

Despite the wealth of opportunity for self-regulatory solutions to be applied, ILPF observes that, so far, governments have chosen to address changes brought about by the emergence of electronic commerce through direct regulation.¹⁰ Notwithstanding the self-regulation rhetoric, governments have not exhibited regulatory forbearance in practice. Indeed, as the *Bibliography* discloses, government-initiated regulation of the Internet is the norm in almost every country, and self-regulation, if it is a policy goal, remains largely relegated to academic discussion or industry response to and comment on government or intergovernmental initiatives.

Indeed, the regulatory marketplace seems to be dominated by direct regulation in many areas, including telecommunications and access to the Internet, export of software such as encryption products, privacy directives, and limitations on services that may be delivered through the global network. There is no "regulation free zone" on the Internet, and all areas of concern raised by governments in the Ministerial conference and elsewhere are the subject today of direct regulation, regulatory initiatives or interagency discussions on how to proceed with regulation.

ILPF observes that before governments regulate further, they should demonstrate that (a) the rule is necessary and alternative means (such as self-regulation) are not available or desirable, (b) the rule is capable of achieving the desired goal in light of changing technology, and (c) the rule is the minimum constraint with the least effect on global communications and commerce. In other words, there should not be regulation for regulation's sake. Where it has regulated already, governments should review the need for such rules in light of the above considerations.

To be sure, government always will have a role in protecting consumers and businesses from fraud, ensuring that legitimate law enforcement objectives are met, and enforcing individual and property rights. But electronic commerce is global in nature. Governments must recognise the need for co-ordinated and compatible action. Unilateral government action adds to uncertainty in the marketplace for businesses and consumers alike.

No one nation can have a veto over electronic commerce and any one nation that chooses to so act will be isolated from the benefits of the Internet. Moreover, extraterritorial application of one nation's laws presents a significant threat to the growth of electronic commerce. Mutual recognition of the regulatory regimes of every nation is one action that governments can take immediately to facilitate electronic commerce.

C. *Concluding Observations*

The *Bibliography* discloses that, just as there is no consistent international framework for direct regulation of electronic commerce, there is no unifying, global theory of self-regulation. In some countries, the very concept of self-regulation is without a lexicon. Other countries such as Japan have recently embraced the concept.¹¹ Still other nations, such as the United States or the Netherlands, have a long tradition of deferring to self-regulation in certain industries. Governments should begin a dialogue on the efficacy of self-regulation to determine where it may be adapted to electronic commerce. Mechanisms for private sector stakeholder input and involvement in these efforts are important to achieving consensus on the path forward.

¹⁰ See Peng Hwa Ang, *How Countries Are Regulating Internet Content*, <http://cad.ntu-kpi.kiev.ua/events/inet97/B1/B1_3.HTM>.

¹¹ See *Towards the Age of the Digital Economy* (Japan, MITI) <<http://www.miti.go.jp/intro-e/a228101e.html>>.

The current debate between industry and governments regarding the proper balance between self-regulation and direct regulation is informed through such actions as the OECD Ministerial Conference. There is room for more discussion, but the promise of electronic commerce will never be realised if governments occupy the regulatory field with prescriptive rules that, at best, will be made obsolete by the next innovation.

These preliminary observations will continue to be tested by ILPF during the course of its self-regulation initiative. ILPF welcomes comments during this process.

**Speech given during
Plenary Session 2 Roundtable
Building Trust and Making it Work :
Case Studies in Effective Implementation
8 October 1998, Ottawa Congress Centre**

**Mr. Jan Trøjborg,
Minister of Research and Information Technology,
Denmark**

Through the preparations for this conference - and the previous plenary session - we have seen that the role of government and industry self-regulation have become the central issue.

This discussion has a tendency to get very polarised. Let us not be dogmatic, but try to take a pragmatic look at the situation.

I think we all agree that governments have a role to play. The question is how big is this role of governments, and how should it be exercised?

I hope we can work towards gaining a level of common understanding on these issues. Such a common understanding, on an international level, is necessary and must be a central goal for all of us.

We have many different regulatory traditions, and cultural differences have always played a big role in commerce. The key to finding common ground is that we respect these differences.

From a Danish point of view we believe that neither of the two, public regulation or industry self-regulation, will do the job alone. We believe that there is basically a need for a mixture of public regulation, co-operation, support and self-regulation.

In Denmark, as in other countries, we are working hard to increase our competitive strength - this is done, for example, through:

- research policy
- educational policy
- labour market policy
- deregulation and privatisation - especially in the telecommunications sector.

Although the general use of IT in Denmark is very advanced, electronic commerce has not yet taken off, and it has not yet given Danish companies the competitive benefits we believe to be there.

This is due to a number of well-known barriers - identified in the context of this conference.

When it comes to business in electronic commerce, the use is limited by, among other things, the uncertainty concerning the basic rules for electronic commerce - for example the issues of digital signatures and authentication.

On the one hand we want to promote the use of electronic commerce. On the other we, as a government, also have to deal with concerns of law enforcement and other concerns of public interest.

In this context, I welcome the initiatives from the EU-Commission which, hopefully, will help to tackle these issues at an international level.

From a Danish point of view the issue of digital signature is an example of an area where governments do have a role to play. In Denmark the government has chosen to initiate a series of projects within public services based on the use of digital signature.

Other examples of government electronic commerce activities are:

- Promotion of private sector electronic commerce by doing public procurement the electronic way.
- Initiation of joint activities with the private sector in promoting electronic commerce. An example of such a co-operation is the joint formulation of an action plan for electronic commerce back in 1996. This was a plan aimed at promoting the use of electronic commerce technologies and was supported by all major industry and business organisations. Right now we are commencing work on a new action plan for electronic commerce based on the same model.

These examples underline the Danish position - We believe that neither of the two, public regulation or industry self-regulation, will do the job alone. We believe that there is basically a need for a mixture of public regulation, co-operation, support and self-regulation.

In this context I would like to stress that in the case of self-regulation, the Danish Government's basic position is also that this must be based on input from a broad spectrum of organisations representing consumers, users as well as commercial interests - not just "Industry".

Finally, I would like to comment specifically on the issue of consumer protection. When we are talking about building trust and making it work - which is the title of this plenary session, it is my opinion that a set of OECD-guidelines will be one of the most effective tools for building trust and making it work.

In this respect it is with great regret that the Danish Government finds that the OECD guidelines on electronic commerce are not going to become a reality for the time being.

The development of the Internet as a new form of market place is an important task for national authorities and interest groups. However, the global nature of the Internet also necessitates broad co-operation at an international level.

In Denmark's opinion, the adoption of OECD guidelines at the present time would have been an important step in this international co-operation.

The Danish Government therefore urges, firstly, that the work on the guidelines be promoted as much as possible and, secondly, that proper attention be paid to the different social and consumer policy traditions of the OECD countries.

Let me conclude with a point of great concern to the Danish government: We must ensure that the developing countries are not forgotten when electronic commerce is discussed. The further integration of the developing countries in world trade – and also in electronic commerce - must therefore be a major point of the coming global round of trade negotiations in the World Trade Organization starting next year.

Thank you very much for your attention!

**Speech given during
Plenary Session 2 Roundtable
Building Trust and Making it Work :
Case Studies in Effective Implementation
8 October 1998, Ottawa Congress Centre**

**Mr. David Kerr,
Chief Executive,
Internet Watch Foundation**

Introduction

I am here because the Internet Watch Foundation was one of the first attempts at self-regulation of illegal and offensive content. For those that do not know our history the details are on our web site at www.iwf.org.uk

Firstly I want to stress that dealing with illegal and offensive content is not a sideline in a conference about e-commerce. It is a key factor in building public trust in the medium. Our latest research shows that concern about what they may be letting in to their homes is a major barrier to attracting new users. Once they are connected, new users' desire for means of filtering what they, or their children, can see increases.

So controlling illegal and harmful content is a major issue for commerce as well as public policy.

Self Regulation

"Self-regulation" is perhaps a misnomer for the UK approach as, although industry funds and supports us, our operation is founded on a joint agreement between government, police and industry. Like any partnership, it survives and succeeds because it continues to provide demonstrable benefits to all the participants.

But in a global medium our effectiveness depends on extending the partnership between the private and public sectors in the global arena. Hence the value of this international event.

Illegal Material

Our first role in the UK was to establish a hotline for the public to report illegal material.

Through ISPs we can have illegal material removed from UK servers. Through our links to the police we can help to get originators of illegal content, primarily child pornography, investigated and prosecuted. But, predictably, 95% of the originators are outside the UK; so, to be truly effective depends on similar arrangements in other countries.

This is already happening: there are now other hotlines operating in Europe and in the USA, and plans for many more – in Europe, Australia and Japan.

The European Union's action plan for promoting safe use of the internet is encouraging the growth in hotlines and is helping to build them into an international network.

Legal but potentially harmful material.

Useful as hotlines are, we must be realistic in accepting that they will never eradicate illegal material or do anything about the swathe of legal material that many people will find objectionable, and would want to protect their children from.

This is where IWF's second role in developing rating and filtering techniques comes to the fore. There is not the time here to repeat the well-worn arguments about rating and filtering. But I can tell you that, after extensive research and debate, most governments and much of the industry has accepted that this approach is the best hope for maintaining free speech on the internet, whilst allowing consumers to choose what they do not wish to see.

The rationale of our approach in the UK presents another of the enigmas of the Internet. Our primary interest, like any other national body, is in the needs of our own country. But the only way that the needs of UK residents and businesses can be well served is by an international endeavour.

It needs a critical mass of sites rated in a way that UK based browsers can read, and according to the categories of content that UK residents wish to filter. Likewise for other countries. As a worldwide system, it needs to be culturally neutral so that each user can apply their individual standards and national culture. It needs to be simple and cheap to install and operate. Technically ignorant parents need to be able to set it up for their more technologically sophisticated offspring. Content providers must be able to rate their sites easily and quickly.

That specification sounds a tall order! But there are already systems running that are doing it! Notably the RSACi system that recently won the Carl Bertelsmann prize for innovation and responsibility in the information society.

Conclusions

To make such a system truly international needs a global partnership effort between governments and industry.

- Governments to support the process of identifying the particular requirements of their citizens, but to stay "hands-off" and reduce fears of this being a road to censorship.
- The network industry to advance the browser technology and encourage subscribers to install and use the systems available.
- The content industry to recognise the mutual benefits of co-operation and the commercial advantages of rating their sites.

A vehicle to deliver an internationally acceptable system was launched just yesterday (Wednesday 7th October 1998), when the Internet Content Rating Alliance held the first meeting of an international reference group, which will be consulting stakeholders worldwide on their requirements of a global system. Our ambition is to have that system operational by the end of next year.

Please support us. Thank you.

**Speech given during
Plenary Session 2 Roundtable
Building Trust and Making it Work :
Case Studies in Effective Implementation
8 October 1998, Ottawa Congress Centre**

**Ms. Moira Scollay,
Federal Privacy Commissioner,
Australia**

Thank you for the opportunity to speak.

Firstly, I think the Ministerial Declaration on Privacy is a positive move in developing respect for people's right to privacy. It opens a way forward to reconciling what may seem at the time to be competing interests.

As a Privacy Commissioner, I know that Privacy is a difficult issue. It is never an absolute. I often have to balance interests to reach an outcome that both satisfies the spirit of the Privacy Principles, and yet acknowledges different perspectives.

All too often, the privacy debate is conducted as "self-regulation vs. law". But this complex issue cannot be solved by binary, "black and white" thinking. We need to build bridges. Not with "either-or" solutions, but a with a mix of both self-regulation and law - and with tools such as privacy enhancing technologies (PETs), contracts, education, model contracts, international agreements, and others.

At the core of this Privacy/E-Commerce debate is finding a balance around the issue of respect. On one hand, respect for people's fundamental right to privacy and to be treated with dignity - basically an ethical or social issue. On the other, respect for the right of companies to conduct business - an economic issue. Without finding a balance there is conflict.

For instance, in competitive markets each company uses whatever resources it has to maximise profits. If one of those resources is our personal information, and we are humiliated, intimidated or intruded upon in the process of its use - So what? If this view prevails, such companies would only change if profits were affected, and law is needed to "help" the market meet its social responsibilities.

Yet the reality is that economic and social interests can, and do, collaborate.

Economic activity and growth are largely founded on trust. When consumers develop relationships of trust with businesses, and trust in the surrounding institutional infrastructure, they participate easily and fully in the marketplace. Businesses that respect their customers' personal information are building relationships of trust - it is just good business sense.

Unfortunately, it is not sufficient to rely solely on this collaboration, between the economic and the social, to meet privacy standards. Neither law nor self-regulation is sufficient in itself. We need a clever balance, a suite of responses.

Let us remember that e-commerce is a fledgling, immature marketplace. We cannot rely solely on existing sophisticated approaches like self-regulation. We need some scaffolding to support emerging structures. Governments have an important role to play here.

Loyalty, trust and fear are not rational or logical, they're people's feelings. Recognising people's feelings about privacy is central to on-line trust. Their feelings must not be trivialised as simply inconvenient "barriers to electronic commerce".

Clearly, business needs flexibility to encourage e-commerce. But if it's at the cost of having user's online activities under covert surveillance, with information used without their knowledge or consent, then it is unacceptable. If we think it unacceptable for our mail or telephones to be under surveillance without warrant, then why tolerate such behaviour on-line?

The OECD Guidelines are a very good start, but we now need to implement them and build on them.

For instance, where technology leaves a digital trail, there should be the right to choose to preserve our anonymity. And where it is not practical for on-line relationships to be anonymous, the security of all transactions must be guaranteed; with adherence to Privacy Principles, including individuals' rights of access, and robust enforcement, and redress.

We now have a great opportunity to model behaviour, to create an on-line environment that will engender trust, and we will need to be creative and collaborate about how we do this in global networks.

The Declaration on Privacy is the words. Governments are committing to act. Now we need actions.

Thank you.

**Speech given during
Plenary Session 3a
Establishing the Ground Rules for Global Electronic Commerce :
The Role of International Co-operation
8 October 1998, Ottawa Congress Centre**

**Mr. Martin Bangemann
Commissioner
European Commission**

Mr. Chairman, Ladies and Gentlemen, we all agree in the economic importance of e-commerce. We all agree more or less but I believe to a very large degree what questions have to be answered, and how the answers should deal with problems of consumers or producers, of the political authorities and of business. Therefore I want to concentrate on a simple but very complicated question: how do we establish the rules we need for an electronic commerce that is both profitable for those that are participating and at the same time, an element of the widening possibilities in politics and in qualities of human life.

It has already been stressed that the normal political procedures and decisions will not do. First for the simple fact that it is something that has to be discussed and decided globally with a global effect. And secondly, as we have seen in our work in the European Union, also for the fact that the technological development has such a rapidity that any kind of political decision according to traditional lines will be overtaken within a couple of months by the technological development. For these two reasons I do believe that we have to look for a new method and since we were working at that problem it was clear to us that one of the first new elements would have been and is still the participation of those that are working and living with the system. It is of paramount importance that everybody who is normally involved in the political decisions, which has a clear-cut competence for itself and can be separated from those that have to live with that political decisions, is utterly clear about the fact that in this field you have to take a decision in a different way in starting with the private sector first.

Therefore we, from the beginning, have been looking for the assistance of businessmen, consumers' representatives, representatives of the social partners and part of the success with our information society efforts was based on the fact that the very first report was established by businessmen and not by politicians. I was the only politician. I was presiding, but I had nothing to do than to hand the floor to one and the other and at the end, a document was established which was really worthwhile.

So our effort in the European Union is aiming at having a participation of the private sector from the beginning. That was the reason why I suggested one year and a half ago, at the annual Conference of ITU in Geneva, that we should start with such initiative. In the meantime, as you know, we were able to invite the business world to establish the so-called Global Business Dialogue that has as a mandate to work out to list the different problems and to work out solutions.

That in itself is something very important but of course it raises the question who does what? And there, in the course of the discussion it has become clearer than in the beginning that there also has to be a participation and input of political authorities because some of the questions cannot be answered without a political input. Just to take up one of the questions you have been addressing at that Conference, taxation, would it be possible to ask the private sector: "Do you want to be taxed and in what way?" I mean the answer is quite clear, and therefore, we have to give an answer ourselves or let's take the question which still is a little bit in discussion also between the US and the European Union, encryption. I and Ira have been discussing that for years and years -- by the way I have always told him it is a splendid example for the fact that not everything can be done by business because encryption, of course, is something which is

also to be handled by political authorities to have a minimum of protection against criminal actions and so on.

But it is true as well, that if there is a technological solution to that, which may be better than a too rigid solution from politics that could only be worthwhile. So I believe that we should not start a fundamentalistic discussion. Is there only business that can establish the rules or is there a need for politics to go into each detail, and each question. The answer can be totally different, as it can also be different between the different political partners. To quote another example, privacy, we have established a regulation on it, a legal measure; the US is intending to invite our industry to establish a system of self-obligation. That's fine. That's in our own legal text. We have opened up the possibility for such a procedure provided that the content of the self-obligation of private industry is equivalent to the necessary protection of privacy. And I am quite glad because in the beginning of the discussion, it was that privacy is an old-fashioned problem for Europeans. Americans don't worry about privacy.

Now when we are looking at the development you can also see that 58 per cent of the American public wants the US government to step into safeguard of public interest and to pass laws to protect privacy. So I do not say that laws are the best way again but it shows that everybody is interested in that and I personally believe if we are not providing solutions for privacy, good solutions, the potential of e-commerce, the Internet and any other activities in the information society will not be used to the full extent. So a certain type of rules is even necessary in order to encourage people to make use of that.

Now, how can we then take these decisions? I personally believe that the Global Business Dialogue who has started and who is preparing for a conference next year will establish a list of their concerns and maybe also a list of their answers to the concerns.

At the same time, maybe already before hand, we should start a political dialogue which, by the way, has been starting in the conference in Bonn and now continues here in this Conference, in order to be prepared for the answers. And I am quite sure that at the end of the day we will have given answers which are productive for the information society, at the same time taking away fears and concerns from the public and, at the end of the day that may be the most important feature of it, establishing a world wide co-operation, both of the private sector and of the political sector, which is totally new, has never existed in history. It's some kind of new policy making and that is the fascinating thing in it that together with the new way of life which will be created inside the information society, we can also create a new way of taking political decisions which are not far away from the citizen, which are quite close to his interest and at the same time, representing a new style of public interest which is much more convincing than the style we have sometimes been debating in the traditional classical political fora and bodies. That is our expectations and I hope we can live up to that and I am quite sure that the discussion which has been started here in the Conference will be very helpful for that aim and I thank you very much for that.

**Speech given during
Plenary Session 3a
Establishing the Ground Rules for Global Electronic Commerce :
The Role of International Co-operation
8 October 1998, Ottawa Congress Centre**

**Mr. Ira Magaziner
Senior Advisor to the President
United States of America**

Thank you very much. First, let me congratulate the OECD on holding this Conference. A number of years ago, when we began our work in the United States on this issue, before electronic commerce was thought about by many people, the OECD had already begun to think about these issues and to put committees in motion to work on them, and I think it's a sign of the forward thinking of the OECD and of its commitment to help form better understanding of the world economy that has led to that activity and to this Conference. I would like to congratulate Don Johnston and the rest of the OECD staff for their foresight.

In thinking about this new economic transformation, we also need to think about new legal, commercial and political paradigms. Just as the industrial revolution brought a change in our necessities, legally and commercially, so this information revolution will also bring changes. And as we think about what those changes need to be, we have to accept one proposition, first and foremost -- that anybody who pretends to understand where these markets will be or where this technology will be 5 or 10 years from now, is fooling themselves. None of us know where this is headed. And that means that we need to be very cautious before we act, because any action we take could well wind up having unintended negative effects as well as the positive effects that we would intend.

The second thing that we need to understand is that inherently, we are working in an area that moves very rapidly, changes frequently and therefore requires great flexibility. Governmental processes, particularly intergovernmental processes, are often not what one would identify as being flexible and fast moving. That in part is the strength of governmental processes, but with respect to this new digital economy, it is also a weakness. And so when we, in the United States, talk about private sector leadership in this new digital economy, we are not doing it out of some ideological negative belief about government. Within our own political spectrum we are Democrats who are in power in the United States. We don't believe government is a bad institution, we believe government has a great deal of good that it can do. It's not ideology that drives this point of view. It is a realistic assessment that a digital economy moves quickly, requires flexibility, changes rapidly and frequently. We believe that private collective action can be more responsive to the needs of this digital marketplace because it can move faster and be more flexible.

The model of governance that we see working with the Internet is first, to reject the idea that there should be some governance over all of the Internet. There should not be any institution that governs the Internet, whether private or public. Rather, there are certain functions for the successful co-ordination of the Internet and electronic commerce that require co-ordination. Where that co-ordination is required, it needs to be international. In our view, that co-ordination should be carried out in a decentralised way that fits the nature of the Internet, which is inherently a decentralised medium. What we favour is a series of organisations -- international, private, non-profit, stake-holder based organisations -- that will have specific purposes to co-ordinate different areas that need co-ordination on the Internet. Historically, for example, the Internet engineering task force has been a private organisation that has developed protocols for the Internet that has worked well. The Internet architecture board has had responsibilities for broad architectural questions with respect to the development of the Internet. It has also worked quite well. This has led us, in the United States, to say that we want to privatise the technical management of the domain-

name system of the Internet and of the route server system of the Internet. Within a matter of a few weeks we will have created an international private stakeholder-based non profit organisation, and the United States government will turn over the authority to manage the technical domain names system of the Internet and the route server system to this new organisation.

This view also extends to issues like privacy protection or questions about how one prevents children from having access to content on the Internet that their parents do not wish them to access. We do not believe that either of these issues should be driven in their enforcement by government. Let me dwell on the privacy issue for a minute since that is an important one for this conference, and use that as an example of what I mean. We believe very strongly -- and we have believed very strongly for a long time in the United States -- that privacy protection is a fundamental right and value. The question is -- how do you best protect privacy in the digital age, without also setting up a bureaucratic regime which would restrict the development of the economic engine of electronic commerce? Our fear is that if we approach the issue in a way that would have been traditional in the industrial age, setting up government regulations and legislation and setting up government privacy boards, that it would have the effect, first of all, of imposing a significant burden on the part of those in the private sector trying to engage in commerce, because if each country is doing that separately, it creates an unpredictable legal environment and an environment that can be changing unexpectedly. Second, we believe that it would not do a good job of protecting privacy because even if we would have passed such laws, there are 10,000 web sites that form every week. By next year it will be 20,000 web sites that form every week. No government agency can police all of those web sites and guarantee to its citizens that it is protecting their privacy on every one of those web sites. If we make that promise to our people and say "don't worry, we passed the law, you are protected", we would be misleading our people. Because even if you could monitor all those web sites, no matter what country you are in, more than half of those sites would be outside your country. So, even if you can monitor an abuse, it would require a fairly complicated process to pursue the abuser.

Having said that, we think it's very important nevertheless that privacy be protected. The way we are promoting to do this is according to the model that I described earlier. We have started in the United States in our private sector, codes-of-conduct organisations that are based upon the widely-accepted OECD Privacy Principles, which we are glad to see reinforced in the Declaration of this Conference. The OECD has played an invaluable role in the world economy by the promulgation of those Principles. In this we agree, I think globally, with our European partners or our Japanese partners and others -- that the OECD Principles should form the basis for the substance of privacy protection. Where we disagree with our European counterparts (although we agree with our Japanese counterparts), is on how best to enforce them. In our view, the code-of-conduct organisation requires a seller to notify a buyer of what information they wish to collect and what would be done with that information. The buyer then has the option to opt out, to say "No, I don't want to do business on that basis," or "No, I don't want to give you that information," or "Yes, you can collect the information to use it this way but not that way." In effect a person has control over their own personal data. He or she should also have the ability, within reason, to look up data that is being held about them to check its accuracy. We think that this should be enforced through an independent private organisation. In our country, there are two such organisations so far that have come forward: the Better Business Bureau and another one called the TRUSTe.

Enforcement should have three parts to it: the first part is a visual symbol, a seal, that can be displayed by web sites for members of the organisation who are following the codes of conduct. The seal would mean that when a consumer comes to a web site and they see that seal, they know that their privacy is protected. Conversely, if they go to a web site that does not have the seal, then it raises an alarm for them. They know that their privacy might not be protected at that web site.

The second piece of enforcement is the ability of a consumer to register a complaint so that they can click on the seal and say "Wait a second, this company is part of the organisation but we think they are not doing what they are supposed to do," and to have some recourse to handle that complaint.

And third, the independent organisation should audit to be sure that the companies are in fact complying with what they say they are going to do. If this type of organisation is set up, then the government and industry can go to the consumer in a public education campaign or campaigns and say to the consumer : "The Internet is a free place. You can go where you want. It's a matter of your choice. But be careful. If you go to a web site that does not have one of these symbols, your privacy may not be protected. It's your choice, but be careful". That would create an incentive for web sites to want to get a seal, otherwise they'll be limiting those who come to their site. To support this in the United States we also have a government back-up from our Federal Trade Commission. If a company commits fraud, if they fraudulently say that they are going to do something and don't do it, they can be prosecuted -- and will be -- by our Federal Trade Commission.

I go into detail about this because it is our belief that this type of system will work well, and in fact better, than a government-enforced system to protect people's privacy. It does not pretend that it can monitor every web site in the world but it does give to consumers the tools and the information to protect themselves. It says to the consumer that there's a safe area here in terms of your privacy. So far companies that represent about 70 per cent of the traffic on the Internet in the United States have signed up to be part of this and our hope is that it will expand beyond that. It will also make it easier for international co-operation because what we envisioned happening is that industry organisations in Japan, in Europe, in the United States, and elsewhere in the world, can come together and agree upon a common visual symbol and also a common code based upon the OECD Privacy Principles. The enforcement may be done separately in each country. In Japan, it may be the Keidanren that does the enforcement, in the United States the Better Business Bureau. But it will mean that a consumer who goes online, whether they are visiting a Japanese Website or a European Website or an American Website, will know that they have a common level of protection if they see the symbol. We think that this approach will translate better internationally and we think in practice it will work more effectively. What we envision, therefore, is individual organisations, in this case some kind of international privacy alliance. We envision something similar dealing with other kinds of consumer protections, much as we have international consortia now developing protocols. We think that that will be a more effective model for the digital age than for governments to play a heavy handed role.

Let me complete my comments by saying that we have a very difficult task as representatives of governments. Certainly there are some areas like taxation, customs duties, intellectual property protection, where governments have to play a lead role. We are pleased that the OECD has stepped up and taken the lead role as an international forum on the taxation issue and we are very pleased with the progress that has been made. We are pleased that organisations like UNCITRAL are working on issues related to formation of contracts electronically and model laws for contracts. We are pleased that organisations like the World Intellectual Property Organization played a leading role in the development of the Copyright Treaty which is being ratified in the United States Congress today. And so we do see roles for governments. But we believe that those roles should be limited. The biggest challenge we face as government representatives is to do something which is very difficult for us in government, which is to agree not to act until we are absolutely certain that our actions are necessary. Thank you.

**Speech given during
Plenary Session 3a
Establishing the Ground Rules for Global Electronic Commerce :
The Role of International Co-operation
8 October 1998, Ottawa Congress Centre**

**Mr. Sanzo Hosaka
State Secretary for International Trade and Industry
Japan**

1. Opening Remarks

Ladies and gentlemen, I wish to begin by paying my highest tributes to the OECD and the Canadian Government for their enthusiasm and hard work which have made possible the holding of an international conference of this scale, expanding on the results from last year's Turku conference.

Major attempts are now being made to develop electronic commerce from a global perspective to allow it to fulfil its potential as the basis for the future growth and prosperity of the societies and economies around the world, and I feel deeply honoured to be able to represent the Japanese Government at this important conference attended by OECD ministers and private sector business and NGO leaders.

2. The Potential of Electronic Commerce

We are now on the brink of a "digital revolution" which is comparable to the industrial revolution in terms of importance. We are entering an age in which all events and phenomena are convertible to digital information which can be transmitted through networks to be instantaneously shared with people throughout the world by way of advanced information and communication technology. It is a new age in which the accumulation and distribution of information will form the basis of a new society. Electronic commerce will be at the core of all of this.

Electronic commerce has an enormous potential to revolutionise the very roots of our societies and economies. For example, exchanging information over networks can not only remove geographical constraints, but also substantially alter the tangible and intangible disparities and barriers, currently separating central and peripheral regions or countries. Social cost reductions, made possible by digitising information, will bring enormous benefits to every aspect of the lives of people as consumers, individuals or members of society, and will also increase the rate of internationalisation of the human society. The paradigm shift from "mass production and mass consumption" towards the "creation and distribution of intellectual assets" will make a major contribution towards finding global solutions to the social problems that the humankind is now confronted with such as the environment and resources.

Electronic commerce will improve corporate productivity, rationalise distribution and reform corporate structure. On a network, there is no difference between large and small firms. Local industries and small and medium-sized enterprises with limited business resources will have the chance to grasp new business opportunities by effectively using electronic commerce. Moreover, the growth of electronic commerce will create a variety of new industries, which will result in greater employment. The government and private sector's active investment to promote electronic commerce will serve as a driving force for economic expansion, which will be instrumental in sustaining economic growth.

This powerful world-wide trend will result not only in economic structural reform at the national level but also in economic structural reform on a global scale, as global and borderless economic activities encourage world-wide competition.

3. Measures by Japan

In the advent of the advanced information communication society, the Japanese government and the private sector, cognisant of each other's role, have actively taken steps to prepare themselves.

The "Headquarters for Promoting an Advanced Information and Communication Society" of the Cabinet published a report on electronic commerce this June. This report laid down the following principles on electronic commerce:

1. The development of electronic commerce should be led by the private sector, with the view that free competition in the private sector will maximise the potential of electronic commerce and the benefits to society.
2. The role of the government is to develop an environment that will induce the vitality of the private sector. Unnecessary restrictions and regulations should be avoided.
3. Since global co-operation is deemed important for the development of electronic commerce, which is essentially borderless in nature, Japan will actively participate in the international rule-making process.

MITI has played a leading role in guiding the development of electronic commerce by supporting large scale electronic commerce pilot projects as well as other studies on technological and institutional agendas. In addition, the Electronic Commerce Promotion Council of Japan, or ECOM, which comprises some 200 private companies, is vigorously formulating guidelines and model contracts regarding technological and institutional issues.

4. Emerging Problems and their Features

Despite its enormous potential, electronic commerce has given rise to certain problems with the spread of its use.

What first comes to mind are problems relating to consumer protection. One example is a company advertising its products on the Internet that vanishes after receiving orders and payment from customers. Another example is the inability of the consumer to return the product after finding faults in the instructions for use or even defects in the product itself.

The protection of personal data is also an issue of concern. The basic principle is not only to maximise the benefits from promoting informatisation, but also to duly remove associated hazards without excessive regulation. It is crucial that the methods applied should not be uniform but flexible and effective in light of the business realities in each segment, and supported by the voluntary efforts of the private sector.

Regarding digital contents, there are cases in which certain contents are legal in the countries of origin but illegal in the recipients' countries. There are also questions of intellectual property rights, such as the illegal copying of digital contents. An additional issue for the governments to consider is tax and tariff on electronic commerce.

On the other hand, if international compatibility can be attained on electronic authentication and electronic settlement, the advantages deriving from electronic commerce can be maximised, thus yielding important benefits for users.

In order to solve these problems of concern and others, the government should swiftly develop policies so as not to lag behind the pace of technological development. Finding solutions through technology and marketplace is also important, besides the question of assuring security. New problems, as they arise,

should basically be solved through technological means, market competition, and voluntary business practices in the private sector. Effective and transparent rules on business transactions should be established including consumer protection.

The common feature of these issues is that they cannot be resolved by the efforts of a single country alone.

In this regard, the Y2K is an urgent problem that should be tackled internationally. This is a common problem seen throughout the world, which could influence the entire world through networks. It is therefore indispensable to promote international co-operation. Japan is willing not only to take domestic countermeasures but also willing to make positive contributions to international efforts.

5. The Need for international Co-operation and the Role of International Organisation

The Importance of International Co-operation

Because networks are connected to the world, problems on electronic commerce which have already become apparent and those which potentially exist out there do not warrant narrowly defined domestic measures, but instead require study from a global perspective. If I may emphasise, there is even a risk of exerting a negative impact on the global development of electronic commerce, if one perceives these problems in strictly national or regional terms.

As the theme of this session suggests, we are now standing at the starting point for establishing ground rules for global electronic commerce. The OECD, APEC and WTO are currently tackling with a variety of fundamental issues, and other international organisations such as UNCITRAL are having discussions from specialist perspectives. Industry and non-governmental organisations have also been active on these issues. Such multifaceted efforts to create an international framework are highly significant, and Japan will support such efforts and make positive contributions.

The Role of OECD

The OECD, as the international organisation at the centre of discussions on the overall shape of electronic commerce, has been actively engaged in this issue. With the involvement of not only governments but also the private sectors, the OECD has made a major contribution to the formation of a common awareness, and has come up with fruitful results in several specific areas including Guidelines for Cryptography Policy. I wish to offer my heartfelt respects to such efforts and results by the OECD, and I hope the OECD will continue to play a leading and central role in the global development of electronic commerce. Japan will also continue to actively participate in these debates including the one on Guidelines for Consumer Protection in the context of Electronic Commerce, slated for next year.

Activities of APEC

In the Asia-Pacific, APEC is currently working to enhance the level of electronic commerce in the region. This work takes into account the widely varying stages of development of the information and communications sectors, the diversity of culture in the region, and the activities of other international fora. The work includes technical co-operation and information sharing through joint projects. I attended the Meeting of APEC Ministers responsible for SMEs held recently. Electronic commerce was one of the key agenda of the meeting, which made me realise that this type of co-operation is indispensable to encourage the global spread of electronic commerce. At the APEC Leaders' and Ministerial Meeting to be held in November, a work program on electronic commerce will be submitted, in order to create a predictable and consistent environment for electronic commerce. Japan considers that APEC offers an effective means of promoting the growth of electronic commerce on a global scale, and so Japan intends to continue our active participation.

WTO Discussions

With regard to the WTO, there is a possibility that electronic commerce will be a major issue at the new millennium round. Tariffs and trade-related issues will begin substantive discussions on the work program that was adopted at the General Council. Japan will actively contribute to the discussions on international rules, since creating a suitable environment is important for developing electronic commerce. Concerning tariffs, the current "stand still" approach should be maintained in the future in order to encourage the growth of electronic commerce. On the subject of trade-related issues, Japan's position is that we should consider what will be desirable as rules on electronic commerce in the interest of expanding production and trade of goods and services and in the interest of ensuring stability and predictability in the multilateral trade systems. In conducting this debate on trade-related issues, progress in other international fora should be taken into consideration in order to promote efficiency in international discussions.

6. Points to be Noted in the Promotion of International Co-operation

I would now like to turn to certain points that need to be taken note of in proceeding with the international discussion on the establishment of ground rules.

1. First, we need to mutually understand the existing rules and systems of each country based on its history and practice. Various differences among countries have become apparent in the course of international discussions to formulate the ground rules for electronic commerce. The most effective approach is to "bridge" the distance among the systems based on full understanding of such differences, under a common recognition of the paramount importance of creating such an international framework.
2. Second, international rule-making must take into account the needs of the developing countries. In other words, the thinking of countries with highly developed information systems should not be forced on the developing countries. The activities of APEC, that I referred to earlier, can serve as a model in this regard.
3. Third, we need to emphasise efficiency in our discussions. Several international organisations are currently considering electronic commerce from various angles. It is necessary to avoid redundancies and effectively utilise the limited resources of such international bodies. We need to identify the agenda for electronic commerce as well as fully recognise the division of work and mutual co-operation among international fora.

7. Conclusion

The world is about to take a major step forward toward the Age of Digital Economy. At the dawn of this new era, we must engage in discussions in the spirit of solid international co-operation, in order to maximise the potential of electronic commerce and its benefits to the people around the world, which would, in turn, lead to the future development of our socio-economy.

It will be gratifying if I can win your understanding and empathy on the points that I have raised in my speech. Needless to say, Japan will continue to widely disseminate to the world the knowledge and results obtained from our efforts so far, and intend to actively participate in international discussions with positive contributions.

Last but not least, I would like to conclude my speech with prayers that this conference be a fruitful one, marking a new and memorable page in the history of electronic commerce.

Thank you for your kind attention.

**Speech given during
Plenary Session 3a
Establishing the Ground Rules for Global Electronic Commerce :
The Role of International Co-operation
8 October 1998, Ottawa Congress Centre**

**Ms. Maria Livanos Cattai
Secretary-General
International Chamber of Commerce**

Since we last came together in an OECD context in Turku, our discussions on electronic commerce have moved beyond generalities to focus on concrete solutions. To general satisfaction, much of the focus in the intervening period has been on greater international co-ordination and rationalisation of initiatives. There are three objectives underlying these efforts :

1. **A wider recognition of the need for business leadership, flexibility and choice:** Governments have come to realise that we are talking about a completely different environment, and that we cannot and should not be looking for rigid, top-down, prescriptive “once and for all” solutions. Instead, we should be seeking diverse, interoperable and flexible rules that are generated, tested, and refined by the market. In addition, we have seen more evidence that the electronic market can be relied on to produce equitable solutions, perhaps more so than the paper-based market;
2. **More attention to regulatory efficiency:** To avoid wastage of regulatory resources, confusion and forum-shopping, we have seen a stronger emphasis on the avoidance of duplicated efforts. And, as a result:
3. **A more organised approach to the division of tasks between the public and private sector:** We have seen a massive push for clear agendas, transparency and predictability in the development of rules for e-commerce.

Business takes great pride in presenting to you today the first edition of its action plan. This is an excellent example of our desire and ability to provide transparent and accountable leadership. The process that we have begun with the action plan provides the credentials that many governments have been asking for. In the past, we have stated in several fora that the lack of business self-regulation was a matter of perception rather than of fact. We are now submitting factual evidence of our trust-enhancing capabilities.

Governments, too, have started preparing. The documents submitted to this conference by the OECD clearly show that a process of rationalisation is under way. Governments are to be commended for having provided a clear overview of the work-programmes of intergovernmental organisations. We would like to see these efforts evolve into a real roadmap that clarifies which forum will take the lead on a given issue, and how co-operation with business will be ensured.

In the same way that business has mobilised its collective efforts, we call on each intergovernmental organisation to focus on its own areas of expertise, thus avoiding the inefficiencies of duplication with other government fora and business initiatives.

There is reason for cautious optimism. Cautious, because there are remaining areas of concern to business:

1. We have come a long way in creating transparency wherever possible, but we must not oversimplify. Although business is convinced that it can and will create trust, it is not

possible to put everything into a detailed and rigid time-frame. We are firmly committed to transparency and business leadership, but our action plan cannot be an absolute step-by-step manual towards full implementation of specific solutions by a certain date.

For example, in the case of privacy, the business action plan clearly shows that the private sector is on the right track on this crucial issue. Through model contracts, codes of conduct and trustmark schemes, a framework of self-regulation is emerging, but global coverage has not yet been achieved. We must support a natural evolution of rules as they are required.

As they embrace electronic commerce, companies realise that, whatever power they once held over customers, it is now being given away. Internet users will increasingly be able to make fully-informed choices and act upon them instantly. Consumer loyalty is thus crucial for the survival of any merchant selling goods or services on the Net;

2. Before drawing attention to another reason for employing caution, I must commend the OECD for having included countries from outside its membership in this conference. Electronic commerce is borderless by definition. The OECD and its member states can play an extremely valuable role by leading through example and by providing solid economic evidence of why e-commerce requires enabling policies. But we must continue to involve individual countries in all stages of development. Our experience in ICC is that, given an opportunity, countries from outside the OECD region bring crucial experience and cultural parameters to this debate that would not otherwise be taken into account. Perhaps the greatest potential for an improvement in living standards via electronic commerce lies in these countries. However, for this potential to be realised we need to provide factual evidence of the need for pro-competitive policies, a favourable investment climate and business leadership. Supplying such data is a crucial role of the OECD;
3. My last word of caution concerns the need for real competition in telecommunications markets, a fundamental requirement for enabling electronic commerce: It is essential, therefore, that the WTO basic telecommunications agreement be rapidly implemented. For that same reason, meaningful telecommunications commitments should be an important consideration in talks about WTO accession.

Finally, let me turn to four specific areas covered in the business action plan, and where difficulties remain to be addressed:

1. **Consumer protection** We have been very concerned by the approach in some countries and regions to the governmental regulation of consumer protection in the digital environment. Business is fully aware of the paramount need to build consumer trust if it is to be successful in electronic commerce, but we must be careful in our approach. In particular, any choices as to applicable law and jurisdiction require a comprehensive analysis of legal issues and real consumer and market needs. We believe that reasonable practices should develop through business initiatives and from small-scale business/consumer platforms;
2. **Cryptography** We have seen some, but not enough progress on this essential issue. It is crucial for electronic commerce that business and end-users are able to choose the cryptographic systems that best suit their needs. It is also essential that these systems can function internationally. The market for cryptographic products and systems should, therefore, be without restrictions. Business acknowledges the need for lawful access to information, but it remains opposed to any mandatory system based on a specific technology;

- 3. Domain names** We strongly support the transfer of the administration of the domain names system to the private sector, in order to ensure effective competition. This process must be transparent to ensure a balanced representation of all stakeholders in relation to the constitution of the corporation, as well as to the composition of its governing bodies. This, of course, includes business users of all sizes.

I would call on all governments to push ahead with global co-ordination to enable regulatory efficiency through business leadership. We have given you our action plan, which we will continue to update. In this action plan you will also find a series of recommendations. I know you are considering them seriously and I hope that you will not hesitate to call on business for clarification.

Chairman, before turning the floor back to you, may I add the voice of ICC to all those who have stressed the importance of addressing the Y2K problem. The millennium bug should no longer be regarded as a purely technological issue. It is already too late for that. It is now, more than ever, a CEO/managerial issue and a political/governmental/municipal issue. It is time to implement contingency plans and to recognise the economic disruptions it might well add to the current financial crisis. Action is needed everywhere at the summit.

**Speech given during
Plenary Session 3b
Establishing the Ground Rules for Global Electronic Commerce :
International Activities and Initiatives
8 October 1998, Ottawa Congress Centre**

**Mr. Renato Ruggiero,
Director-General,
World Trade Organization**

As far as international trade conducted electronically is concerned, a basic legal infrastructure already exists in the relevant agreements administered by the World Trade Organization. Three of the basic WTO Agreements are especially relevant:

- The General Agreement on Trade in Services provides a legal framework for the electronic supply of services – that is for services which can be delivered in the form of digitised information – and for the electronic retailing and wholesaling of goods and services.
- The General Agreement on Tariffs and Trade, and especially the Information Technology Agreement negotiated last year, has done much to liberalise access to the computers and other equipment needed for the physical infrastructure of electronic commerce.
- The Agreement on Trade-related Aspects of Intellectual Property Rights provides a framework for the international protection of copyrights, trademarks and other forms of intellectual property.

This legal framework is by no means perfect and it is not complete. This is why WTO Members, on 25 September, adopted a comprehensive work programme in which they will examine all trade-related issues relating to global electronic commerce.

The work programme has three purposes:

- To confirm the way in which WTO Agreements apply to electronic commerce, and thus to consolidate the legal disciplines and rights which already exist;
- To identify problems where further work or negotiation is necessary to amplify or clarify the existing agreements;
- And finally to decide if there are areas of policy, not now covered by WTO Agreements, in which it would be desirable to negotiate new disciplines.

It is therefore not necessary to create a new legal framework for international trade conducted over the Internet or by other electronic means. There is no legal void, and we must take care not to undermine existing rights and obligations by treating electronic commerce as if it were a phenomenon outside the normal trade system: for many services it is already the standard way of doing international business. But we must make sure that the system is responsive to what is certainly an important development in trading patterns: that is what the work programme is for. The new round of negotiations on the liberalisation of services trade, which will be launched late next year, will increase the numbers and the importance of Members' commitments.

**Speech given during
Plenary Session 3B
Establishing the Ground Rules for Global Electronic Commerce :
International Activities and Initiatives
8 October 1998, Ottawa Congress Centre**

**Mr. Kamil Idris,
Director-General,
World Intellectual Property Organization**

I am honoured to be here today on behalf of the World Intellectual Property Organization, and to contribute—along with representatives of other international organisations, governments, the private sector and consumers—to this timely discussion of electronic commerce. The organisation of this OECD Ministerial Conference, and the broad participation of members of the public and private sectors, reflects an important determination shared by all of us, I believe, to enhance our co-operation and to place a priority on exploring the new opportunities and laying the appropriate ground work for global electronic commerce.

Electronic commerce has quickly become a subject of major economic and policy importance as the Internet continues its remarkable worldwide expansion. The potential impact of electronic commerce on the policy directions and working methods of international organisations should not be underestimated. As we have already heard today, international organisations, including WIPO, are beginning to embrace an agenda to address the multiple and multi-dimensional issues raised by electronic commerce.

WIPO is an independent and specialised organisation within the United Nations family of organisations. It has a uniquely dual character as both an intergovernmental organisation serving the international community of States, and a global, market-oriented organisation serving the interests and needs of a large, dynamic and growing market of users. As an intergovernmental organisation with more than 170 Member States, WIPO is responsible for the formulation, at the international level, of a policy framework which best encourages creativity and the generation and valorisation of intellectual property. As a market-oriented organisation, WIPO is entrusted with providing services that are conducive to the beneficial protection of intellectual property in an increasingly internationalised marketplace. It is already dramatically clear that electronic commerce, raising complex territoriality implications for the existing intellectual property framework, and exercising a galvanising influence on how services may be delivered, imposes significant and unique challenges for WIPO in fulfilling each of these roles.

The emergence of electronic commerce has begun to yield significant benefits such as direct and inexpensive communications, the ease of instantaneous information dissemination, and the creation of new virtual markets or new channels of distribution and cost-cutting measures for existing markets. At the same time, it poses challenges that are substantial, complex, and international in dimension. I will mention just a few.

A Single Problem with Multiple Solutions

The impact of global electronic commerce on intellectual property raises a problem that is common to all disciplines and not unique to intellectual property. It is the problem of the appearance in a world that has been organised into discrete physical units, each with the attributes of sovereignty, of a medium which respects no such physical division of the world. All of our institutions—legal, administrative and social—have been constructed on the basis of the physical division of the world into separate countries. In the particular area of intellectual property, this has produced the legacy of a well-developed system of intellectual property rights that are granted separately in and for particular territories. The Internet, and the

commercial activity now taking place on it, have produced the challenge of the global exploitation of many of those territorially bound intellectual property rights.

While this is both a single challenge and one that is shared in common with other disciplines, I do not believe that there is a single, easy answer to it. The possibility of bringing into existence a single new instrument that would provide a panacea and automatically adjust the historical system to accommodate the new reality seems to be wishful thinking. The challenge is too complex. It is also only just beginning and we should be wary of comprehensive solutions that risk conditioning future technological possibilities and, thus, stifling, rather than facilitating, the development of global electronic commerce.

I believe that the solution to the challenge posed for intellectual property by global electronic commerce lies rather in a multiplicity of practical solutions and adjustments to real, rather than theoretical, issues as and when they arise. There are many such issues and I shall cite examples of some of the responses that WIPO is developing.

Examples of Processes and Solutions Undertaken by WIPO

WIPO is currently contributing to the protection of intellectual property on the Internet, through the rapid implementation of an international process addressing the relationship between *Internet domain names* and trademarks, and the related dispute resolution issues. This process involves direct participation and input from the private sector. The timeframe for accomplishing its key objectives is less than twelve months. The process is being carried out through Internet-based consultations (see <http://wipo2.wipo.int>), as well as regional meetings. The result of this process is not intended to be a new international instrument adopted as treaty, but rather a practical contribution to the on-going self-regulatory approach for the future organisation and management of the domain name system.

WIPO has also, through the WIPO Arbitration and Mediation Center, developed an Internet-based, *on-line dispute-resolution* system. The system was developed initially in response to domain name disputes, that is, disputes occurring at the intersection of the business identifiers of the physical world, trademarks, and the new business identifiers of the virtual world, domain names. We believe, however, that the system, which relies on the well developed framework of international commercial arbitration, has much broader applications than just domain name disputes. Most electronic commerce takes place without the need for the physical movement of persons and things. We believe that disputes arising out of such commerce can similarly be resolved without the physical movement of persons and things. WIPO's on-line arbitration system is another endeavour at finding a practical response to a concrete problem, in this case the limitation of jurisdiction of national courts and the potential multiplicity of applicable laws applying in electronic commerce. It relies on the tried solution of international commercial arbitration, but adopts that solution to the reality of electronic commerce.

In the area of copyright, WIPO has led the way in the adaptation of the historical system to digital networks with the adoption in December 1996 of the *WIPO Copyright Treaty (WCT)* and the *WIPO Performances and Phonograms Treaty (WPPT)*. To be truly effective in providing a contemporary framework for the exploitation of copyrighted works, however, these treaties must win global acceptance. Each treaty requires 30 accessions or ratifications to enter into force. They require even more to be effective as the basis of a contemporary global system. The promotion of adherence to the treaties is thus an urgent task and only with its timely accomplishment will the traditional instrument of international concert, the treaty, prove its capacity to cope with a rapidly developing technological economy.

Work is well underway also to extend the principles of the WPPT to *audiovisual works*, a category whose particularities proved intractable in December 1996, when the WPPT was concluded. We are hopeful that a new diplomatic conference may be convened in 1999 to adopt an audiovisual protocol to the WPPT and, thus, to complete the initial work of adapting the international copyright system to the digital age.

There are many other projects on which WIPO is embarked that are directed at concrete responses to the challenge of electronic commerce, including the possibility of *sui generis* protection at the international level for non-copyrighable databases, the construction of a global network linking the industrial property offices of the world and dedicated to intellectual property and the use of tools developed for electronic commerce in the delivery of intellectual property services. Rather than detail these other projects, allow me to mention just two other points concerning the impact of electronic commerce on intellectual property. They both relate more to questions of process than to questions of the substance of intellectual property protection.

Process Implications

The examples of the responses being developed by WIPO illustrate a new dimension of international co-operation. International organisations, concerned traditionally only with States, have now to do directly also with private parties in order to continue to be relevant. For WIPO, with its dual character of public intergovernmental organisation serving its Member States and of international market-oriented organisation providing services to the private sector, this challenge is not an entirely new one. But the intensity and urgency with which WIPO must reach out to the private sector is new. The Internet is a privately administered medium and any response to activity on it must take this into account.

The WIPO Internet Domain Name Process, mentioned above, which is both parallel and ancillary to a larger process for the formation of a new Organisation to manage the domain name system, is a dramatic example of the new processes that WIPO must be prepared to undertake. The Process was approved by the Member States of WIPO, but it is being carried out largely with the interested sectors of the Internet community: the owners of trademarks, the Internet engineering community and those specially interested in civil liberties and free speech. All these sectors have the opportunity to comment on the development of concrete mechanisms to resolve the problems arising out of the collision of trademarks and domain names. At the same time, the Member States of WIPO are collaborating in the organisation of regional consultation meetings on the issues, are contributing their own comments and will consider the set of recommendations that will be transmitted to the new Corporation being formed to manage the domain name system.

The traditional instruments of international co-operation, treaties, are far from redundant, however. The WCT and the WPPT have shown that, on a fast-track, treaties can still be pre-eminent means of dealing internationally with problems of an international character. But, just as there is no single solution to the substance of the challenge of electronic commerce for intellectual property, so too there is no single means by which that substance can be addressed. The process must be designed in response to, and reflect the circumstances of, the issue that is being addressed. Sometimes, a treaty may be appropriate. At other times, a more innovative approach may also be necessary.

Co-operation Implications

Not only will the nature of the process within an international organisation need to be adjusted to provide an effective response to the challenge of electronic commerce, but also the nature of processes between international organisations. Electronic commerce cannot be confined to the precincts of any particular organisation. It is horizontal in its impact on the historical systems and disciplines of the physical world. It thus requires the horizontal co-operation of the various organisations whose specialisation reflect those historical systems and disciplines.

It is with this in mind that WIPO looks forward to co-operating with its sister international organisations and, in particular, with the World Trade Organization (WTO). Both the Member States of WIPO and WTO have approved ambitious work programs for these organisations in the field of electronic commerce. Insofar as intellectual property is concerned, WIPO looks forward to co-operating fully with WTO to

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ensure the efficient and effective deployment of resources at the international level to meet the challenge of electronic commerce.

**Speech given during
Plenary Session 3B
Establishing the Ground Rules for Global Electronic Commerce :
International Activities and Initiatives
8 October 1998, Ottawa Congress Centre**

**Mr. Hans Corell,
Under-Secretary-General,
United Nations (representing UNCITRAL)**

Excellencies,

Ladies and gentlemen,

Allow me to start on a personal note and say how pleased I am to participate in this OECD Conference. Some 20 years ago, I was a member of the Working Group that elaborated the OECD Guidelines on Data Protection. This was one of the first international instruments to deal with protection of privacy in an electronic environment. I have always cherished the memory of this pioneering OECD work under the able chairmanship of Justice Michael Kirby of Australia.

However, today I have been asked to focus primarily on another aspect of the effects of computer technology: the work of the United Nations Commission on International Trade Law (UNCITRAL) in the area of electronic commerce. Let me, therefore, share with you some thoughts on this topic as they have developed in UNCITRAL's work.

Background

The growth of the Internet has implications for many facets of economic and social life. It carries with it the potential to fundamentally change the way commercial, governmental and social interactions are conducted. In the commercial sphere, these changes raise significant legal issues at the heart of traditional practices and procedures, both at the domestic and the international level. One of the most difficult of these questions is whether electronic commerce requires a new and separate branch of the law to be established, or whether existing laws will accommodate the fundamental changes taking place.

As a consequence of this technological revolution and the growing need to address these legal issues, international organisations concerned with trade facilitation and harmonisation of commercial law have become involved in work on electronic commerce. The extent of this international work underscores the international scope of electronic commerce.

If international trade is not only to accommodate, but also to facilitate electronic commerce, the development of international rules and norms is imperative. A number of factors give rise to serious doubts about the effectiveness of traditional domestic rule-making regimes in dealing with the issues. These factors include: (1) the transnational nature of electronic commerce; (2) its disregard for traditional jurisdictional borders; (3) the current lack of domestic laws dealing with electronic commerce; and (4) the gradual evolution of commercial practices which are truly "international".

UNCITRAL, with its global outreach, has recognised the importance of these considerations. As the legal body within the United Nations system with a mandate to further the progressive harmonisation of international trade law, UNCITRAL has been working on international trade-related issues of electronic commerce for a number of years. In so doing, it has maintained close collaboration and liaison with other United Nations organs and specialised agencies, as well as inter-governmental and non-governmental

agencies concerned with international trade. A significant number of these organisations are active participants in the UNCITRAL Working Group on Electronic Commerce. They include UNCTAD, UNESCO, UN-ECE, OECD, the EU, WIPO, the Asia Pacific Economic Cooperation forum (APEC) and others. Representatives of private sector business interests such as the International Chamber of Commerce (ICC) and the Internet Law and Policy Forum (ILPF) also participate.

UNCITRAL Model Law on Electronic Commerce

In 1996, UNCITRAL adopted the Model Law on Electronic Commerce. As the first legislative text on the subject of electronic commerce, the Model Law is a unique feature of a legal landscape where there is an absence not only of uniform international law but also, in many countries, of national legislation dealing with electronic commerce issues.

The purpose of the Model Law is to offer national legislators a set of internationally acceptable rules which detail how a number of legal obstacles to the development of electronic commerce may be removed, and how a more secure legal environment may be created for electronic commerce.

To achieve this purpose, the Model Law seeks a compromise between opposing approaches. On one side is the radical approach, which advocates the elimination of any reference to historically loaded concepts such as writing, document, signature, original and copy, and supports the devising of legal rules applicable only to communications in the new electronic environment. The essence of this approach is that the new technological world demands a radically new set of principles, rather than an adjustment of the existing ones.

On the other side is an approach which advocates the avoidance of legislation. In the contractual area, parties should be left free to organise their contractual relations, and judges should be left to freely adapt existing concepts as necessary and where possible.

The radical approach clearly offers theoretical advantages, but ignores the practical reality that electronic commerce has not (yet) made traditional paper-based practices obsolete. The existing international commercial and trade law framework, developed over many decades and is of proven usefulness to the international trading community, will serve the needs of international trade and commerce into the next century. To radically change the basis upon which that trade and commerce is conducted would put that framework at risk. The second approach which advocates no legislative interference carries with it a risk of prolonged uncertainty and a result which cannot be applied uniformly, either domestically or internationally.

An incremental approach to law reform accommodates these factors. It allows a careful consideration of the need for new laws and policies as and when it becomes clear where technology is leading and how it will be used, rather than anticipating the result. In addition, such an approach accommodates the need for lawyers, as both users of the technology and guardians of the integrity of business processes, to understand new methods of dealing with information, and to recognise and resolve the problems that these new methods bring with them.

UNCITRAL, therefore, adopted this middle road. The preparatory work made repeated reference to the notion of functional equivalence. In their attempts to find a legal solution to some of the obstacles encountered by electronic commerce, the authors of the Model Law constantly referred to legal situations known in the world of paper documents in order to determine how such situations could be transposed, reproduced or imitated in a dematerialised environment. The provisions of the Model Law were thus formed on the basis of a list of functions fulfilled by, for example, writing, signature or an original in traditional commercial relations.

Since its adoption in 1996, provisions of the Model Law and its underlying principles have been included not only in a number of recommendations for new laws, but also in new legislation. Examples include legislation in Singapore and Illinois (USA). The Model Law now is widely recognised as the basic text for the development of a legal framework for electronic commerce, both by national governments and by international organisations. The OECD, for example, at its conference in Turku, Finland, in 1997, recognised the important role to be played by UNCITRAL in developing instruments such as the Model Law which provide solutions to electronic commerce issues, and supported its further work on electronic signatures.

Current Work

Since completing its work on the Model Law, UNCITRAL has been addressing the preparation of uniform rules on the rather broadly described topic of "electronic signatures". This work has its origins in both the discussions on signature which took place in the course of preparation of the Model Law, and the increasing interest amongst Member States in the methods by which signature functions could be achieved by electronic means.

For business and governments to function in the new environment of the Internet, a mechanism to reliably and securely authenticate electronic communication is critical. Through centuries of use, the word "signature" in a paper-based context can happily encompass a wide range of possible legal effects and levels of security. These are fundamental to the legal systems of most jurisdictions and do not often lead to dispute or confusion. The same cannot be said of any attempt to realise the functional equivalence of these paper-based concepts in the electronic environment. This is particularly so when we seek to move away from a statement of the general principle as in the Model Law, towards achieving greater specificity as to how, and by the use of which particular technology, that general principle can be satisfied.

The uniform rules under preparation draw upon the principles of the Model Law, emphasising media neutrality and party autonomy. They are intended for use in two ways. First, as minimum standards in an Internet environment, where communication between parties is not subject to any prior contractual arrangement. And second, as default rules in a closed environment, where contracts or a series of contracts are used to define the rights and responsibilities of all parties to a given transaction.

The current focus of the work is upon digital signatures and certification authorities. However, there is a clear recognition in the Working Group that electronic commerce raises a number of other legal issues which will need to be studied and addressed if electronic commerce is to be both accommodated and facilitated. Amongst other possibilities, future work could profitably be undertaken on issues of: (1) technical alternatives to public-key cryptography; (2) general functions performed by third-party service providers; (3) electronic contracting; (4) jurisdiction and applicable law; (5) dispute settlement on the Internet, and (6) form requirements in existing conventions which act as a barrier to the use of electronic commerce. Some or all of these issues may require additions to the Model Law or the preparation of one or more international conventions.

Conclusion

Legal issues raised by the Internet are a subject of intense interest around the world. However you look at it, these issues raise significant challenges, made more difficult by the lack of any clear cut division between the role of the public sector and the private sector in developing solutions. Close co-operation between these sectors, between public authorities and legislators on the one hand and Internet designers and users on the other, is essential if anything useful is to be achieved.

What UNCITRAL has been doing is to make the environment friendlier towards electronic commerce by providing an interface between the electronic world and the commercial law world. As such, it is not concerned with regulation, but with facilitation.

UNCITRAL has a good record of bringing together the private sector and representatives of Government, and a strong tradition of seeking and obtaining input for its work from the private sector. The continuous presence of non- governmental business-oriented organisations in the work of UNCITRAL is an important factor in the results of that work.

The UNCITRAL process may be recommended as a model for the continuation of the preparation of the future body of cyberlaw. I would urge all of those organisations with an interest in the legal issues to actively participate in the work of UNCITRAL.

Since we are focusing on the effects and possibilities of Internet, I would be remiss if I did not invite you to visit UNCITRAL's Home Page. The address is : <http://www.un.or.at/uncitral>. There you will also find the Model Law on Electronic Commerce and its very important Guide to Implementation.

Thank you for your attention.

**Speech given during
Plenary Session 3B
Establishing the Ground Rules for Global Electronic Commerce :
International Activities and Initiatives
8 October 1998, Ottawa Congress Centre**

**Mr. Henry Chasia,
Deputy Secretary-General,
International Telecommunication Union**

Ladies and Gentlemen,

The International Telecommunication Union is a UN specialised Agency responsible for promoting the development of world-wide telecommunication and seeking to enable people everywhere to have access to modern communication services.

The ITU is responsible for ensuring that the 800 million fixed and 300 million mobile phones presently on the global public telecommunication network are properly interconnected and interoperable.

It does so through its standardisation activities which also enable the global information infrastructure to carry voice, data and video transmissions in a seamless fashion.

Through its world radio conference and study groups, the ITU allocates radio frequencies to be used for a wide variety of purposes including mobile phones, satellite communication, broadcasting, air navigation and other purposes.

The ITU has 188 member countries and some 500 private sector members—a membership composition that is rather unique among international organisations. The ITU membership includes the richest and poorest countries as well as the main players in the telecommunication and information industry.

The ITU's role in the promotion of electronic commerce relates to its work in the development of the global information infrastructure (GII).

I will mention five specific areas.

Firstly, the standardisation of GII. ITU study groups are busy at work on a series of recommendations related to such matters as multimedia packet communications including those dealing with privacy techniques, digital certification and standards for communication system security, among others. All these are intended to contribute to building the necessary confidence and trust in the use of the global network by consumers and merchants.

Secondly, the ITU is engaged in a variety of initiatives intended to promote the extension of the global infrastructure, to make it accessible to people everywhere especially in the developing countries, who presently have no access. For only when the public infrastructure is truly global will electronic commerce also be truly global.

Thirdly, the ITU is engaged in other activities directly related to promoting electronic commerce in the developing countries. As an example, the ITU is undertaking pilot projects in Africa and Latin America intended to encourage small business in these continents to undertake the selling of artefacts and other products via the Internet. In a particularly case, a merchant based in South Africa is able to sell artefacts world-wide through a secure credit card payment system using ITU infrastructure and support.

(If people in these countries are to engage in commerce, we must demonstrate to them in a direct way, the power and value of this technology and how they can participate).

Fourthly, an ITU task force is at work on the Millennium bug problem.

The task force is particularly concerned with ensuring that vital telecommunication systems necessary for the conduct of the world's business are not severely interrupted as we cross into the new millennium. This is a global problem that requires local implementation by operators in all ITU member countries.

Fifthly, the ITU is participating in a task force that brings together private sector members of the ITU and international organisations to deal with the matter of privacy in order to move forward the adoption of private sector self-regulation and to increase consumer confidence in electronic commerce.

Lastly, the ITU, of course, provides a wide variety of fora wherein telecommunication issues of concern to its government and private sector membership can be discussed.

One such forum consists of a series of colloquia under the general title of the "Changing Role of Government in the Era of Telecommunication De-Regulation". These colloquia have been held regularly over the past seven years on important topics in telecommunication regulation. The Eighth Colloquium to be held in December 1998 will be on the topic of electronic commerce and will help to further advance the discussion on this topic.

**Speech given during
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**Mr. James Shaver,
Secretary-General,
World Customs Organization**

It gives me great pleasure as the Secretary-General of the World Customs Organization to say a few words about the Customs implications of electronic commerce.

But first of all let me give you a little background to the organization I have had the privilege to head for nearly the past five years. The World Customs Organization is an independent inter-governmental body which brings together 147 of the world's Customs Administrations. Our mission is to enhance the efficiency and effectiveness of Customs Administrations in the areas of compliance with trade regulations, social and environmental protection of society and revenue collection. We achieve this by administering and promoting a number of Conventions and instruments connected with Customs and international trade.

You may wonder why Customs should have a direct interest in electronic commerce. The simple facts are that the predicted explosion in the volume of electronic commerce will result in a massive increase in the cross border movement of physical goods and in most countries the current Customs procedures for express parcels and mail will not be able to cope with the increased traffic. If electronic commerce is to realise its full potential it will be necessary for all those involved to work together and collectively decide how we are to meet the challenges that lie ahead.

You might also ask why should Customs be involved at all in controlling this traffic. But unfortunately the opportunities provided by electronic commerce and the rapid international movement of consignments will continue to be exploited by criminals for illicit purposes. Regrettably, despite the efforts of police and Customs, transborder crime is increasing and there is no doubt that the international post and express operators are used by criminals for the smuggling of illicit narcotics, firearms, pornography and other illegal goods. There is also an import taxes issue to be addressed. Although OECD countries tend to have very low rates of Customs duties on imported goods, this is not the case in most developing countries and in nearly all countries there are excise and sales tax issues on imported goods to be considered.

The day of a single world market for the purchase and supply of goods, without border controls, is a long way ahead. In the meantime, if the development of electronic commerce is not to be constrained, there is a need to develop a new generation of highly efficient but effective Customs import and export procedures. Customs Administrations around the world have been using computers to process information about imports and exports for many years. Nearly all developed countries have on-line systems which allow importers, exporters, forwarding agents, Customs brokers, airlines and shipping lines to send information to Customs electronically for rapid processing and speedy clearance. Nearly 80 developing countries are using the ASYCUDA Customs processing system developed by UNCTAD and I congratulate Mr. RICUPPERO and his colleagues for the successes they have achieved. The WCO continues to work closely with the UN/ECE on the development and maintenance of EDIFACT customs messages and we are co-operating closely with the G7 in their development of a common set of data elements for international trade. We are also monitoring a number of pilot experiments to develop seamless data flows between countries where the same set of information will be used to satisfy both export and import official requirements. We need to build on all these experiences to develop the systems necessary to support the new era of electronic commerce.

The WCO very much welcomes the initiative the OECD is taking in highlighting the issues which need to be addressed if the barriers to electronic commerce are to be reduced or eliminated. We will continue to work with the OECD Secretariat and other relevant international organisations on solutions in the Customs area. There is a growing understanding of the nature of the new systems and procedures we need for the future. The Revenue Canada low value shipment programme for goods imported from the United States is a good example of an innovative and highly efficient approach. The discussion paper produced by Australian Customs on the improved processing of international parcel deliveries is also a very helpful contribution in identifying the way ahead.

What is required is the maximum use of information technology to process mail and express consignments. If delays are to be avoided, information about international consignments must be provided to Customs electronically via the postal or express operator. The carrier responsible for delivering the goods should accept responsibility for the collection of any import taxes. In this way Customs Administrations will be able to utilise highly selective controls to identify suspect consignments and with the use of systems audit techniques, allow the vast majority of legitimate trade to cross international borders without any delay or physical intervention.

The concepts for this advanced method of working by Customs Administrations are contained in a major revision the WCO is proposing to the International Convention on the Harmonization and Simplification of Customs Procedures – commonly referred to as the Kyoto Convention. The revised Convention will significantly facilitate the cross border movement of all goods but the electronic commerce area is of particular importance as rapid movement of goods is essential if the trade is to develop. All but one OECD countries are Contracting Parties to the Kyoto Convention on Customs procedures and I do hope that all the Governments represented here today will give positive support to the revision.

In conclusion Mr. Chairman, if the huge potential of electronic commerce is to be fully realised, I believe the way ahead a partnership approach is required. A partnership between the relevant international organisations especially those represented on this panel. A partnership between the commercial and public sectors with all sides understanding the needs and requirements of the other. As far as Customs are concerned we know what is required for the opportunities arising from electronic commerce to be fully realised. We need your support to make it a reality.

**Speech given during
Plenary Session 3B
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8 October 1998, Ottawa Congress Centre**

**Mr. Andrew Crockett,
General Manager,
Bank for International Settlements**

This article summarises the activities of the Bank for International Settlements (BIS) relevant to electronic commerce. Initiatives taken in this regard by the committees (and secretariats) based at the BIS include efforts taken by the Basle Committee on Banking Supervision to review the risks and risk management approaches related to electronic money and electronic banking more generally, efforts by the Committee on Payment and Settlement Systems to monitor electronic money developments on a global basis and the Joint Year 2000 Council's efforts to ensure that the financial markets are as ready as possible for the century date change.

The BIS and the Basle-based committees

The Bank for International Settlements, located in Basle, Switzerland, is an important forum for international monetary and financial co-operation between central bankers and, increasingly, other financial market regulators and supervisors. A key aim of this co-operation is to foster international monetary and financial stability. The BIS is also a centre for economic research, particularly on monetary and financial issues. At the same time, the BIS is also a bank (whose depositors are limited to central banks and international financial institutions); a significant portion of the world's foreign exchange reserves are held on deposit with the BIS.

Over the years the Group of Ten central banks have strengthened their co-operation by setting up a number of standing committees. The BIS provides secretariat support for these co-operative efforts, namely the Basle Committee on Banking Supervision (Basle Committee), the Committee on Payment and Settlement Systems (CPSS) and the Eurocurrency Standing Committee. Each committee studies and analyses developments in their respective area of responsibility and, when appropriate, proposes to the Governors specific lines of action.

Of the three Basle-based committees, issues related to electronic commerce are discussed most frequently by the CPSS. While the CPSS's traditional focus has been on wholesale systems, it has recently been taking a keen interest in retail payment systems and is largely responsible for extensive analysis of the possible impact of electronic money (e-money). Recognising that e-money has the potential to be one of most frequently-used retail payment instruments for electronic commerce transactions over computer networks such as the Internet, the CPSS, through its Secretariat at the BIS, has been carefully monitoring e-money developments globally.

Another effort taken under the auspices of the BIS that is likely to have implications for electronic commerce is the work of the Joint Year 2000 Council. Earlier this year, in recognition of the seriousness of the challenges posed by the century date change and of the potentially severe consequences in the financial markets associated with a lack of readiness, the four principal financial market authorities, the Basle Committee, the CPSS, the IAIS and IOSCO, established the Joint Year 2000 Council to take a range of initiatives to ensure that the financial industry is as prepared as possible for the date change. The Council's activities are supported by the CPSS Secretariat.

The CPSS's recent work on electronic money and the Joint Year 2000 Council's efforts to confront the challenges of the century date change are reviewed below.

Work relating to electronic money

Electronic money schemes have now been launched and have gained acceptance to some extent in a number of countries and are being studied or planned in many others. At this point, e-money products are developing only gradually. While the potential for e-money schemes to develop significantly in the future is generally accepted, it is clear that e-money products often face the challenge of competing with existing relatively efficient retail payment instruments.

Although a precise definition of e-money is difficult to provide, e-money products can be defined as stored-value (or prepaid) products in which a record of the "value" available for multi-purpose use to a payer is stored on an electronic device in the payer's possession. E-money covers both card-based products, which typically contain a microprocessor chip embedded in a plastic card, and network-based products (sometimes called software-based products) that operate using software installed on a personal computer. Card-based products are designed to facilitate small-value, face-to-face retail payments by offering a substitute for banknotes and coin (e.g. to pay for public transportation and for use in public telephones, retail outlets, etc.). They are intended to complement, rather than substitute for, traditional instruments such as cheques and credit and debit cards. Network-based or software-based products are designed to facilitate small-value payments over the Internet. Recently, a number of card-based schemes have been envisaging or testing the use of special card-reading devices linked to a personal computer to allow card-based products to be used also for electronic commerce transactions over the Internet.

The development of e-money raises a number of interrelated policy issues of potential concern to central banks and other public authorities. Those of particular relevance to central banks relate to their oversight function for payment systems, seigniorage, the operation of monetary policy and, to the extent that central banks have supervisory responsibilities, the possible financial risks borne by issuers of e-money. There are a range of other policy issues such as consumer protection, competition, access and standards that are not discussed here since, while of interest to central banks, they tend to be the primary responsibility of other public authorities, although this differs from country to country. The CPSS has reviewed these innovations and made a preliminary assessment of the potential policy issues involved. In order to raise awareness of the importance of these issues, the report on Security of Electronic Money was published in August 1996. A short discussion paper summarising the major findings of the G-10 central banks' analysis was published by the BIS in October of that year. In addition, in March 1998 the Basle Committee published a report on risk management for electronic money and for electronic banking activities more generally. The report provides bank supervisors and banks with an overview of the risks involved in such activities and with the risk management approaches available to address them. These reports are available on the BIS Web site (www.bis.org).

G-10 Governors have indicated that they intend to stay vigilant, to monitor closely the evolution of electronic money schemes and, while respecting competition and innovation, to take any appropriate action if necessary. The BIS intends to assist its member central banks in compiling and evaluating the relevant information regarding the development of these new payment products. In co-operation with the CPSS and with the support of its Secretariat, the BIS has regularly surveyed, and will continue to monitor closely, e-money developments around the world.

Activities with respect to the Year 2000 challenge

In April 1998, the Basle Committee, CPSS, IAIS and IOSCO established the Joint Year 2000 Council, a senior-level working committee consisting of nominees of the four sponsoring organisations from each major region in the world. The Council meets regularly and has agreed on a range of initiatives to ensure a

high level of attention to the Year 2000 challenge within the global financial supervisory community, to share information on regulatory and supervisory strategies and approaches, to discuss possible contingency measures, and to serve as a point of contact with national and international private sector initiatives. The Council's Secretariat is provided by the BIS.

In order to foster enhanced communication and co-operation between financial market regulators and supervisors, the Council is planning to hold a number of regional meetings over the next few months. At each event, financial market regulators from both within and outside the particular region will be able to share strategies and experiences and benefit from practices for dealing with the Year 2000 issue that have proved successful in other agencies and countries. These gatherings are also expected to provide an opportunity for representatives of the regulatory community to build networks and discuss the possibilities for developing regional contingency arrangements.

The Council has begun to add to its Web site, on a country-by-country basis, key Year 2000 information that it expects will help highlight what initiatives are underway around the world and facilitate the co-ordination of Year 2000 efforts, both domestically and cross-border. The Council asked public sector organisations in more than 170 countries to provide Year 2000 information for a wide range of key organisations in their country -- such as the national government, central bank, financial market supervisors, operators of exchanges and payment, settlement and trading systems, financial sector industry associations, major utilities, etc. For each organisation, contact information (and a specific Year 2000 contact, if any) and any relevant initiatives taken will be posted on the Council Web site.

The Council has published on its Web site several papers that address Year 2000 issues, including papers discussing the potential scope and impact of the problem, testing for Year 2000 readiness and guidance for evaluating Year 2000 readiness. Further information on the Council's activities, publicly available papers, upcoming Year 2000 events, and an information bank of Year 2000 efforts and contacts for key organisations around the world can be found at the BIS Web site (www.bis.org).

**Speech given during
Plenary Session 3B
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8 October 1998, Ottawa Congress Centre**

**Mr. Kjartan Jóhannsson,
Secretary-General,
European Free Trade Association**

Mr. Chairman, Ladies and Gentlemen.

It is clear that the new technologies are bringing fundamental changes to the way trade is carried out around the world. The repercussions of these changes are already being seen – from consumer and company level right up to political and global level.

Indeed, the political effect can already be seen in EFTA. You could argue that one of the driving forces behind EFTA's determination to look beyond its immediate partners, most recently our talks with Canada on a free trade agreement, is the recognition that globalisation of trade is well under way – not least due to potentials of electronic commerce.

As to the role which international organisations should play, I would like to make a couple of points.

Firstly, it is clear that the development of the market for electronic commerce must be business led. The role of governments and international organisations is as facilitators. There are, however, matters which do need regulating – among them ensuring the trust of users and consumers, for example, personal privacy and security of transactions; protection of intellectual property rights; and enhancing the information infrastructure for electronic commerce.

Secondly, the global nature of electronic commerce and the varying extent of penetration in different regions make these issues urgent. At the same time, it is unsatisfactory and impractical for any one organisation or economic power to lay down unilateral rules, without close co-operation with other trading partners. For this reason, EFTA Ministers took part in the Declaration on global information networks at the Bonn Conference in July 1997.

Three of the EFTA countries participate with the EU in the development of a regulatory framework on these matters, through the EEA Agreement. We are in the process of incorporating into the EEA Agreement a number of acts bearing on electronic commerce: for example: on protection of personal data and privacy and we are following the preparation of Community legislation on interoperability and secure infrastructures and on copyright and related rights in the information society.

The EU continues to be energetic in assessing the scope and need for further regulation. We in the EEA EFTA countries contribute on a regular basis to this process, and are studying the following EU initiatives:

- study on distance selling of financial services
- convergence

**Speech given during
Plenary Session 3B
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8 October 1998, Ottawa Congress Centre**

**Mr. Thomas E. Leavey,
Director-General of the International Bureau,
Universal Postal Union**

In the few minutes I have this afternoon, I am delighted to give you a glimpse of the postal initiatives in electronic commerce now being carried out within the Universal Postal Union.

The motivation that drives us is to be what the posts have always been to people around the globe – a trusted hub for trade and communications.

Individuals, companies and governments, for centuries, have entrusted the postal services to enable secure global trade and communication. In fact the attributes: reliability, trust and security have been with us so long that they are largely taken for granted – until now off course, with electronic commerce having become a fact of life, bringing speed but lacking the security so essential to the needs of business. For the benefit of citizens and consumers.

Around the world, posts are working together to provide the traditional attributes of trust and security, to perform trade and communication electronically.

The solution that will be available in the next few months utilise the digital identification mechanisms facilitated by the posts as trusted third parties.

But whom can we trust?

There is a general understanding to what is required:

- A neutral third party, with no interest in the content of the communication
- A stable organisation not subject to bankruptcy
- A legal framework supported by the full force of the law
- Universal access points for authentication and face to face identity verification.
- A brand equity of trust

The only enterprise that rings the bell at every point is postal. In fact it can be said that in this new role, posts will only be enabling their traditional skills and services also in the electronic era.

Today nationally, many posts are already offering digital identity verification services on a domestic basis.

Internationally, 17 posts have requested the UPU to manage the development of a framework for a global digital-identity infrastructure.

The initiative has the overall objective to globally bind the identity of individuals and organisations with electronic identity, through compatible postal certification services.

To quickly list a few of our achievements to date, we have:

- Developed a framework for a trusted postal network
- Developed a suite of notional policies and procedures for digital signature and encryption services

With 8 posts already adhering to this framework, within their national implementation, we are now testing the cross-border technical compatibility to form one global postal trust infrastructure.

For more details, I urge you to visit our web site at <http://postinfo.upu.org>.

Your comments, participation and yes even criticisms are always appreciated.

Before I conclude my remarks, I want to mention that many posts around the world are already offering infrastructure and value added electronic commerce services in their domestic markets.

Examples are Sweden, Canada, USA, the UK, Ireland, Australia and the Netherlands.

These posts are leading the postal evolution. They are “trust hubs” in their respective markets for electronic trade and communication. They are examples of the consumers and business choice as natural providers of trust services.

What these posts are doing for the people and businesses is what the UPU has been tasked by the community to provide on a world-wide basis.

When available, the postal trust services will enable people and businesses, throughout the world, to perform secure electronic commerce.

On behalf of the postal community, I would like to encourage the OECD and its members to take a closer look at our achievements and to endorse the postal role in enabling global electronic commerce.

We reach to all of you to support our pioneering initiative.

Finally, in support of the OECD direction, we invite you to take advantage of the world-wide postal community experiences and let us combine our efforts taking advantage of the work already done.

Thank you

**Report on the Meeting of OECD Ministers :
The Contribution of the OECD to the Global Agenda**

**The Honourable John Manley
Minister of Industry, Canada**

Good morning everyone, I trust everyone had their fill of not only food but Canadian entertainment last evening. When we gathered here yesterday morning for the opening ceremonies and for the first plenaries, I think we were all conscious of the wide range of views likely to be expressed on the various issues before us. And while there continues to be a diversity of opinions on many things, I am very happy to report that during the Ministerial Conference, we were able to reach a remarkable degree of consensus on the need for a market-led approach by consumers and business supported by appropriate government frameworks. This framework will provide the foundation on which electronic commerce will be able to contribute to prosperity in the knowledge economy and society.

I was struck, for example, by how positive, in fact I might say enthusiastic, my colleagues have been for the consensus that was reached. They have shared a vision for global co-operation, they have continued, they have confirmed the work of the OECD in pursuing this objective through documents that were brought forward at our meeting. Yesterday, during the parallel session, Ministers welcomed the report by the Committee on Fiscal Affairs on Electronic Commerce on taxation framework conditions; they endorsed the proposal that it contains on how to take forward this work in a post Ottawa Agenda. The five key principles underlined taxation systems, fairness, neutrality, efficiency, certainty and flexibility, will apply to electronic commerce.

In adopting the Ministerial Declaration on the Protection of Privacy on Global Networks, we reaffirmed that the 1980 OECD Guidelines apply to the digital world as well as to paper-based transactions. We look forward to all OECD members implementing these Guidelines.

We adopted the Ministerial Declaration on Consumer Protection in the context of Electronic Commerce. The Ministries have committed to a timely plan for developing Guidelines by 1999. The Government of Canada will provide active assistance in this process.

We adopted the Ministerial Declaration on Authentication for Electronic Commerce. Ministers declared their determination not to discriminate against the authentication approaches taken by other countries; we also determined to amend the technology or media specific requirements in our current laws or policies that might impede electronic commerce.

And finally we endorsed the OECD action plan for electronic commerce. It provides guidance for the OECD to continue its work.

I think we can recognise that we have made considerable progress since the Conference about a year ago in Turku in Finland. We have gone beyond principles and in many cases, we crystallised the concerns, we have identified areas where we can take action and now we can proceed to addressing the issues in a concrete way through measures outlined in the Action Plan.

A large number of those who took the floor during the Ministerial meeting, raised the necessity for Non OECD Member countries to be able to benefit from the advantages of electronic commerce. It was recognised that we have invited 12 non-member countries, and we think that it is a good starting point to continue in this direction. Par ailleurs, bon nombre de ceux qui ont pris la parole à la Conférence ministérielle ont évoqué la nécessité de faire profiter les pays n'appartenant pas à l'OCDE des avantages

du commerce électronique. C'était bien reconnu que nous avons invité ici 12 autres pays qui ne sont pas des membres de l'OCDE et nous pensons que c'est un bon point de départ pour continuer ce progrès.

I think a number of comments along those lines were made and I think we need to recognise, at a time when about half of the world's population has yet to make a telephone call, that for us to construct a global knowledge-based economy requires of us, and particularly OECD Member countries, that we take the efforts that will be necessary to ensure access to a knowledge-economy throughout the planet that we do not allow the gap between rich and poor to be exacerbated by gap between the knows and the know-nots, or those who have access to the knowledge economy and those who do not.

And finally there was an eloquent plea that we move beyond looking at electronic commerce as strictly an issue of technology. We need to bear in mind the impact these policies have on people and bear in mind our responsibilities as leaders to ensure that this technological revolution works for our citizens.

Thank you very much.

**Report on the Meeting of Business Leaders :
Priorities for Global Electronic Commerce**

**Ms. Diana Sharpe, Chairman, INTUG
and Spokesperson of the Coalition of International Business Organisations**

Mr. Chairman, Ladies and Gentlemen,

I am pleased to report on the business views developed over the past few months by the coalition of business, commerce and users organisations and elaborated here during the Meeting of Business Leaders which took place on 8 October 1998 in conjunction with this Conference.

Yesterday, the session organised and attended by Business Leaders unanimously adopted the business Action Plan¹². This will be a living document that will be updated as needed. At the business session there was a great deal of interactive discussion with the audience which included a diverse gathering of industry representatives from all major OECD regions and many emerging economies, including both user and provider industries in e-commerce technologies. I will summarise the results of this discussion.

On privacy: Business concurs with governments that this is a vital issue and recommends the provision of practical guidance in the form of the collection and dissemination of different approaches to privacy protection in member countries of the OECD.

On consumer protection: Business, contrary to the perception of some, is vitally concerned with consumer interests – the consumer is the life blood of business and in an electronic environment the consumer has a great deal of personal power, particularly where that environment becomes more and more competitive. We noted that many businesses are also consumers.

The work being done in the OECD and its member states is valuable and laudable, but business believes that time is needed for the environment to mature – that to prejudge outcomes or develop a fixed time frame within which formal guidelines must be finalised and promulgated, may well be counterproductive and generate unexpected negative result.

On authentication: The business coalition represented here is not limited to OECD member states. Its constituency represents business in 142 countries and accounts for a large proportion of output and employment in the world. It is very well aware of the work being done in other fora internationally and supports that work.

The way forward

The business coalition is committed to the ongoing work of the OECD. There has been ground-breaking consensus achieved in the preparation of this Conference.

We recognise that, in order to be fully effective, there must be an ongoing co-ordination of business views and an avoidance of wasteful duplication.

The coalition is helping to ensure this, and is already establishing regular contact with business organisations working with, for instance, APEC, where, through the APEC TEL, work is well advanced -

¹² *A Global Action Plan prepared by Business with Recommendations for Governments*, October 1998.

many businesses are active in both the OECD and APEC contexts. The breadth and depth of the coalition constituency is indicated in the lists appearing in the first two pages of the business action plan.

Business has mobilised a global constituency to consensus on these important matters. It can surely expect governments to do the same. Minister Manley indicated that this expectation is likely to be met.

We can expect governments to explore examples of effective industry self-regulation where these exist.

We can expect governments to continue and expand the partnership with business in developing policy.

We can expect governments to set an example by using electronic commerce responsibly in the exercise of their functions and to educate their citizens.

We can expect consistency between the work of inter-governmental organisations.

There is so much scrambling to claim kudos for regulatory and analysis work in this field that a variety of agencies are ignoring bodies of knowledge built up elsewhere. Please – do not reinvent the wheel!

We can expect governments to favour the development of voluntary rules, self-regulation and codes of practice rather than legislation wherever possible. In this flexible, dynamic electronic environment it is necessary to be able to respond quickly to changing circumstances. Law making is slow, and costly. Where absolutely necessary, we can expect governments to ensure that legislation is technology neutral. If not, it will become quickly redundant.

We can expect governments to be fully conversant with the technology and its application and implementation.

We can expect governments to listen to all their citizens – including the corporate citizens, which are the agents of trade, commerce and economic growth.

We can hope that governments will charge industry with developing and implementing self regulation and that they will provide safety net provisions to be invoked only if industry fails to do so within a reasonable timeframe. This is the route taken by the Australian Federal Government in opening its telecommunications environment to full competition and industry responded promptly, vigorously and responsibly, establishing a non-profit corporation in June 1997 to initiate and co-ordinate the new regime.

And finally, business has continually stressed the importance of an efficient, reliable, accessible and affordable telecommunications infrastructure to electronic commerce. To that end, we have prepared and are releasing today, a business statement on telecommunications liberalisation. (See Attachment.)

I am vastly encouraged that our expectations will be fulfilled. The views exchanged at this Conference indicate that bridges have already been built. There is still suspicion and resistance in some government quarters but we can expect – I think – I hope – that the bridges will become stronger, the trust will become deeper and that government and business together can secure the advantages of the borderless world which is the subject of our aspirations, our work, our future.

Thank you.

**Report on the Meeting of Labour and NGO Leaders :
Social Perspectives on Global Electronic Commerce**

**Mr. David Johnston,
Special Advisor on the Information Highway to the Minister of Industry,
Canada**

Thank you Mr. President, and thank you for the opportunity to present the result of our Session C. The first important point to emphasise from our session C gathering was the importance of including a consumer labour and other public interest groups in these discussions. This is an innovative and enormously welcome addition to a conference of this kind, an OECD Ministerial Conference. In the views of Session C it is important not just to be representative, but to ensure that we manage this change through the lens of all of our citizens to ensure that the benefits and the costs are measured carefully by all and for all. That's important for the nation state and that's important for the globe itself and it's especially important here because the information revolution through which we are passing is one which has enormously deep and broad consequences for the economic, social and cultural fabric of our society; as important as other major technological shifts that we have seen through history but with this striking difference that this one is occurring in days and weeks and years, and not decades and centuries.

An important paper was tabled during our discussion and Members were invited to sign and a great many did. We have proposed for inclusion in the Conference Conclusions this statement which makes reference to that open paper or open letter: "The Trade Advisory Committee TUAC and representatives of public interest groups met in a parallel session at the Conference to discuss the social perspectives. The Conference provided an important recognition and affirmation of the world place and participation of public interest groups in the ongoing international discussions and negotiations with regard to electronic commerce. The TUAC discussion paper "Electronic Commerce: Developments and Challenges" and the letter by public interest group representatives to the Ministers of the OECD and other countries attending the Ottawa Ministerial Conference, which paper is recognised as a conference document and available from the OECD, set forth their views. I recommend this open letter to everyone here.

Several particular points emerge from that. First the promotion of electronic commerce by the OECD and Member governments, must be considered within a broader framework of protection of human rights, the promotion and strengthening of democratic institutions and the provisions of affordable access to advanced communication services. Some substantive recommendations are made with respect to authentication and certification, cryptography, protection of privacy, consumer protection and some further recommendations on intellectual property, Internet governance, taxation and employment; let me refer briefly only to two on governance. First, governments should foster Internet governance structures that reflect democratic values and are transparent and publicly accountable to users. Second, with respect to employment, employment and impacts on employment must be evaluated and taken fully into account in all discussions and negotiations.

Mr. Chairman, we heard a powerful opening address from a colleague from South Africa who reminded us that the OECD represents 29 countries from the more favoured part of the globe, that the gaps, North/South, rich/poor, haves/have-nots, etc. are significant and growing, that over half of has never had the opportunity to use a telephone, that there are more telephones in Tokyo than there are in the entire continent of Africa, and that it is essential that we identify and focus on values as underlying any technological change. The importance for the human condition of this technological change is one that must grasp our attention at the beginning and through the middle and at the end of the process.

We explored views under several headings: first universal access and full participation with a number of important representations on accessibility, on disparities and an emphasis on a clear government role in assisting those claims and accomplishing their accessibility and dealing with disparities.

Second, under the heading of trust for users and consumers, there was little support for reliance on self-regulation as an end in itself; it was strongly discounted as the primary governance mechanism; it was felt there is place for it within the framework of the rule of law and the principal conditions to support. It was felt important to fashion appropriate principles for new technology with inclusiveness of the public debate interest I mentioned a moment ago.

Third, under the heading social and employment impacts there was concern again about abandoning the field to self-governance alone, a clear role for government, a desire to use these new tools to improve and enhance wealth creation within the context of improving social and cultural conditions, identification of a series of negative consequences, job losses now, and job creation later, being a central theme, and the transforming effects of homework. A positive element was the importance of technological change in harmony with the other healthy features of a civic society including, for example, appropriate healthy labour representation.

Finally, in moving to the vision forward, there was a clear recognition that we have before us, a magnificent set of new tools in information technology. But they are tools. More essential questions are how people use them, which people use them and whether people can use them. We have suggested that an integrated approach is the one of greatest wisdom and that one must find ways of co-ordinating wealth creation, social and civic cohesiveness and individual and political liberty. And at the end we are concerned about building civic societies not simply within the nation state but within the countries of the world.

Mr. President, I know all of the participants in session C want me to express very warm thanks to the OECD, its leadership and to you, in particular, Minister of Industry of Canada, for the efforts you have made to include labour, consumer and other public interests in this very important debate and to say perhaps modestly, but nevertheless I say it, that we believe that the views of the public through this forum have very fundamental role in ensuring that electronic commerce is beneficial to all. Thank you.

**Speech given during
Plenary Session 4 Roundtable :
Maximising the Benefits of Global Electronic Commerce
9 October 1998, Ottawa Congress Centre**

**Mr. Lester Alberthal Jr.,
Chief Executive Officer,
EDS Corporation**

Introduction

Thank you very much, Mr. Lorentz. It is a pleasure to be here in Ottawa today and to be a part of this conference exploring the potential of electronic commerce. I thank both the OECD and Industry Canada for the invitation.

Electronic commerce, or as I prefer, electronic business, is affecting our lives today and will do so more dramatically in the years to come. Whether we are planning a vacation, executing a financial strategy, ordering flowers for our spouses or loved ones, or even grocery shopping, electronic business is influencing our actions and decisions. And, rather than slowing, the pace of innovation is increasing. Electronic business is, and will continue to be, intertwined in our daily lives.

EDS, and I personally, have tried to be proactive in the issues of global electronic business. Of course it is important to EDS, but it is also important to society. As one of the Co-Chairs of the Global Information Infrastructure Commission, the Chair of the Electronic Commerce Issue Area in the Trans-Atlantic Business Dialogue, and the Chair of the Electronic Commerce Working Group in the US-Japan Business Council, I have been particularly focused on insuring a consistent environment across all regions of the world. I feel that the work of the OECD is important in this effort.

Framework Overview

There are three areas of electronic business policy which are critical to realising and maximising the potential of electronic business. Organisations such as the OECD need to address them all in varying degrees.

The first area is the underlying telecommunications infrastructure. Electronic business depends on efficient, accessible and affordable telecommunications. In my view, the best means of achieving such an infrastructure is through a competitive, global telecommunications environment. The successful conclusion of the WTO Negotiations on Basic Telecommunications Services was an important step in this direction, and I commend the OECD for their years of work in developing the environment to make that Agreement possible. We are not finished, however. Governments must be vigilant in implementing their commitments. I was very happy to see the Background Paper on the infrastructure developed for this Conference, and I congratulate you on it. An opportunity to move further, however, is the WTO Services Negotiations scheduled to begin by the end of 1999. It is very important that all of us support these negotiations to insure they reach a rapid and successful conclusion.

A second area of focus is policies facilitating the development of electronic business over the telecommunications infrastructure. This Conference has highlighted them. They are the trust issues of electronic business. For the most part they need to be industry-led with selective, targeted government overview or involvement. I do want to comment about consumer protection, however.

Consumer protection is very important, but it is an issue business is just beginning to address. In August, consumer protection was one of several issues discussed at meetings in Tokyo by both the Global Information Infrastructure Commission and the US-Japan Business Council. A robust and constructive dialogue is needed in this area right now so all parties may better understand the impacts of proposed actions.

I said there were three areas of focus. The third is barriers to electronic business in vertical industry sectors. What I am talking about, for example, is that the ability to engage in telemedicine is not restricted by technology. Rather, it is constrained by policies on the practice of medicine across borders. Similarly, the ability to provide financial services, to sell mutual funds across borders is not a technology issue – it is a policy and regulatory barrier. Every industry has these issues. Organisations represented here today must identify these barriers and eliminate them. Again, the WTO Services Negotiations will be extremely important in this regard.

Conclusion

As many of you are aware, I have announced my retirement from EDS upon finding a suitable successor. For more than thirty years the IT industry has been very exciting. I have had opportunities very few people have had and have watched monumental change in the information services industry – not once, but repeatedly.

While the changes before us today seem daunting, we have mastered them in the past, and made change a force to create a better society and a better world. With all parties working together, we will ultimately reach consensus, and society will be the better for it.

Today, I feel a need for urgency and a need for restraint. Urgency to dismantle the barriers to telecommunications competition and to the conduct of electronic commerce within industry sectors. Restraint, however, from acting too quickly and irreversibly on the trust issues. Industry has a vested interest in them and is addressing them.

In conclusion, I encourage governments, industry and consumers to dialogue openly and constructively together. Through understanding will come resolution and through resolution will come a society which benefits us all.

Thank you very much for the opportunity to make these remarks, and I look forward to the discussion.

**Speech given during
Plenary Session 4 Roundtable :
Maximising the Benefits of Global Electronic Commerce
9 October 1998, Ottawa Congress Centre**

**Ms. Seiko Noda,
Minister of Posts and Telecommunications,
Japan**

Thank you, Mr. Chairman.

I am deeply grateful for the opportunity to address this conference.

Thanks to advances in info-communications technology, the age of the "digital revolution" is now upon us. Every conceivable variety of information can now be digitised and sent across the globe in an instant. The impact of the info-communications industry on social and economic development has been increasing. The rapid spread of the Internet in particular has greatly promoted electronic commerce. According to the background paper of this conference titled "The Economic and Social Impact of Electronic Commerce," world-wide sales by this sector will reach 1 trillion dollars in about 5 years.

But not only does electronic commerce have the potential to bring about fundamental changes in the methods of trade and distribution of goods, it can also help to bring about profound changes in the social and economic structure that has been in place since the industrial revolution. Therefore, I believe that governments have a crucial role to play in establishing a favourable environment for the development of electronic commerce, so as to maximise its benefits.

And since electronic commerce is global in character, international collaboration is also indispensable to ensuring its smooth evolution. Already, policies are being co-ordinated across borders through the OECD, regional organisations such as APEC, and other bilateral and multilateral fora. Over the course of such talks, I believe a general consensus has emerged on the fundamental principle to be followed regarding the development of electronic commerce. That is, its promotion should basically be led by the private sector, while the role of governments is mainly to create the necessary environment.

Needless to say, however, there are plenty of policy issues that still have to be solved. The job of co-ordinating policy among nations is not over yet. But I do think we have reached the stage for taking positive action rather than merely discussing. In other words, we have to take an empirical approach, finding practical solutions to problems that occur in electronic commerce while promoting its use.

An essential factor in promoting electronic commerce is to improve and extend the Internet. In fact, a "Next-Generation Internet" will be necessary, one that goes beyond current limits on speed, security and reliability. It will be the network of the 21st century. It will be super-fast and boast massive capacity. It will be safe and reliable. Building it, I believe, will promote a "Global Network Revolution". In Japan, the private sector and government are already collaborating in research and development on building the "Next-Generation Internet." And because it transcends national borders, the Japanese government wants to make development of the "Next-Generation Internet" an international effort, and to share its benefits with the world.

However, electronic commerce will only live up to its full potential when the whole cycle of trade, from placing an order to paying the bill, can be conducted reliably over the network in exactly the same way as for conventional transactions. At present, many potential users are reluctant to settle accounts over communication networks, due to concerns about security. To address this problem, in Japan, private

companies have developed an innovative electronic money system called "Internet Cash". It circulates over the Internet exactly like real cash, and is extremely safe. With government backing, the private organisation, Cyber Business Association, Japan, inaugurated a pilot project last month. In future, Internet Cash could become a global standard. Seeing is believing, as they say, and if you would like to know more about it, please drop in on the Internet Cash demonstration next door.

In my view, the most important factor in promoting development of electronic commerce is eliminating any misgivings consumers may have. Therefore, it will be essential to establish a rigorous authentication system on the network that allows one to confirm the identity of the other party and to verify the details of a transaction. The "shady" side of the information society will also need to be addressed, represented by concerns such as unauthorised access to networks, infringement of privacy, and flow of illegal or harmful content. In Japan, the government is working on legislation and on establishing guidelines on these issues. The private sector is also compiling its own guidelines.

As well as looking at these concerns from an organisational point of view, one key way to deal with such issues is to build the actual system, clarify specific problems and solve them through practical efforts.

An example of this is the INGECEP project, to which the Japanese government is giving its support. INGECEP is a pilot project on international electronic transactions that is being conducted by private-sector groups. Last July, it launched a hook-up between Singapore and Japan. I am optimistic that practical experiments like this, rooted in the legal systems and social mores of the nations concerned, will contribute greatly to the spread and evolution of electronic commerce.

Because electronic commerce is global in character, it is essential for international bodies, such as the OECD, the governments and private sectors of individual countries to join hands, if the benefits of the new system are to be maximised. At this conference, we are part of that process of co-operation. I believe it is very important for us to sustain the energy we have generated here to ensure steady progress for electronic commerce in the future.

Thank you, Mr. Chairman.

**Speech given during
Plenary Session 4 Roundtable :
Maximising the Benefits of Global Electronic Commerce
9 October 1998, Ottawa Congress Centre**

**Mr. Bill Connor,
General Secretary,
Union of Shop, Distributive and Allied Workers**

Global Electronic Commerce is now a major issue.

It has the potential to revolutionise the world of work, as we know it, in the commerce sector.

This conference is therefore both, timely and important.

It gives all interested parties the chance to express their hopes and fears over the future development of electronic commerce.

It allows us to;

- discuss areas of common interest;
- reach agreement where possible;
- identify those areas where we differ and where further work and discussion is needed.

Employment in the commerce sector is set to change.

Although we can't be certain about the pace of change there can be no doubt about the impact of the growth of electronic commerce.

It will lead to:

- a decrease in traditional sales jobs;
- an increase in telesales working and jobs associated with this such as packers and drivers for home delivery services;
- new concepts such as showrooms, where people view goods before returning home and ordering through electronic commerce.

The overall effect of these changes is expected to be a decrease of between 5 and 10 per cent in the total number of people employed in the commerce sector.

Trade Unions in the sector will be responding to these developments.

The major changes that we anticipate will be occurring, place an obligation on us, as trade unions, to seek appropriate safeguards from employers, governments and even international organisations.

We need to ensure that commerce workers are positively, and not negatively, affected by these major developments.

To begin with there must be decent compensation packages for those who lose their jobs.

For those who remain or come into employment in the electronic commerce sector we will seek other provisions. Our objective will be to ensure that these workers share in the benefits that electronic commerce will bring to the overall sector.

When we maximise the benefits, as this part of the conference is discussing, we must make sure all groups benefit and employees are not left behind in what could be a rapid pace of technological advancement.

So what will we be seeking?

We have to get agreement on training.

This is a vital issue to us.

Electronic commerce is going to usher in a range of new jobs that will require higher skill levels.

It is important not just that the relevant training for this is available, but that it is offered to those groups of workers, such as women and part-time workers, who, in historical terms, have less training opportunities than their male full-time counterparts, and, will be in the front line when jobs and job requirements change and employment security is threatened.

We have, also, to get agreement on the quality of work.

No worker should effectively be de-skilled as a result of the growth of electronic retailing.

Electronic commerce will lead to an increase in jobs such as packers, delivery assistants, drivers and so on.

We must make sure that these become quality jobs with

- Decent pay.
- Good working conditions.
- Employment rights for all workers.
- And a career structure open to all.

We also need effective agreements for teleworkers.

We must not let these become the forgotten workforce.

They need an agreement that stresses such things as:

- Work hours and work loads.
- Holidays and other time off.
- Relief and support in case of sickness.

They also, most importantly, need access to and membership of a Trade Union. Although they are often physically separated and isolated from their colleagues they have the same needs and rights to membership.

For these reasons Trade Unions will be pressing for agreements with employers, along the lines of the sectoral one in Italy, which specifically covers teleworkers and includes their rights to Union membership and activity.

There are many other areas I could mention in detail.

These include;

- The role of national and international regulation to protect commerce workers.
- The need for effective monitoring of what is happening in the fast changing world of retail commerce.
- The role of international organisations such as OECD and FIET.

However, I'll conclude these initial comments and hope that these and many other areas will be covered in the roundtable discussion that will now take place.

**Speech given during
Plenary Session 5, Closing Session :
An Action Plan for Global Electronic Commerce
9 October 1998, Ottawa Congress Centre**

**Mr. Donald Johnston
Secretary-General, OECD**

My intention is to speak about the actions which the OECD would take in the light of what has transpired at this conference. But first, I would like to say that I have very much enjoyed the comments of my fellow panellists. The last comments by Ms. Sylvan on building trust and confidence were particularly interesting. I also noted in the TUAC/NGO parallel session, the statement that policies and practices that disregard consumer and privacy concerns will ultimately undermine public trust. I wholeheartedly agree with that. One of the challenges for the OECD and other international bodies is to find better mechanisms to relate to what we might call civil society. I might note that Deputy Secretary-General Joanna Shelton has undertaken a mandate to examine the question of how the OECD -- the Secretariat and the Organisation -- could better relate to other constituencies and civil society. So I hope that we will soon be discussing with the OECD Council a series of options that would perhaps allow OECD to become more sensitised to and in more direct contact with these constituencies.

But now, if I may Mr. Chairman, let me turn to the core of my comments which relate to what the OECD should do. At the ministerial session yesterday, the Ministers agreed on an action programme for the OECD, directing us to do work on some of the most pressing problems confronting electronic commerce which have been discussed here in Ottawa: taxation, privacy, consumer protection, authentication, access to infrastructure and the socio-economic impact of electronic commerce. And, in particular, the OECD was urged, first, to apply its research and statistical expertise to analyse and measure the economic and social impacts of global electronic commerce. Secondly, to provide practical guidance on the implementation of the OECD privacy guidelines based on national experiences and examples. Third, to work together with governments, business, consumers and their representatives to ensure that consumers are provided with a transparent and effective level of protection, and to complete within the next calendar year the drafting of effective guidelines for consumer protection in the context of electronic commerce. Fourth, to conduct a number of actions to promote the development and use of authentication technologies and mechanisms, including continuing work at the international level, together with business, industry and user representatives. Fifth, to address the issues outlined in the taxation framework, including work on how to apply to electronic commerce existing tax rules and principles on royalties, consumption taxes and permanent establishment. And, finally, working level groups are to be organised to address specific tax issues and within these groups, work priorities and timetables would be established.

Beyond these specific initiatives I think it is very clear from yesterday's ministerial session and the general mood of the conference that the OECD should continue to act as a forum where the stakeholders who have been represented here can come together to discuss these issues and report on progress towards solving them. As an aside, I would like to point out that the OECD is not an institution; it is really a process of dialogue, consultation and peer pressure. That is why we have nearly 200 Committees at the OECD and we, at the Secretariat, support the work of those Committees. It is this process - and the way that the OECD functions - which gives OECD its great value as a catalyst, a facilitator and, if you like, an honest broker of ideas and policies.

I should mention that the Turku Conference sponsored by our Finnish friends last year built very important foundations for what has been done here in Ottawa. This has been a two-stage effort to identify the barriers to electronic commerce and to initiate work towards solving them. To fulfil the commitments made at Turku, the OECD, as you are aware, has prepared nine background papers on important subjects

such as Access to the Information Infrastructure, the Millennium bug problem which was raised by Barbara Roche a few minutes ago, the Economic and Social Impacts of Electronic Commerce, as well as the three declarations with which you are familiar, and the Taxation Framework. This work is complemented by a further action plan for the OECD and the other international organisations who are represented here and by a stocktaking of business initiatives.

I feel that this work, and these two Conferences have established a very solid foundation for moving forward to dismantle the barriers to electronic commerce and we will not need another high-level meeting of this calibre in the very near future. It is time now to shift the emphasis to a narrower set of working level groups where the specific issues which we have discussed here can be followed up. It is really time to roll up our sleeves to get to work. Of course this work cannot be done in a vacuum and we must be cognisant of what is taking place in other fora. I would refer particularly to the work by the European Commission, in APEC and, of course, within the business community, as well as activities underway in many other international organisations. I will not cite them all here, but there will certainly be a need to take stock from time to time on progress in resolving these problems and at the same time to ensure that the work in this area proceeds in a transparent and co-ordinated fashion.

To this end I would commit the OECD Secretariat, with the agreement of the OECD Council, to report on the progress in each in these areas sometime within the next year. I think that we should meet again within a year's time with public officials and representatives from business and non-governmental organisations and international organisations, all the stakeholders represented here in Ottawa, to take stock of how we are moving ahead with all the initiatives. It is absolutely crucial that the momentum and the spirit of co-operation that we have seen here be maintained.

The Government of Canada, and Minister Manley on my left really deserve a very special thank you from the OECD and from all of us assembled here. I also would like, Mr. Manley, to make special reference to your team, who worked so hard on this, especially to Michelle D'Auray, and I also would like to give a very special thanks to Deputy Secretary-General Johanna Shelton, who has led the OECD effort in this over the last several years.

I also want to pay tribute to representatives from a number of countries which are not members of OECD, who have participated in the Conference. These countries are an essential dimension in the work programme of the OECD. As the world globalises, so must we, and I very much appreciate those who accepted the invitation to be here with us. Thank you.

And finally, last but not least, it is you who made this Conference, you the Ministers, the Ambassadors, the officials from governments, businesses, international organisations representatives, the NGOs, the TUAC representatives, the labour movement - I know that many of you came a long way. You have really made this a wonderful success. I want to thank you very much on behalf of the OECD for the superb contribution that you made.

**Speech given during
Plenary Session 5, Closing Session :
An Action Plan for Global Electronic Commerce
9 October 1998, Ottawa Congress Centre**

**Ms. Barbara Roche
Parliamentary Under-Secretary of State for Small Firms, Department of Trade and Industry,
United Kingdom**

Well, Mr. Manley, Gentlemen, Mr. President, can I first start by saying it does give me great pleasure to speak to you today because what we've established over the past day and a half are a number of very significant points about e-commerce. Let us remind us about what the issue is: first of all, it's global, secondly, it's happening and also it happens and affects all parts of the economy and our society. It affects the health and well-being of all of our citizens.

What we have agreed over this past day and a half is that this requires a new approach from governments, from business, from consumers and other bodies and from, of course, the international organisations. This means a new approach geographically involving all the major economies, and also, this is a point that has been made over the past day and a half, not just members of the OECD but all major economies and we must do that, we must look beyond ourselves if we are truly to create a borderless world. It also means a new approach politically. We all agreed that we can't approach the subject simply in terms of either government or business leadership. Nor can we approach it in terms of either an economic or a social agenda. They are complementary aspects of the same thing.

What we actually have been talking about, in very many different ways is finding a new political approach, the third way, a partnership between all interests. Indeed, as an industry spokesman said yesterday, the service providers themselves want a partnership between public and private sectors and, absolutely vitally, a broader dialogue with consumers. As Mary O'Rourke, the Irish Minister said so well yesterday, our job is to look at this with a political eye and to recognise that what we have all been talking about is essentially, not a technological issue, not an issue of what is the latest bit of equipment, but essentially this is a human issue. And as Mary said, the crucial thing about electronic commerce is that it is a powerful, egalitarian democratic tool. It really does have the capacity to revolutionise, not only the relationship between businesses and consumers, but businesses, consumers and government. And we must look at it in that wider context.

Now in order to have that egalitarian society, we cannot have people who are excluded from the process because they are unable to access the new technology. If we fail, if we don't make it inclusive, we won't truly have an information society. What we will be doing is creating a society which is divided between the information-haves and the information have-nots. And certainly, speaking on behalf of my ministerial colleagues, we are absolutely determined not to end up with that result.

If you are a business, you can't afford to have people who, because of their lack of success, are outlawed, either as consumers or as the workforce, the skilled workforce of tomorrow. So this is not just a consumer or a governmental issue about making it inclusive, it's an issue for business as well.

What does this political leadership involve for us as governments? Let me give you some very practical examples. It means we have to challenge our notions of the way business is done. There will, for example, be no such thing as the old divisions between small, medium and large companies. Those divisions will go away. One of my responsibilities in the UK is the responsibility for small companies. I expect that the revolution that will come about would do me out of the job in that area because there will only be, in this new world, companies who have the products and services and the skill necessary to access

world wide markets. A company's competence, not its location or its size, will be the crucial issue. That means that as governments, we have to avoid creating that divided society. That means that governments and business have a shared interest in ensuring that consumers are involved because again, and so rightly you said yesterday, without satisfying the consumer, you won't have any business anyway. That means governments themselves becoming model users, both purchasing and offering their own services to the public online. Above all, this means continuing to talk to each other so that we learn from each other's best practice.

Now what's being clear is that we do have different views on how the public and private sectors should interact. And that's OK. We ought to understand that. We can be flexible about how we reach our shared goals. Differences in legal systems, institutions and cultural and political factors can all influence the best approach for each particular country. I have just published in the UK a document called "Net benefit" setting out the action agenda for the UK and I hope it will be useful in all sorts of ways, not least as a mouse mat, something there practical for you to take away.

And let me give you some other practical examples of what we've done in the UK. We heard yesterday from David Kerr about the Internet Watch Foundation. As he said this is an informal partnership between Internet service providers, government and the police to enhance public trust in the net by dealing with illegal and offensive content. If we don't deal with this offensive material, not only do we let consumers down, not only do we let parents down, not only do we let children down, but we let the good name of the Internet down as well. And yesterday another initiative, the UK Alliance for Electronic Business, announced a business initiative, that is to create a global trust services infrastructure for electronic commerce. Both need international partners to really succeed. The IWF is a founding member of the Internet Content Rating Alliance while the AEB has already found counterpart in Spain and Belgium. I hope that other countries will follow the lead of the IWF. It's organisations like this working internationally which are truly creating that borderless interconnected world.

I would also like to briefly comment on the action plan for business. I was really impressed by the wealth of different approaches and initiatives described in that document. It is a long document and it will take a lot of digesting but I would urge all my colleagues to take the action plan away with them to study it, to hold the private sector to their proposals and also to urge them to come and knock on government doors in pursuit of their plans.

I can't avoid mentioning here one very serious cloud on the horizon, the Millennium Bug or Year 2000 problems. I simply want to add my voice as strongly as I can to that of Secretary Daley and others in stressing the seriousness, and urgency of the problem. It's a truism to talk of globalisation and the networked world but we are interdependent. We do have a collective interest in avoiding computer malfunction on the first day of the next millennium, that first day which should herald such a degree of anticipation for all of us. It may be in your neighbours' apartment but if his washing machine floods your carpet will still get wet. We need to act, we need to act swiftly.

Ladies and Gentlemen, this Conference marks a watershed in our discussion about approaches and general principles and I think in the years to come we will look back on this day and a half as a body of work well undertaken. My and all our thanks go to John Manley and to all his team who have worked so hard and to the OECD Secretariat for getting us here and getting our work done so efficiently, and may I also say to John, with some warm Canadian hospitality. This is my first visit to Canada and it will certainly not be the last.

We now have a large amount of shared territory mapped-up now. Territory shared not just among governments but with users and businesses. What comes next requires a changing gear, a move away from broad talks to detailed collaboration work between all those with an interest in the future of e-commerce. And let me say to you, let's be realistic about it: there are no quick easy fixes, these are difficult issues that we are dealing with. And we are going to work through and have to work through a variety of channels to

make this virtual world a reality. What we need is a leap of faith, not only for most people who are represented here today, but more particularly from all those millions of people out there who have never ever touched a computer keyboard. They are the people who are absent from this Conference but they are crucial to making the reality of the new age come alive. I am speaking here today and I have got the great privilege to do so on behalf of my OECD Ministerial colleagues and I want to leave you just on this one thought: there has been a lot of challenges here to consumers, to non-governmental organisations and to business. But one of the biggest challenges of all is for governments, because we know that in order this a reality we have to change as governments as well and that is what I'll take away with me. Thank you very much indeed. Merci.

**Speech given during
Plenary Session 5, Closing Session :
An Action Plan for Global Electronic Commerce
9 October 1998, Ottawa Congress Centre**

**Mr. Jean Monty
President and Chief Executive Officer, Bell Canada Enterprises**

Mr. Chairman, Ministers and Delegates, Ladies and Gentlemen:

It is both an honour and a privilege for me to participate in this discussion about an action plan for global electronic commerce.

This is not an easy issue to deal with. A speaker at this conference said that in electronic commerce there were too many platforms, too many initiatives. This is not necessarily a bad thing.

These days, we expect more in business, in economics, and in politics. More competition. More entrepreneurs, more new jobs created. The Internet is an engine for more innovation and opportunity — and we all have to learn to seize the opportunity it creates.

Some expressed the views that the timing is not right for a detailed international framework. I would agree. It would be unwise to regulate or legislate something we are still learning and that is still evolving.

However it is not too soon for business, consumer groups and governments to talk about electronic commerce. It is important for us to share our expertise and points of view. This is change that affects a vast range of industries, governments and many other stakeholders. Global dialogue and co-operation are essential.

What we are seeing with electronic commerce is a meltdown of traditional business boundaries, which is turning our well-established value chains into outdated economic fetters. Electronic commerce — with its notions of disintermediation, electronic communities of interest, and virtual companies — is challenging our most basic assumptions about business. Clear lines between structure and process, owning and using, knowing and learning, real and virtual — are disappearing.

In electronic commerce, business power doesn't flow neatly up and down the value chain, but instead is flattened out across a vibrant global web of connectivity. Electronic commerce is turning into a new form of empowerment that is electrifying everything and everyone it touches in the world of business. Buyers sell and sellers buy. A customer is a competitor, and a competitor is a customer. On every front, opposites are blurring. It is, indeed, an exhilarating moment in the history of global commerce.

Electronic commerce is much more than online transactions. What we are witnessing today — and what historians will likely call the defining event for the start of the new millennium — is the birth of a new economic order that is based on networks and chips. We call this the Network Economy. And in this new economic order, the old laws are being torn apart.

The coming of a new economic order was first noticed thirty years ago, when Peter Drucker perceived the arrival of knowledge workers. This gave rise to the notion of the Information Economy because of the important role of information. But then two other factors intervened, which transformed the Information Economy into the Network Economy.

The first is the shrinking cost and size of the silicon chip. There may be 200 million computers in the world, but there are literally many billions of silicon chips pulsating in cars, stereos, and microwaves — with millions more being stamped and shipped out to the world every week. They are tiny and cheap enough to slip into every — and the key word here is every — object we make.

The second factor is the Internet. For the first time, chips are being connected on a massive scale to a network. But the Internet is only the beginning. The Network Economy is not just humans sending e-mail to each other — rather, it is the collective interaction spun off by a trillion objects and living beings, linked together through air and glass — every cash register, every hospital monitor, every vehicle location device. Ultimately everything in the world that has a chip inside it can be connected to the net. It won't happen tomorrow, but the trajectory is clear: We are connecting all to all.

The shrinking microcosm of the silicon chip and the exploding telecosm of network connections are creating the Network Economy. The massive connectivity of objects and individuals is growing into a tidal wave of signals over a global network that is changing the fundamentals of our economy.

For instance, an axiom of our old economy is that value comes from scarcity. Diamonds are valuable because they are scarce. But in the Network Economy, value is created from plenitude. The fax machine is valuable only when the rest of the world has a fax machine. It is the relationship of things to each other that surges in value. In future, as the cost of producing an object falls steeply, it will be the network that invents, manufactures, and distributes them that will increase in value.

In the Network Economy, success is exponential, not linear. As with the example of the fax machine, value explodes exponentially with membership. The Network Economy is like a biological entity since exponential growth is typical of a biological system.

In the past it was relatively simple to foster an environment for the growth of commerce since growth was linear. We had, among other things, the textbook notion of economies of scale. Industrial economic policy could be shaped to support the Henry Fords of the world. In the case of the Ford, growth was linear: the bigger Ford company got, the less it cost to produce a car and the more cars Ford sold. And the bottom line belonged almost entirely to Ford.

By contrast, in the Network Economy growth is exponential and value is created and shared by the entire network. Whereas yesterday one company would have created value using its retained expertise and capital, today a network of relationships that involves many companies creates value. Competitors, users, agents — all the players in a Network Economy — create value that resides in the greater web of relationships.

Here's yet another contrast to the past. Through most of the industrial age, consumers experienced slight improvements in quality for slight increases in price. In the Network Economy — where the shrinking cost of the chip meets the exploding reach of the net — consumers can count on superior quality at a lower price over time.

It should be clear by now that public policy makers need to foster the growth of the network if they are to foster global electronic commerce. We need to ensure that our citizens have the means, the tools, the skills and the desire to be part of the Network Economy. If not, then our citizens risk being the have-nots of the new economic order. We must foster the development of the Web-enabled citizen.

The industrial age has taught us that the prosperity individuals achieve is more closely related to their nation's prosperity than to their own efforts. In fact, the network is like a country. If we develop the network, then all those connected to the network will prosper. In the Network Economy, prosperity comes from policies focused on growing the network.

And how big will the Network Economy become? Some analysts guess that online commerce will reach some 10 to 15 billion dollars by next year. But the question of how big online commerce will be next year is a question with diminishing relevance. What such figures don't represent is the scale of the economic world that is moving onto the Internet as the Network Economy infiltrates all aspects of the economy. What is important is not how many cars are sold online — but how network logic and chip power are shaping how a car is designed, built and operated.

Chips and networks have unleashed a process of change that is unstoppable, a process where opportunity and excitement lie in the vast sweep of its uncertainties. This is perhaps the most difficult notion for public policy makers to deal with. We are caught up in a whirlwind of transition. We are dealing less with the tangibles of physical capital that we can touch and see, and more with the intangible, like relationships and knowledge, things we can't see, let alone measure.

This process of change needs first to be understood. We must begin to see the world through new eyes. Government, industry, and consumers — we all must begin this process of adapting ourselves to the Network Economy with a heightened sense of imagination for what is possible. We must base our actions on creating tomorrow's opportunities.

Certainly we need to build trust for users, establish ground rules, and enhance the infrastructure. But we must also acknowledge that we have a much greater challenge ahead of us — preparing our societies for the Network Economy. This is our challenge as we enter the new millennium.

With that in mind, I would like to conclude my remarks with a brief summary of what we at BCE are doing to help our society adapt to the Network Economy.

Electronic commerce is an issue of great importance to all Canadians and therefore our efforts often involve working in close co-operation with various levels of government.

The following examples will illustrate how we in Canada — in government and industry — are attempting to foster the growth and development of the electronic consumer in this country. It is also my belief that these examples are worthy of consideration by all countries interested in maximising the benefits of global electronic commerce.

Last August, industry and government announced the launch of CA*net 3, the world's first dedicated national Internet backbone. A collaborative effort between a Bell Canada-led consortium of technology companies and CANARIE — the Canadian Network for the Advancement of Research, Industry and Education — CA*net 3 is the first example of the Internet infrastructure of the future.

Faster and more flexible than any existing commercial Internet infrastructure, CA*net will allow Canada's public and high technology private sectors to direct their joint skills and expertise towards a common goal: understanding and developing the Network Economy. With CA*net we will be able to develop the critical skills and applications that will enhance the foundation of our digital economy for the new century. It will also allow us to see what applications will be possible in the future. And what we learn here will be applicable anywhere in the world where there is a data-centric network.

Two years ago we helped launch a program called SchoolNet, working with Industry Canada and Canada's other regional operating telephone companies. The immediate goal of SchoolNet was to provide affordable Internet access for schools across the country.

But the long-term goal is more significant: to begin developing the skill sets that will shape the Web-enabled citizen of the future. We must remember that electronic commerce is really part of the greater electronic world that is being shaped by the Network Economy and the Internet. Without society's active

participation in the growth and development of the Internet — and it's integration into our daily lives — we will not be able to maximise the benefits of electronic commerce for the future.

Further on the subject of network-based learning, we have set up a business unit called Bell Learning Solutions. This is a Web-based on-line teaching resource that allows people to educate themselves on matters relating to electronic commerce. Our first learning module is a strategic learning package for small businesses that want to prepare for the impact of the Year 2000 computer bug on their business.

Making sure all Canadians have access to the Internet infrastructure is also a priority in this country — as it should be in any country interested in economic prosperity. Various Internet access technologies are being deployed in the local exchange to allow people higher speed connectivity to the Internet. Today we've announced the extension of high-speed online access, available in the Ottawa region, to Toronto, Montréal and Québec city. It combines Nortel's 1-Meg leading-edge access technology with Bell capabilities and services.

While I believe that business initiatives and leadership will drive electronic commerce, governments must also be in the vanguard as clear and compelling model users of electronic commerce. A government service must be like other competitive network-based offering: customer-focused; based on open, seamless and interoperable technology; always on, always accessible; and interactive.

A good example of this application is an Internet service offered by the Commission de la santé et de la sécurité du travail, or CSST, a workman's compensation agency of the Québec government. This extranet — actually the largest of its kind in Canada — uses a Bell Canada virtual private network to improve processing of workers' compensation claims. The network allows electronic remittance of annual fees and the handling of disability payments. Doctors use electronic forms to expedite filing claims. Users simply need a Netscape browser and a password to access the network.

I would like to conclude my comments with a quote from Paul Romer, a professor of economics at Stanford University who has written a great deal on the new network economy.

He writes, "The world isn't defined by scarcity and limits on growth. Instead, it's a playground of nearly unbounded opportunity, where new ideas beget new products, new markets, and new possibilities to create wealth."

Opportunity is indeed the name of the game in electronic commerce.

Thank you.

**Speech given during
Plenary Session 5, Closing Session :
An Action Plan for Global Electronic Commerce
9 October 1998, Ottawa Congress Centre**

**Ms. Louise Sylvan
Vice-President, Consumers International; CEO, Australian Consumers' Association**

Introduction

Je veux remercier l'OCDE et le Gouvernement du Canada pour avoir eu la vision d'organiser une conférence sur le sujet du Commerce-Electronique à ce moment important dans le développement de cette technologie.

I also want to express the thanks of the global consumer movement, to the OECD and the Canadian Government, for ensuring that the public interest and consumer groups were able to be here and to contribute. I am personally very pleased to be here and think that our discussion has benefited from this broader spectrum of views.

When a debate has a better representation of the range of interests that are concerned, more can be accomplished I think in, at least, understanding the implication of directions that might be selected.

The OECD has an ongoing business presence in its structure. The principle is, in general, that where the business representation exists, it is balanced by the consumer representation. That probably leads to better outcomes.

E-Commerce has a lot of hype surrounding it and I think a lot of the hype is deserved. E-commerce has enormous potential to provide consumers with better information and educational opportunities, as well as new market choices and value for money.

Action and Work Plans

Before moving on to our action and work plans, I want to note two things:

- e-commerce is a subset, and at the moment a fairly small subset, of the uses to which consumers and citizens put the technology of the Information Society. This highly inter-connected and, for the moment at least, charmingly anarchistic communication and information medium has huge potential for real democratisation of much of our discussion as citizens. Governments and supra-national institutions have the unparalleled opportunity with this technology to operate in the most open and transparent ways in their deliberations -- which I think most citizens and netizens, as well as many government officials, would welcome.
- secondly, I don't want us to lose sight of the reality that two-thirds of the world's people are, right now, going to be nothing more than window shoppers in this glitzy global shopping mall that's being constructed, because they can't afford to be much else, even if they manage to gain access. I would like us to bear that always in mind.

Turning now to our agreed action and work plans, I find myself, I think, amused, in terms of the tasks each of us takes away, with the almost impossible roles we've given the Government Ministers who have responsibility for this important area on behalf of their people.

Ministers: You are to lead! You are to follow! You are to get out of the way! And all at the same time! And that was just the business advice.

For the rest of us, the tasks and action plans are slightly less contradictory. I recommend to you the NGO statement distributed this morning as a good summary of our views and broad areas of concern.

From the consumer movement, we will take forward action and work as agree in a number of areas. First, to privacy.

Privacy

We note that countries are going to follow different paths -- some will have law, some a self-regulatory model, and many, of course, will quite sensibly choose a combination of both.

In Australia, we have guidelines on self-regulatory codes that talk about when the conditions for self-regulation are appropriate, what performance expectations are required, how transparency and independent auditing might be accomplished and so on. They are by no means perfect guidelines -- they are very weak on sanctions for instance -- but I have seen these guidelines operated with much good effect by industry.

On the basis of these government guidelines, privacy fails to meet a range of requirements in being entirely amenable to successful self-regulatory practice. For example, the test of complete or almost complete industry coverage -- in this case of privacy meaning every trader would need to be in an industry body or verification scheme -- fails badly in this instance. In this sort of situation, one uses an underpinning law complemented by industry compliance and education schemes, which carry the bulk of the enforcement task, with a little strategic legal enforcement support by the regulator.

Mr Magaziner, from the United States, talked about the FTC being involved in enforcing aspects of their privacy compliance, but of course the FTC can only do this under such areas as fraud and deception. If I, as a trader on a web-site, take legal advice which is that if there's no disclosure, there's nothing that can be enforced against me, then there is not an apparent effective remedy for the consumer for breach of their privacy. If there is no law requiring disclosure, then there's nothing to enforce. That's a real effectiveness problem.

But let's suspend judgement for the moment.

We will contribute to the various countries' efforts to deal with the privacy issues and we take those efforts as sincere. We will assist with some complementary action.

I come from a testing and publishing organisation -- these are the strong "brand name" consumer movement organisations: the publishers of *Consumer Reports* in the United States, *Which?* in the UK, *Test-Achats* in Belgium, *Consumentengids* in the Netherlands, *40 Millions de Consommateurs* in France, *CHOICE* in Australia, and so on.

Privacy lends itself very well to the approach of a methodological assessment of performance. Building on the work of the recent Global Internet Liberty Campaign survey of international privacy laws, we are embarking on a global research project on Internet shopping which will include a country by country assessment of privacy practice and consumer redress.

We will report on companies -- and tell you whether their practice is good or bad. Also, because of the global nature of this medium, we will give consumers a **report card** on nations:

- if they have laws, how well their legal and enforcement structures are working in reality for consumers.
- if they have no law, how well their self-regulatory arrangements work in reality for the consumer.

We will tell consumers in what OECD countries we think it is safe to shop in, in relation to their privacy, and if there are countries that they should consider avoiding.

The initial parts of this investigation of net shopping begin in November. So, we will be able to assist consumers, hopefully to offer them much assurance. But in any event we will tell it like it is.

Consumer Protection

In the second area of our work, basic consumer protections in electronic commerce, we will work on the OECD committee on consumer policy to establish guidelines in 1999 -- as the Ministerial declaration requires.

I have noted comments that these consumer protection guidelines are a very difficult and complex task and that we ought to be careful and not move too quickly. I want to contrast this view with what occurred in the copyright and intellectual property arena -- where astonishing world-wide pressure was brought to bear for new laws and rapid response in an area of some of the most complex laws that exist. The difference in approach is quite striking.

So, we will meet with the OECD committee on consumer policy and we think this task is not only improperly delayed, it is now urgent. May I note some scepticism about the Ministers' commitment to this task. The Committee on Consumer Policy, I am given to understand on the best authority, is quite likely to be terminated or rolled into some sort of Information and Communications structure, very soon. I think that would be a very unfortunate public signal for the OECD to be giving at this point and I would ask the responsible nation-state delegates to seriously consider their commitments made at this conference.

Close

One final point, one slightly to the side of consumer protection, but related to it.

When I get into discussions in these kinds of fora, with a lot of business presence and with a lot of positioning and posturing, I like to take my consumer hat off and put on my business hat. The Australian Consumers' Association, which I have the privilege to head, chooses to exist in the marketplace like any other private company -- we make it or break it depending on whether our products sell and meet consumer needs and we prefer to be subject to that market discipline. So with a business hat on, I immediately look for where the commercial advantage is.

Who stands to gain, from a country perspective, from a strategy which seeks to place the consumer trust with the brand name of the company rather than in a level playing field of an agreed baseline set of global protections that governments normally are expected to provide to their citizens.

Linking consumer trust to the brand name is a form of entrenching brand incumbency. You build your brand strength with that link.

So, who or what country would stand to gain most from pursuing a brand incumbency strategy rather than a strategy of creating a level playing field of global guidelines? Well, I guess the benefits accrue to the country or countries that have the strongest global brands. And I think that's worth reflecting upon as well as reflecting upon the appropriateness of such strategy. I think the more we have a proper framework for consumer protection, the more chance we give to our small and medium enterprises to compete in this new

environment -- consumers will be able to shop with these SMEs and will know they are protected without having to recognise big brands in order to feel secure.

So, to conclude, in going forward together I think we are at a critical juncture in electronic commerce. Enough people are starting to use e-com, that it's potential can really take off, or it will start to produce horror stories and will partially falter from mistrust. The best way to build consumer trust and confidence - - apart from educational activities on the use of the technology and also dealing with access issues -- is to produce a framework that is satisfactory. If e-com is offered in the right way -- with real consumer protections for privacy, security and redress -- and please let's get on with this -- then consumers will just grab it and run.

Finally, let me again thank the OECD for their welcome to us in this conference and the Canadian Government and Minister Manley for their warm and excellent hospitality.

Thank you.

**Closing Lunch Speech
9 October 1998, Westin Hotel, Ottawa**

**Mr. Jay Naidoo
Minister For Posts, Telecommunications, and Broadcasting, South Africa**

Minister Manley has said that you probably are all information overloaded by the technical terminology of the conference, and seeing that I was a student studying to be a doctor before events forced me to choose the part of dissecting society instead of bodies, and so I am here to minister to your spiritual needs.

The one thing that struck me while being in this conference, and particularly last night, was: What is the central question that occupies the mind of humanity of thousands of years? To me, that question is: What is the meaning of life?

In all our cultures and religions, the basic assumption is that there is a premise that there is a soul, a spirit, an energy, that is deeper than our physical existence -- that is our spiritual self -- and that we constantly strive to achieve that higher consciousness, to go beyond the gadgetry of our latest inventions, to be at peace with ourselves.

Well last night, we rode down one of those tributaries that constitute the richness of the world's cultural diversity, and I want to thank Mr. Manley for that. Because the person that did the hoop dance, well, his name is Swimana(ph) and he comes from Arizona, and he did this hoop dance which, I believe, gave us one of the most important messages of this conference.

He didn't have the time to explain it, but I met him after he finished the dance and I asked him about this dance because it fascinated me. This is what he said: "We are all part of the circle of life, and as I pick up each manoeuvre, the hoops, I form designs of plants, of animals, of insects and the forces of nature. The end of this routine I make a four-hoop globe that represents the world of the Hopi. The fifth hoop represents our final destination, an easy journey once we have lived a life of humility."

In this past two weeks, I have spoken at many conferences internationally. I have just come from Silicon Valley to this very important conference, and I have listened and interacted with speakers and people of enormous importance that are at the forefront of the technological advances.

But for me, the message last night was very simple but equally important. Because what is our life if we are not going to bring joy, peace, happiness and comfort to those who are less privileged than what we are.

So as we discuss this momentous advance of our civilisation and the emergence of a digital world economy, let us consider that this connectivity is, in fact, the greatest equaliser in the world. But in this very world that we live in, half of humanity has never used a telephone. Yet, that access could catapult, could leapfrog the remotest rural community of this world into the leading edge of this new economy.

And so the challenge, I believe, that we need to consider along the very important conclusions of this very important conference, is how we close that development gap between the information-rich and the information-poor, between the north and the south, between the urban and the rural, between men and women, and between black and white because access to that infrastructure is going to require a visionary leadership, is going to require a partnership that is smart and innovative.

This reminds me of a little story of a girl called Thembisa. She is ten years old and she lives in a shack in Gugulethu in the very beautiful city of Capetown. She is one of five children. Her mother sells fruits and

vegetables at the side of the road to maintain this family, but her shack has no electricity, no water, no telephone.

Well, there is a very important musician -- I think great musician, great violinist --his name is Yehudi Menuhin and he came to play his very beautiful music to heal the very deep wounds that are our legacy of apartheid. At the end of that, he was so inspired that he donated 300 violins to be given to children that come from these townships, like Thembisa, so that they could become the fuller human beings that we are.

I had the good fortune of seeing Thembisa play this instrument. She was the best in the class. I heard an interview that was done with her. And the question was asked of her: "What does this violin mean to you?" And her answer was: "It is my best friend." Then, the question was: "What would happen if someone took away your violin?" And the person that did the interview said the tears welled in her eyes and that told the story, that her soul would have died.

So that is what communication means to the millions and, in fact, billions of Thembisa's around the world in the shanty towns of Sao Paulo or Calcutta, Lagos or Jakarta.

What do we offer them out of this conference? Because Thembisa in Xhosa language in South Africa means promise. What is the promise we hold out to those children? Is it the promise of despair, of exclusion, of marginalisation, or is it the promise of hope?

I believe that we have the opportunity, for the first time in our civilisation, to offer to this world, so pregnant with the aspiration of hope, the fulfilment of that hope. And so as we see globalisation develop and we admire the magical advances that we have made, the fact that we live longer, we are better educated, we have the most modern and sophisticated services at the touch of a button on our computers, we have to recognise that that is an instrument, it is a machine, it has no soul, it has no spirit. It will develop a soul depending on what we key in as values into that machine.

Therefore, what we have to do as leaders of the world, especially yourselves, as leaders of the most powerful nations in the world, is put those values in, put in the soul, put in the energy, put in the type of connectivity that brings those billions of people that stand outside this great technological innovation of the Internet to bring those children into your vision of connectivity.

And so, if we are to stand today in the streets of Jakarta and ask those millions of workers that are unemployed what is their understanding of globalisation, or the tens of thousands of honest entrepreneurs who have been bankrupted in Southeast Asia, or the millions of investors in Johannesburg or Moscow or Brazil that have lost their life earnings because of the economic crisis, there is mistrust there. There is deep mistrust and the danger is throwing out the baby with the bath water, that we can reverse one of the most important developments in our civilisation because people mistrust the technology or mistrust the intention behind the technology.

So what we require today is the new leadership for a new thousand years that lie ahead and a vision that is able to take that world that is excluded into the mainstream of the developments that you are leading. And in Africa, we are trying to do that.

In South Africa, we have revolutionised our infrastructure. In the next five years, 75 per cent of every household will have access to a telephone that would have digital fibre-optic high-speed broadband backbone capable of delivering all the applications of electronic commerce you have discussed over the last two years but also capable of delivering telemedicine and distance education. We would have linked every city, every town, every village, every school, every clinic, library, community centre, and police station to a network. And at the end of that line, you could have a computer, a fax machine, or a telephone.

So we have seen how we can harness the convergence of video, of data, of voice, to deliver that technology that leapfrogs our society and bridges the legacy of apartheid. That is the challenge we face in Africa. And African telecommunications ministers have met to say: As African leaders, can we find African solutions for African problems?

And we have accepted the indictment on us that, 15 months from the dawn of the new millennium, we have 14 million telephones in Africa, less than you would find in New York or in Tokyo.

What we need today is your partnership so that we are able to help ourselves, so we are able to create the environment for a partnership between the private and the public sectors because Africa does represent a huge untapped market, and we need your skills, your technology, your expertise.

You have welcomed our President, Nelson Mandela, with fervent enthusiasm. In many parts, people have said he is a saint, he is the greatest moral authority of the 20th century, alongside as, someone said yesterday, the Mahatma Gandhis and the Martin Luther Kings.

The question is: He is a human being, why has there been such a desperate need for people to identify with his moral authority? Why is there such a desperate search for such spiritual peace? I think that question is about values. Now is the time for us not to replace the physical boundaries that we have had as we move to this borderless world with the boundaries that separate the information-rich from the information-poor.

How do we harness this Internet to empower our people, to constitute what has been said by one speaker in the conference, the most powerful democratising medium in the world that can empower and liberate our people from the shackles of poverty, of ignorance and of dictatorships.

So the heart of this new world economy needs that pulsating throb of humanity. We need to balance the imperative of investors who need a return on their investment with the developmental goals of a new value system that brings peace, that brings prosperity, that brings hope to the majority of humanity.

I want to thank Minister Manley, to thank the Government of Canada for being such a good friend of development. I want to urge the rest of you who have been good friends, who helped us on our road to freedom, to participate in another journey. This could be our final journey to that world we all seek, which guarantees a better place for all our children, black or white, rich or poor.

I believe that this conference, if it adds on that dimension, that dimension of bringing hope to the children of the world, then this conference would have played a pioneering role in shaping the next thousand years.

So I thank you very much for listening so attentively.

IV. CONCLUSIONS DE LA CONFERENCE

Les Ministres de l'OCDE, des observateurs de pays non-membres de l'OCDE, des dirigeants d'organisations internationales, des chefs d'entreprises et des représentants des syndicats, des consommateurs et groupes d'intérêts sociaux se sont réunis à Ottawa du 7 au 9 octobre 1998, afin d'assembler leurs plans de soutien au développement du commerce électronique mondial. Cette Conférence ministérielle de l'OCDE, accueillie par le Gouvernement du Canada et qui a été présidée par l'honorable John Manley, Ministre de l'industrie du Canada, représente une étape importante dans l'élaboration d'un plan mondial pour le commerce électronique transnational.

Du point de vue de l'OCDE la Conférence d'Ottawa a fait œuvre de pionnier sur un certain nombre de plans. Pour la première fois, lors d'une réunion ministérielle, les pays Membres de l'OCDE ont fait appel à la participation active d'organisations internationales, du secteur privé, du milieu syndical, du monde de la consommation et des groupes d'intérêts sociaux dans un effort ouvert et transparent pour examiner les éléments du commerce électronique mondial. Autre première à l'occasion d'une Conférence ministérielle de l'OCDE, une exposition organisée par l'industrie a permis d'illustrer les applications pratiques destinées à répondre aux grandes questions discutées pendant la Conférence.

Par définition, le commerce électronique a une envergure mondiale. Que les mesures prises soient de nature nationale ou régionale, privée ou publique, toutes les politiques et les activités relatives au commerce électronique n'auront que des effets limités si elles ne vont pas dans le sens d'une approche mondiale. En convoquant la Conférence d'Ottawa, les gouvernements des pays de l'OCDE ont reconnu l'importance de la collaboration entre les gouvernements comme avec les entreprises, les travailleurs et les consommateurs pour le développement et l'utilisation du commerce électronique, ainsi que la nécessité pour son application d'une démarche de coopération dans tous les secteurs et au-delà des frontières nationales. A cette fin, les Ministres de l'OCDE, le Comité consultatif économique et industriel auprès de l'OCDE (BIAC), la Commission syndicale consultative auprès de l'OCDE (TUAC), et les autres participants du secteur privé ont conclu que :

- le commerce électronique offre un moyen fondamentalement nouveau d'effectuer des transactions commerciales, et peut constituer un moyen important de stimulation de la croissance économique, et du renforcement du développement dans le monde entier ;
- les politiques élaborées dans tous les pays et enceintes internationales pour faciliter le développement du commerce électronique mondial doivent encourager la coopération entre tous les acteurs concernés (gouvernements, consommateurs, entreprises, syndicats et institutions publiques) ainsi que le dialogue social, et leurs actions doivent être dans toute la mesure du possible compatibles à l'échelon international ;
- les gouvernements doivent promouvoir un environnement favorable à la concurrence pour permettre au commerce électronique de s'épanouir, s'efforcer de réduire et d'éliminer les obstacles injustifiés aux échanges, et agir, lorsque cela est nécessaire, pour assurer dans l'espace numérique comme dans l'espace physique, une protection adéquate des objectifs d'intérêt public essentiels ;

- l'intervention gouvernementale, lorsqu'elle s'avère nécessaire, devrait être proportionnée, transparente, cohérente et prévisible, et neutre sur le plan technologique ;
- les gouvernements devraient reconnaître l'importance d'une coopération suivie entre les entreprises pour l'établissement des normes et le renforcement de l'interopérabilité dans un cadre international, volontaire et consensuel ;
- le secteur privé devrait continuer à jouer un rôle clé dans le développement et la mise en oeuvre de solutions à un certain nombre de questions essentielles pour le développement du commerce électronique, tout en reconnaissant et en prenant en compte les objectifs fondamentaux qui s'appliquent sur les plans économique, social et de l'intérêt public, et en travaillant en étroite liaison avec les gouvernements et tous les acteurs concernés.

A partir de leurs échanges de vues, les participants à la Conférence ont dégagé des éléments menant à une vision partagée du commerce électronique mondial. Dans ce contexte, les participants ont discuté des priorités relatives au secteur privé, au milieu syndical et à l'intérêt du public, des recommandations des Ministres à l'égard des priorités et futurs travaux de l'OCDE, ainsi que des travaux importants actuellement en cours au sein des organismes internationaux.

Une vision commune du commerce électronique mondial

La Conférence a réaffirmé que la rapidité du développement et de l'expansion du commerce électronique mondial nécessitera une approche vaste et concertée de la part des pouvoirs publics, du secteur privé et des organisations internationales, en vue de favoriser un environnement stable et prévisible qui facilitera sa croissance et en maximisera le potentiel socio-économique dans l'ensemble des sociétés et des économies. A cet égard, les participants ont convenu que pour faciliter le commerce électronique mondial, il importe de s'attaquer aux questions qui se posent en relation avec les quatre thèmes suivants.

1. Renforcer la confiance des utilisateurs et des consommateurs

Le marché numérique doit gagner la confiance des utilisateurs. Le cadre et les garanties réglementaires qui assurent cette confiance sur le marché traditionnel doivent être, le cas échéant, adaptés afin de susciter une confiance durable sur le marché numérique. Les gouvernements ont dans ce contexte une responsabilité fondamentale. En même temps, on attend beaucoup du rôle moteur du secteur privé et beaucoup de choses en dépendent. Les participants ont souligné les domaines essentiels où il importe d'agir pour stimuler la croissance et l'utilisation du commerce électronique : la création et mise en oeuvre de technologies et de politiques dignes de confiance ; le cas échéant, le développement de réglementations de base ; et le développement de codes de conduite, de normes, de schémas d'organisation industrielle et institutionnelle, et d'outils technologiques nécessaires à l'autorégulation ainsi qu'à la protection effective des consommateurs et à l'habilitation des utilisateurs dans différents environnements.

2. Etablir les règles fondamentales régissant le marché numérique

Au moment où les gouvernements, l'industrie et les consommateurs s'aventurent dans ce nouveau domaine, ils cherchent à s'assurer qu'une protection effective est offerte sur le marché numérique, et que l'on s'attaque aux obstacles injustifiés au commerce électronique. Des cadres juridiques ne devraient être mis en place que là où ils sont nécessaires, ils devraient favoriser un environnement concurrentiel, et ils devraient être clairs, cohérents et prévisibles.

3. *Améliorer l'infrastructure de l'information pour le commerce électronique*

L'expansion du commerce électronique repose sur l'accès universel et abordable à l'infrastructure de l'information. La concurrence effective sur les marchés des télécommunications peut assurer une évolution durable à long terme vers l'abaissement des coûts, l'accroissement de la qualité, et par là l'élargissement de l'accès aux infrastructures et services d'information. Les participants à la Conférence ont reconnu qu'il importe de s'attaquer adéquatement au Problème de l'an 2000.

4. *Optimiser les avantages*

Le passage à une économie numérique est un élément important de l'évolution plus générale vers une société mondiale de l'information. Le potentiel économique et social du commerce électronique ne se concrétisera pleinement que par son utilisation généralisée par les entreprises, les consommateurs et les institutions publiques. L'Etat, en tant qu'utilisateur modèle des technologies existant sur le marché, peut constituer un moteur essentiel dans la création d'un marché électronique. Une modernisation et une adaptation réussies des organisations, ainsi que les compétences et les connaissances des citoyens sont des éléments importants de stimulation de l'utilisation du commerce électronique. Sa croissance exige aussi une main d'oeuvre motivée et hautement qualifiée. Il est nécessaire d'avoir une compréhension claire des incidences sociales et économiques, y compris des répercussions sur la croissance, la productivité et l'emploi, ainsi que des besoins des entreprises et notamment des petites et moyennes entreprises, des organisations et des consommateurs dans les pays aussi bien en développement que développés.

Traduire la vision dans la réalité

Trois documents clés donnant les grandes lignes des activités actuelles et futures relatives au commerce électronique ont été soumis à la Conférence :

- le *Plan d'action de l'OCDE pour le commerce électronique* qui présente ses activités et des recommandations pour ses futurs travaux ;
- le *Rapport sur les organismes internationaux et régionaux : activités et initiatives relatives au commerce électronique* qui présente les travaux actuels et potentiels de ces organismes ;
- *Un plan d'action global préparé par l'industrie du commerce électronique avec des recommandations pour les gouvernements* qui présente les initiatives actuelles du secteur privé et ses vues sur les questions clés.

Les participants se sont félicités de ces efforts significatifs vers une collaboration mondiale et une compatibilité accrue des approches à l'égard du commerce électronique dans le secteur privé, les organisations internationales et régionales, ainsi qu'à l'OCDE.

Les participants à la Conférence ont réaffirmé le rôle que jouent les gouvernements dans la création pour le commerce électronique mondial, d'un environnement où les règles fondamentales sont appropriées, claires et prévisibles, et où la collaboration entre tous les acteurs est facilitée au niveau mondial. Ils ont également noté que les gouvernements ont pour responsabilité de préserver l'intérêt public. Les participants à la Conférence ont pris note de l'accord auquel sont parvenus les Ministres, qui figure ci-dessous.

Les travaux de l'OCDE – Accord des Ministres de l'OCDE

“Les Ministres de l'OCDE ont réaffirmé l'importance de la contribution qu'apportent les travaux de l'OCDE au développement mondial du commerce électronique, ils ont recommandé que soient entrepris les travaux présentés dans le “Plan d'action de l'OCDE pour le commerce électronique” et ils ont demandé au Secrétaire général et au Conseil de l'OCDE que ce Plan d'action reçoive une priorité élevée dans le programme de travail de l'OCDE, en tenant compte des compétences de ses organes subsidiaires et du niveau des ressources disponibles. Les Ministres ont attaché une importance particulière aux travaux de l'OCDE portant sur la fiscalité, la protection de la vie privée, la protection des consommateurs, l'authentification, les infrastructures et les conséquences socio-économiques, et ont en même temps pris note des travaux menés dans les autres domaines du Plan d'action. Les Ministres ont pris note des rapports de référence “Le rôle des infrastructures de télécommunication et d'information dans l'avancement du commerce électronique”, “Les incidences économiques et sociales du commerce électronique : Résultats préliminaires et programme de recherche”, et “Le problème de l'an 2000 : Incidences et actions”. Les Ministres ont aussi demandé à l'OCDE de faire en sorte que ses travaux soient dans toute la mesure du possible menés de façon coordonnée avec les autres organisations internationales, l'industrie, les ONG, et soient diffusés aussi largement que possible à la communauté mondiale.

“Les Ministres de l'OCDE ont affirmé qu'ils ont l'intention de travailler ensemble, et en partenariat avec le secteur privé et les organisations sociales pour créer la confiance dans le marché numérique, clarifier les règles, renforcer l'accès aux infrastructures en mettant en place un marché des télécommunications libéralisé et concurrentiel, et maximiser les bénéfices pour tous les citoyens. A cette fin ils ont :

- adopté une Déclaration relative à la protection de la vie privée sur les réseaux mondiaux (ci-jointe) qui réaffirme leur engagement à l'égard d'une protection effective de la vie privée sur les réseaux mondiaux, affirme leur détermination à prendre les mesures nécessaires à cette fin, et reconnaît la nécessité de coopérer avec l'industrie et les entreprises ; conformément aux termes de la Déclaration, ils ont également convenu que l'OCDE devrait fournir des orientations pratiques pour la mise en oeuvre des lignes directrices de l'OCDE sur la protection de la vie privée en s'inspirant de l'expérience et des exemples nationaux.*
- adopté une Déclaration sur la protection des consommateurs dans le contexte du commerce électronique (ci-jointe) qui reconnaît que les gouvernements, l'industrie et les représentants doivent continuer à travailler ensemble pour faire en sorte que les consommateurs bénéficient d'un niveau de protection transparent et efficace, et qui invite instamment l'OCDE à achever ses travaux en cours pour rédiger en 1999 de véritables “Lignes directrices sur la protection des consommateurs dans le contexte du commerce électronique”.*
- adopté une Déclaration sur l'authentification pour le commerce électronique (ci-jointe) qui reconnaît l'importance de l'authentification pour le commerce électronique et indique un certain nombre d'actions propres à promouvoir le développement des technologies et mécanismes d'authentification, notamment la poursuite des travaux menés au niveau international avec le secteur privé, l'industrie, et les représentants des utilisateurs.*
- se sont félicités du rapport “Conditions cadres pour l'imposition du commerce électronique” qui énonce les principes qui devraient s'appliquer à l'imposition du commerce électronique et présente les conditions cadres d'imposition sur lesquelles existe un accord, et ils ont approuvé les propositions que contient ce rapport pour poursuivre les travaux.*

“Les Ministres ont aussi reconnu l’importance de la confiance des consommateurs et des investisseurs dans le commerce électronique pour assurer sa croissance future. Ils ont noté que les dirigeants des entreprises et les différents groupes industriels ont l’intention d’élaborer des cadres d’autorégulation pour le commerce électronique. Les Ministres ont souligné que lorsqu’on utilise des mécanismes d’autorégulation, ils devraient être transparents, non discriminatoires et ouverts à tous les acteurs du marché, et ils ont encouragé le secteur privé à agir rapidement pour répondre aux attentes du public dans ces domaines.”

Activités et initiatives des organisations internationales

Bon nombre d’organismes régionaux et d’organisations internationales ont entrepris des travaux qui affectent directement ou indirectement la croissance du commerce électronique. Ces travaux couvrent notamment les normes techniques volontaires et élaborées par consensus, la libéralisation des échanges, l’assistance technique, la mise en œuvre et le suivi des politiques, ainsi que des examens et des analyses.

Le Rapport sur les organismes internationaux et régionaux : activités et initiatives relatives au commerce électronique, qui est fondé sur les contributions d’un grand nombre d’organisations internationales et régionales sous leur propre responsabilité, représente la première compilation des réalisations, ainsi que des travaux en cours ou en projet de ces organismes internationaux. La Conférence s’est félicitée de cette initiative de collaboration entre organisations, et a grandement apprécié les efforts faits pour créer cet aperçu complet des activités relatives au commerce électronique.

Les participants à la Conférence ont reconnu le rôle primordial du secteur privé pour stimuler la croissance du commerce électronique mondial grâce à l’investissement et au dynamisme de l’innovation de produits et de services, ainsi que la nécessité du partenariat entre les gouvernements et le secteur privé pour obtenir la confiance et l’acceptation des consommateurs. Dans ce contexte, les participants à la Conférence ont pris note des priorités du secteur privé qui figurent ci-dessous.

Priorités du secteur privé

“Un groupement d’organisations industrielles internationales a été coordonné par le Comité consultatif économique et social (BIAC) ; il comprend La Commission de l’infrastructure globale de l’information (GIIC), la Chambre de commerce internationale (CCI), le groupe international des usagers des télécommunications (CCI), l’Organisation mondiale pour les technologies et services informatiques (WITSA), en coopération avec le Forum sur les règles et les droits relatifs à Internet (ILPF). Ce groupement, avec le soutien d’un ensemble d’autres organisations internationales, régionales ou spécialisées, a soumis à la Conférence “Un plan d’action global préparé par l’industrie du commerce électronique avec des recommandations pour les gouvernements”. Ce plan d’action expose entre autres que :

- *le développement du commerce électronique devrait être laissé principalement à l’initiative du secteur privé en réponse aux forces du marché, et les gouvernements devraient reconnaître et renforcer ce rôle.*
- *le secteur privé continuera à développer l’autorégulation et l’innovation technologique pour stimuler l’habilitation des utilisateurs, conformément à la loi dans la mesure de son applicabilité.*
- *le gouvernement et l’industrie ont l’un et l’autre un rôle approprié à jouer.*

- *les politiques de soutien au commerce électronique et à la convergence des télécommunications, des technologies de l'information et du secteur des multimédias, devraient être mises en oeuvre dans un environnement ouvert et concurrentiel.*

“Le secteur privé accroît la protection de la vie privée par l'autorégulation, par des codes volontaires, par des dispositions contractuelles types, et en offrant des technologies disponibles sur le marché qui permettent un niveau élevé de protection de la vie privée ajusté aux besoins et aux préférences des utilisateurs. A partir de son expérience du marché mondial, il continue à développer en matière d'information des pratiques équitables qui sont en cohérence avec les Lignes directrices de l'OCDE sur la vie privée de 1980, et il aide les utilisateurs à développer les qualifications dont ils ont besoin pour se protéger et faire des choix dans un environnement en ligne.

“Le secteur privé améliore des outils sophistiqués conçus pour protéger et habiliter les consommateurs sans réglementation gouvernementale excessive, et il participe, avec les gouvernements et les autres parties intéressées, aux discussions internationales visant à développer des approches pour la protection des consommateurs.

“En ce qui concerne l'authentification pour le commerce électronique, le secteur privé s'efforce d'assurer l'interopérabilité technique, de promouvoir l'acceptabilité juridique des certificats et signatures électroniques aux niveaux national et international, et de contribuer à développer, avec les gouvernements dans le cadre de la CNUDCI, les cadres juridiques appropriés pour assurer prédictibilité et certitude.

“Pour la fiscalité, le secteur privé continue à travailler avec l'OCDE pour assurer que la neutralité constitue le principe directeur, et que les taxes ne sont pas imposées de façon discriminatoire.

“Pour appuyer ces initiatives, le secteur privé :

- *développe des procédures transparentes pour la protection des informations de caractère personnel.*
- *développe, à partir de l'expérience du marché mondial, des lignes directrices et des normes commerciales pour les fournisseurs d'accès à Internet et les opérateurs de site sur la Toile ; met en place des mécanismes internationaux appropriés d'application par autorégulation pour les cas de violation des règles exemplaires relatives à la publicité et la recherche de marchés interactives.*
- *continue de développer des normes et codes de conduite acceptés au niveau international, ainsi que des répertoires centraux d'informations pertinentes pour les entreprises (par exemple, au sujet des pratiques de certification).*
- *travaille par l'intermédiaire de leurs gouvernements avec l'OMC pour promouvoir un calendrier d'engagements significatifs de libéralisation des télécommunications de la part de tous ses états membres.”*

Les participants à la Conférence ont reconnu que tout un ensemble d'intérêts sociaux doivent être inclus et impliqués dans les efforts visant à faciliter la croissance du commerce électronique mondial. La participation à la Conférence de représentants des syndicats, des consommateurs et d'autres groupes non gouvernementaux témoigne de l'importance du commerce électronique dans l'évolution de la vie sociale, civique et communautaire. Dans ce contexte, les participants à la Conférence ont pris note des vues sur les perspectives sociales présentées par les organisations syndicales, les organisations de consommateurs et les organisations non gouvernementales ci-dessous.

Perspectives sociales

“La Commission syndicale consultative (TUAC) et les représentants des groupes d'intérêt public se sont réunis lors d'une séance parallèle de la Conférence afin d'étudier les perspectives sociales. La Conférence a permis de reconnaître et de confirmer le rôle, la place et la participation des groupes d'intérêt public à l'égard des discussions et négociations internationales actuelles sur le commerce électronique. Le document d'étude « Electronic Commerce Developments and Challenges » de la Commission et la lettre des représentants des groupes d'intérêt public aux ministres de l'OCDE et des autres pays présents à la Conférence ministérielle d'Ottawa (qui est considérée comme un document de la Conférence, disponible en s'adressant à l'OCDE) décrivent leurs vues sur cette question.

“Les représentants des organisations syndicales, des organisations de consommateurs et des autres organisations non gouvernementales participant à la Conférence, coordonnées par la Commission syndicale consultative auprès de l'OCDE (TUAC), ont reconnu l'importance du commerce électronique dans l'évolution de la vie sociale, civique et communautaire, ainsi que sa contribution essentielle au changement économique et social. Ils ont donc appelé les gouvernements et le secteur privé à inclure tout l'éventail des intérêts de la société dans leurs efforts pour promouvoir la diffusion du commerce électronique.

“Au cours de leur session, les représentants des organisations syndicales, des organisations de consommateurs et des autres organisations non gouvernementales ont identifié pour les travaux actuels et futurs plusieurs domaines qu'ils considèrent comme essentiels pour la pleine réalisation du potentiel économique et social du commerce électronique.

“Améliorer l'accès, les qualifications et la “culture numérique” - L'ampleur et l'intensité de l'utilisation des réseaux de télécommunications est un des premiers facteurs déterminants de l'application à grande échelle du commerce électronique et de la construction en cours d'une société de l'information. Les représentants des organisations syndicales et des organisations de consommateurs ont donc souligné la nécessité d'efforts des gouvernements et de l'industrie pour accroître la “culture numérique”, l'éducation et la formation. En outre ils ont signalé qu'un accès abordable aux réseaux numériques est essentiel si l'on veut diffuser largement les bénéfices du commerce électronique dans l'économie et la société, et ainsi éviter une séparation entre “riches” et “pauvres” en information.

“Vie privée, confiance et contenu - Afin de garantir une large acceptation du marché numérique les représentants des organisations syndicales et des autres groupes d'intérêts sociaux ont considéré qu'il est extrêmement important de résoudre de façon suffisante les questions qui se posent actuellement dans les domaines de la vie privée des consommateurs et des employés, de la protection des consommateurs (sécurité des paiements, fiabilité des entreprises, réparation, etc.) et de la diffusion de contenu offensif et préjudiciable. Ils ont exprimé leur soutien aux efforts visant à minimiser la collecte de données de caractère personnel et à maximiser la protection de la vie privée des individus. Ils ont en outre appelé les gouvernements, le secteur privé et les ONG à travailler ensemble pour renforcer le cadre nécessaire à une protection effective des consommateurs et de la vie privée, fondée sur un cadre de réglementation légale, de codes de conduite et d'applications technologiques appropriées.

“Conséquences sociales, coûts et bénéfices - Le commerce électronique va entraîner une extension géographique des marchés et la création de nouvelles entreprises. Ce processus comportera la création d'un certain nombre d'emplois nouveaux et qualifiés. Mais en même temps le changement sera aussi marqué par l'élimination d'emplois. Le commerce électronique aura donc des effets sur l'ensemble du secteur privé, de l'économie et de la société. Pour faire face aux conséquences sociales, pour éviter ou réduire les risques et pour garantir une large distribution des bénéfices favorable à la justice sociale et à la qualité de la vie, les représentants des organisations syndicales et des organisations de consommateurs ont

souligné la nécessité de prendre en considération dans son ensemble la relation mutuelle entre société et technologie.

“Greffer le commerce électronique dans les structures organisationnelles - L’application des réseaux de télécommunication et des technologies de l’information au niveau de la firme est un instrument puissant d’accroissement de la productivité et de la compétitivité. Toutefois, pour l’appropriation de ces bénéfices, les représentants des organisations syndicales ont appelé de leurs vœux une approche intégrée combinant l’introduction des technologies et une réorganisation du travail, telle que la décrivent les rapports de l’OCDE sur *Technologie, productivité et création d’emplois*. Ils ont en outre considéré que la participation des employés au processus d’extension du travail d’équipe, de simplification des hiérarchies et de développement des compétences est une précondition essentielle de la maximisation du potentiel du commerce électronique.

“Combiner flexibilité et sécurité - Les technologies de l’information et les réseaux de télécommunications offrent une flexibilité de la gestion du temps et de la localisation du travail qui ouvre de nouvelles possibilités pour les entreprises et les employés. En même temps, ces nouvelles options adressent des défis aux systèmes de sécurité sociale et de relations industrielles, aux acteurs de ces systèmes, et au cadre politique au sein duquel ils agissent. Pour assurer que les coûts et les bénéfices de la flexibilité seront distribués équitablement, les participants de la Session des organisations syndicales et des ONG ont reconnu le besoin d’une mise à jour des systèmes réglementaires de façon à ce qu’ils intègrent les nouvelles formes de travail et contribuent à la cohésion sociale.

“Pour les représentants des organisations syndicales et des organisations de consommateurs, un commerce électronique véritablement “mondial” exige un cadre international de coopération qui maximise la possibilité de bénéfices pour toutes les composantes de la société et évite le risque d’un ajustement à la baisse du bien-être social, des conditions de travail et des niveaux de vie. A cet égard, les participants à la conférence représentant les organisations syndicales, les organisations de consommateurs et les ONG se sont félicités des travaux entrepris pour examiner les effets économiques et sociaux du commerce électronique et plus généralement des technologies de l’information. Ils ont examiné la nécessité d’une poursuite de ces travaux pour élargir et intensifier les incitations aux recherches concernant en priorité les incidences sur l’emploi, le cadre de travail et la qualité de la vie.

“Les participants à la conférence représentant les organisations syndicales, les organisations de consommateurs et les ONG estiment qu’il y a un besoin durable de participation des groupes d’intérêts sociaux à l’évolution future du commerce électronique. Ils considèrent que cette participation est un complément nécessaire des responsabilités législatives et politiques des gouvernements et du rôle du secteur privé dans la création d’innovation, d’investissement et d’emploi. Ils sont prêts à être les partenaires des gouvernements et du secteur privé dans les efforts visant à assurer une évolution socialement acceptable vers une économie numérique. A leur avis, la Conférence d’Ottawa représente une étape importante vers l’instauration d’un dialogue continu entre les organisations non gouvernementales et les intérêts sociaux, le secteur privé et les gouvernements, et ils chercheront à recommencer ce dialogue et à s’appuyer sur ces fondations pour édifier la future société de l’information.”

Prochaines étapes – Concrétiser le potentiel

Cette Conférence, qui fait suite à la Conférence de Turku de l’OCDE et à d’autres conférences régionales et internationales, constitue une étape importante de la concrétisation du potentiel du commerce électronique mondial, de la promotion de la coopération mondiale, et de la mise en place des éléments du développement futur de la société mondiale de l’information. Les participants ont reconnu que dans un environnement mondial en évolution rapide, il est nécessaire que tous collaborent dans le sens des objectifs de la Conférence : renforcer la confiance des utilisateurs et des consommateurs ; établir les règles

fondamentales du marché numérique ; améliorer l'infrastructure de l'information sur laquelle reposera le commerce électronique ; optimiser les avantages que procurera à tous le commerce électronique mondial.

La Conférence d'Ottawa est une étape marquante de l'évolution vers un commerce électronique mondial, et a dégagé des opportunités de travaux futurs. La Conférence a fait avancer le processus en créant au niveau mondial une meilleure compréhension du commerce électronique, qui contribuera à une plus grande compatibilité internationale des politiques afin de permettre à toutes les économies de maximiser les possibilités qu'offre cette nouvelle plate-forme numérique. Les plans d'action de l'OCDE et du secteur privé, de même que le rapport sur les activités et initiatives des organisations internationales, indiquent comment les différents acteurs concernés ont l'intention de contribuer à la future coopération mondiale en matière de commerce électronique.

Les participants à la Conférence ont fait ressortir la nécessité d'une coopération durable et efficace, et d'échanges réguliers d'information au sein des pouvoirs publics et entre ces derniers, les différentes industries, le secteur privé, les consommateurs, les groupes de défense de l'intérêt public, les pouvoirs publics et les organes internationaux.

À cette fin, en plus des travaux en cours de l'OCDE et de son Plan, les délégués à la Conférence ont exhorté l'OCDE à :

- Utiliser ses compétences en matière de recherche et de statistiques pour analyser et mesurer les incidences économiques et sociales du commerce électronique mondial.
- Rendre compte régulièrement à la collectivité mondiale des progrès réalisés à l'échelon national et international pour faire du commerce électronique mondial une réalité, et ce, en apportant des solutions aux quatre grandes questions de politique que comportent les thèmes de la conférence : "Renforcer la confiance des utilisateurs et des consommateurs", "Établir les règles fondamentales régissant le marché numérique", "Améliorer l'infrastructure de l'information", et "Optimiser les avantages".
- Travailler de concert avec d'autres organisations internationales et organismes régionaux, avec le secteur privé, et avec les pays non-membres de l'OCDE en vue de favoriser la collaboration et la coordination au sein du plus grand nombre d'enceintes possibles comme entre ces différentes enceintes, et faire ainsi progresser le commerce électronique mondial.

ANNEXE 1

DÉCLARATION RELATIVE À LA PROTECTION DE LA VIE PRIVÉE SUR LES RÉSEAUX

**qui a été formulée par les Ministres de l'OCDE
à la Conférence "Un monde sans frontières :
concrétiser le potentiel du commerce électronique mondial"
7-9 octobre 1998, Ottawa, Canada**

Les Gouvernements des pays Membres de l'OCDE :

Considérant que le développement et la diffusion à l'échelle mondiale des technologies numériques de l'informatique et des réseaux présentent des avantages sociaux et économiques en encourageant les échanges d'informations, en élargissant le choix offert aux consommateurs, et en favorisant l'expansion des marchés et l'innovation de produits.

Considérant que les technologies des réseaux mondiaux facilitent l'expansion du commerce électronique et accélèrent le développement des communications et des transactions électroniques transfrontières entre gouvernements, entreprises, utilisateurs et consommateurs ;

Considérant que le recueil et la manipulation de données de caractère personnel devraient s'effectuer dans le dû respect de la vie privée ;

Considérant que les technologies numériques de l'informatique et des réseaux améliorent les méthodes traditionnelles de traitement des données de caractère personnel, augmentent l'aptitude à collecter, rassembler et rapprocher d'importantes quantités de données et à produire des informations enrichies et des profils de consommateurs ;

Considérant que les technologies numériques de l'informatique et des réseaux peuvent aussi être utilisées pour instruire les utilisateurs et les consommateurs des problèmes de protection de la vie privée en ligne, et pour les aider à préserver leur anonymat dans des circonstances appropriées ou à exercer leur liberté de choix eu égard aux utilisations qui sont faites de leurs données personnelles ;

Considérant que pour accroître la confiance dans les réseaux mondiaux, les utilisateurs et consommateurs ont besoin d'avoir des assurances quant au caractère loyal de la collecte et du traitement des données personnelles les concernant, notamment des données relatives à leurs activités et transactions en ligne ;

Considérant que des mesures sont nécessaires pour assurer la protection efficace et généralisée de la vie privée par les entreprises qui collectent ou traitent des données de caractère personnel, de manière à accroître la confiance des utilisateurs et consommateurs dans les réseaux mondiaux ;

Considérant que des règles et règlements transparents régissant la protection de la vie privée et des données de caractère personnel et leur mise en oeuvre efficace sur les réseaux d'information sont un élément clé pour accroître la confiance dans les réseaux mondiaux ;

Considérant que des approches différentes et efficaces élaborées, en matière de protection de la vie privée, par les pays Membres, notamment l'adoption et la mise en oeuvre de lois ou de dispositifs d'autorégulation par l'industrie, peuvent se combiner pour parvenir à un niveau efficace de protection de la vie privée sur les réseaux mondiaux ;

Considérant le besoin de coopération mondiale, et la nécessité que le secteur industriel et commercial joue un rôle majeur, en concertation avec les consommateurs et les pouvoirs publics, pour assurer la mise en oeuvre efficace des principes de protection de la vie privée sur les réseaux mondiaux ;

Considérant que les principes technologiquement neutres énoncés dans les Lignes directrices de l'OCDE sur la protection de la vie privée de 1980 continuent de refléter un consensus international sur les orientations qui doivent guider la collecte et la manipulation des données de caractère personnel sur quelque support que ce soit, et fournissent une base sur laquelle fonder la protection de la vie privée sur les réseaux mondiaux ;

RÉAFFIRMEMENT les objectifs énoncés dans :

La Recommandation concernant les Lignes directrices régissant la protection de la vie privée et les flux transfrontières de données de caractère personnel, adoptée par le Conseil de l'OCDE le 23 septembre 1980 (Lignes directrices de l'OCDE sur la protection de la vie privée) ;

La Déclaration sur les flux transfrontières de données, adoptée par les Gouvernements des pays Membres de l'OCDE le 11 avril 1985 ; et

La Recommandation relative aux Lignes directrices régissant la politique de cryptographie, adoptée par le Conseil de l'OCDE le 27 mars 1997.

DÉCLARENT :

Qu'ils vont réaffirmer leur engagement à l'égard de la protection de la vie privée sur les réseaux mondiaux, afin d'assurer le respect de droits importants, de construire la confiance dans les réseaux mondiaux et d'empêcher des restrictions inutiles aux flux transfrontières de données de caractère personnel ;

Qu'ils s'attacheront à établir des passerelles entre les différentes approches adoptées par les pays Membres en vue de garantir la protection de la vie privée sur les réseaux mondiaux sur la base des Lignes directrices de l'OCDE ;

Qu'ils prendront, dans le cadre de leurs lois et pratiques respectives, les mesures nécessaires pour garantir la mise en oeuvre efficace des Lignes directrices de l'OCDE sur la protection de la vie privée en ce qui concerne les réseaux mondiaux, en veillant notamment :

à encourager l'adoption de politiques en matière de vie privée, qu'elles soient mises en oeuvre par le recours à des mécanismes juridiques, administratifs, technologiques ou d'autorégulation ;

à encourager la notification en ligne aux utilisateurs des politiques en matière de vie privée ;

à garantir l'existence de mécanismes efficaces de mise en oeuvre permettant à la fois de régler les problèmes de non-respect des principes et des politiques de vie privée et de garantir l'accès à des moyens de réparation ;

à promouvoir l'éducation et la sensibilisation des utilisateurs aux problèmes de respect de la vie privée en ligne et aux moyens dont ils disposent pour protéger leur vie privée sur les réseaux mondiaux ;

à encourager l'utilisation de technologies permettant d'améliorer la protection de la vie privée ; et

à encourager l'utilisation de solutions contractuelles et le développement de solutions contractuelles types pour les flux transfrontières de données en ligne ;

Qu'ils conviennent de faire le point des progrès accomplis pour se rapprocher des objectifs de la présente Déclaration, dans un délai de deux ans, et d'évaluer la nécessité d'actions supplémentaires pour assurer la protection des données de caractère personnel sur les réseaux mondiaux afin d'atteindre ces objectifs.

DÉCLARENT EN OUTRE QUE L'OCDE DEVRAIT :

Aider les pays Membres à échanger des informations sur les méthodes efficaces pour protéger la vie privée sur les réseaux mondiaux et à faire part de leurs efforts et de leur expérience dans la réalisation des objectifs de la présente Déclaration ;

Examiner les problèmes spécifiques soulevés par la mise en oeuvre des Lignes directrices de l'OCDE sur la protection de la vie privée en relation avec les réseaux mondiaux, et, après avoir collecté et diffusé des exemples d'expériences de mise en oeuvre des Lignes directrices, fournir aux pays Membres des orientations pratiques pour la mise en oeuvre des Lignes directrices dans l'environnement en ligne, en tenant compte des différentes approches à l'égard de la protection de la vie privée adoptées par les pays Membres et en s'inspirant de l'expérience des pays Membres et du secteur privé ;

Coopérer avec l'industrie et les entreprises dans le cadre de leurs travaux en vue d'assurer la protection de la vie privée sur les réseaux mondiaux, ainsi qu'avec les organisations régionales et internationales compétentes ;

Faire périodiquement le point des principales évolutions et questions dans le domaine de la protection de la vie privée eu égard aux objectifs de la présente Déclaration ;

Prendre notamment en considération, dans le cadre de ses travaux futurs, les questions et les suggestions d'activités présentées dans le rapport qui accompagne cette Déclaration.

INVITENT :

Les pays non-membres à tenir compte de la présente Déclaration ;

Les organisations internationales compétentes à prendre en considération la présente Déclaration lorsqu'elles élaborent ou modifient des conventions internationales, des Lignes directrices, des codes de conduite, des clauses contractuelles types, des technologies et des plates-formes interopérables pour la protection de la vie privée sur les réseaux mondiaux ;

L'industrie et les entreprises à prendre en compte les objectifs de la présente Déclaration et à collaborer avec les gouvernements pour promouvoir ces objectifs en mettant en oeuvre des programmes visant la protection de la vie privée sur les réseaux mondiaux.

ANNEXE 2

**DÉCLARATION SUR LA PROTECTION DES CONSOMMATEURS
DANS LE CONTEXTE DU COMMERCE ÉLECTRONIQUE**

**qui a été formulée par les Ministres de l'OCDE
à la Conférence "Un monde sans frontières :
concrétiser le potentiel du commerce électronique mondial"
7-9 octobre 1998, Ottawa, Canada**

Les Gouvernements des pays Membres de l'OCDE* :

CONSIDÉRANT :

que le volume comme la valeur des transactions des consommateurs sur les réseaux mondiaux augmentent de façon exponentielle ;

que les réseaux mondiaux offrent aux consommateurs d'importants avantages, notamment une commodité et un accès à un large éventail de biens, de services et d'informations ;

que ces avantages potentiels ne pourront se concrétiser si la confiance des consommateurs dans les activités commerciales menées sur les réseaux mondiaux est sapée par l'existence de comportements commerciaux frauduleux, fallacieux et déloyaux ;

que la confiance dans les activités commerciales menées sur les réseaux mondiaux sera favorisée par des mécanismes transparents et efficaces de protection des consommateurs et que celle-ci est essentielle pour encourager la participation des consommateurs au marché électronique ; et

qu'une coopération mondiale entre les gouvernements, les entreprises, les consommateurs et leurs représentants est une condition préalable indispensable pour parvenir à une protection des consommateurs efficace et prévisible dans le contexte du commerce électronique.

RECONNAISSANT :

la nécessité pour les gouvernements, les entreprises, les consommateurs et leurs représentants de continuer d'oeuvrer ensemble à l'élaboration d'un cadre pour le commerce électronique mondial qui comporte une protection efficace pour les consommateurs et ;

le dialogue permanent au sein de l'OCDE entre les gouvernements, les entreprises, les consommateurs et leurs représentants pour examiner les questions liées aux consommateurs et notamment les travaux en cours dans l'Organisation, par le biais de son Comité de la politique à l'égard des consommateurs, pour

* incluant les Communautés européennes.

élaborer des Lignes directrices régissant la protection des consommateurs dans le contexte du commerce électronique.

SE DÉCLARENT DÉTERMINÉS A :

faire en sorte que les consommateurs qui prennent part au commerce électronique bénéficient d'un niveau transparent et efficace de protection pour les transactions électroniques, en s'attachant à :

passer en revue et adapter les lois et pratiques, le cas échéant, en vue de prendre en compte les circonstances particulières du commerce électronique ;

soutenir et encourager la mise en place de mécanismes efficaces d'autorégulation sous l'égide du secteur privé, qui prennent en compte les contributions des représentants des consommateurs et comportent des règles de fond spécifiques relatives aux mécanismes de règlement des litiges et de mise en application ;

encourager le développement technologique également en tant qu'instrument permettant de protéger les consommateurs ;

adopter des mesures en vue d'éduquer les utilisateurs, favoriser une prise de décision éclairée des consommateurs qui prennent part au commerce électronique, et sensibiliser davantage les entreprises au cadre général de protection des consommateurs qui s'applique à leurs activités en ligne ; et

sensibiliser davantage les autorités de justice et de police à la nécessité d'une coopération internationale efficace pour protéger les consommateurs et lutter contre les comportements commerciaux transfrontières frauduleux, fallacieux et déloyaux.

AFFIRMENT EN OUTRE QU'ILS SONT RESOLUS A :

élaborer des lignes directrices efficaces ayant pour objet de renforcer la confiance des consommateurs dans les transactions de commerce électronique tout en encourageant le développement du marché mondial ; et

inviter instamment l'OCDE à achever ses travaux de rédaction de lignes directrices avant la fin de 1999, notamment en ce qui concerne les questions de protection des consommateurs telles que la divulgation intégrale et loyale des informations essentielles, la publicité, le traitement des plaintes, les voies de recours, la réparation ou autres questions pertinentes intéressant la protection des consommateurs.

ANNEXE 3

DÉCLARATION SUR L'AUTHENTIFICATION POUR LE COMMERCE ÉLECTRONIQUE

**qui a été formulée par les Ministres de l'OCDE
à la Conférence "Un monde sans frontières :
concrétiser le potentiel du commerce électronique mondial"
7-9 octobre 1998, Ottawa, Canada**

Les Gouvernements des pays Membres de l'OCDE* :

CONSIDÉRANT

les gains sociaux et économiques significatifs procurés par les technologies de l'information et des communications et par le commerce électronique ;

le rôle éminent de l'industrie dans le développement des technologies de l'information et des communications et du commerce électronique ;

le besoin du gouvernement et de l'industrie de stimuler la confiance des utilisateurs pour faciliter le développement du commerce électronique ;

le développement rapide de technologies et mécanismes d'authentification et leur importance dans le contexte des technologies de l'information et des communications et du commerce électronique à l'échelle mondiale ; et

l'impact potentiel que des solutions nationales diverses relatives à l'authentification électronique pourraient avoir sur le développement du commerce électronique mondial.

RECONNAISSANT

que des travaux sont en cours au niveau international pour faciliter les transactions électroniques transfrontières et l'utilisation des techniques et mécanismes d'authentification afin de stimuler le développement du commerce électronique à l'échelle mondiale ;

que les parties contractantes pourront choisir les mécanismes adaptés à leurs besoins d'authentification dans le cadre de leur pratique du commerce électronique, notamment des technologies spécifiques d'authentification électronique, des dispositifs contractuels ou d'autres moyens pour la validation des transactions électroniques, et qu'elles peuvent utiliser des moyens judiciaires ou autres de résolution de conflit pour prouver la validité de ces transactions ;

* incluant les Communautés européennes.

que les pouvoirs publics peuvent contribuer à promouvoir le commerce électronique dans leur rôle d'utilisateurs de technologies, produits et services d'information et de communications, notamment des mécanismes électroniques d'authentification ;

que les règles spécifiques de technologie ou de support pour l'enregistrement, le stockage ou la transmission de l'information (par exemple, certaines exigences fondées sur le papier) pourraient entraver le développement du commerce électronique et l'utilisation des mécanismes d'authentification électroniques ;

que, le cas échéant, des normes et des codes de conduite émanant du secteur privé, plutôt qu'imposées par les gouvernements, peuvent fournir un outil efficace pour développer la confiance de l'utilisateur dans le commerce électronique mondial ; et

qu'ils poursuivront le dialogue au sein de l'OCDE -- impliquant les gouvernements, les entreprises et l'industrie, et les représentants des utilisateurs -- pour discuter de manière plus approfondie les technologies et les divers modèles d'authentification destinés à faciliter le commerce électronique mondial qui sont actuellement utilisés ou en voie d'émergence dans les pays Membres et, en particulier les travaux en cours dans l'Organisation, dans le cadre du Comité de la politique de l'information, de l'informatique et des communications (PIIC), pour faciliter l'échange d'information par la compilation d'un inventaire des approches de l'authentification et l'organisation d'ateliers mixtes OCDE-secteur privé dans l'année à venir.

LES MINISTRES SE DÉCLARENT RÉSOLUS À :

adopter une approche non discriminatoire à l'égard des mécanismes d'authentification électroniques émanant d'autres pays ;

encourager les efforts pour développer des technologies et mécanismes d'authentification et faciliter l'utilisation de ces technologies et mécanismes pour le commerce électronique ;

amender, le cas échéant, les exigences spécifiques sur la technologie ou les supports dans les lois actuelles ou les politiques susceptibles d'entraver l'utilisation des technologies de l'information et des communications et des mécanismes d'authentification électroniques, en tenant compte des dispositions appropriées de la Loi type sur le commerce électronique adoptée par la Commission des Nations Unies pour le droit commercial international (UNCITRAL) en 1996 ;

procéder à la mise en œuvre des technologies d'authentification électronique pour améliorer la délivrance au public des services et programmes gouvernementaux ; et continuer d'œuvrer à l'échelon international, conjointement avec les entreprises, l'industrie, et les représentants des utilisateurs, pour que les technologies et mécanismes d'authentification facilitent le commerce électronique mondial.

ANNEXE 4

CONDITIONS CADRES POUR L'IMPOSITION DU COMMERCE ELECTRONIQUE

Rapport du Comité des affaires fiscales

RAPPORT MINISTERIEL

Préface

Ce rapport a été établi par le Comité des affaires fiscales de l'OCDE. Il a bénéficié du concours de la Commission européenne et de l'Organisation mondiale des douanes dans le domaine des impôts indirects ainsi que d'un échange de vues avec les représentants des milieux d'affaires.

I. Introduction

Le commerce électronique est susceptible de constituer l'un des faits économiques majeurs du 21ème siècle. Les technologies de l'information et de la communication sur lesquelles reposent ce nouveau moyen d'effectuer des opérations industrielles ou commerciales offrent des possibilités d'amélioration de la qualité de la vie et du bien-être économique à l'échelle mondiale. Le commerce électronique est à même de stimuler la croissance et l'emploi dans les pays industrialisés comme dans les pays émergents et les pays en développement.

Les autorités fiscales ont un rôle à jouer pour réaliser ce potentiel. Elles doivent instaurer un climat fiscal dans lequel le commerce électronique puisse être florissant, en tenant compte de l'obligation de disposer d'un système fiscal juste et prévisible qui fournisse les recettes requises pour combler les exigences légitimes des citoyens en matière de services fournis par l'Etat. Ce rapport s'efforcera de définir un juste équilibre entre ces objectifs.

II. Principales conclusions

Le Comité des affaires fiscales reconnaît que les technologies à l'origine du commerce électronique offrent aux autorités fiscales de nouvelles possibilités importantes d'améliorer le service au contribuable et les pays Membres sont déterminés à exploiter pleinement ces possibilités (voir section III).

Les principes fiscaux qui guident les gouvernements dans l'imposition du commerce conventionnel devraient aussi les guider dans celle du commerce électronique. Le Comité des affaires fiscales estime qu'au stade actuel d'évolution de l'environnement technologique et commercial, les règles fiscales existantes permettent de mettre en oeuvre ces principes.

Cette approche n'exclut pas de nouvelles mesures administratives ou législatives concernant le commerce électronique, ou des modifications des dispositions existantes, à condition que ces mesures soient destinées à faciliter l'application des principes fiscaux en vigueur et ne visent pas à imposer un traitement fiscal discriminatoire des transactions commerciales électroniques.

Toute disposition en vue de l'application de ces principes au commerce électronique adoptée dans le cadre national et toute adaptation des principes existants en matière de fiscalité internationale devraient être organisées de manière à préserver la souveraineté fiscale des pays, à assurer une répartition équitable de la base d'imposition du commerce électronique entre les différents pays et à éviter la double imposition et la non-imposition involontaire (voir section IV). Les autorités fiscales, agissant au sein de l'OCDE ou dans d'autres instances, doivent s'employer activement à favoriser des protocoles et des normes pour le commerce électronique qui soient compatibles avec ces principes.

Le Comité des affaires fiscales est parvenu à des conclusions sur les éléments d'un cadre d'imposition nécessaire pour mettre en oeuvre ces principes (voir section V). Une intensification de la coopération et des consultations avec les milieux d'affaires sera déterminante à cet effet (voir section VI).

III. Possibilités d'améliorer le service au contribuable

Les autorités fiscales reconnaissent que les technologies du commerce électronique leur offriront de nouveaux moyens pour appliquer la législation et recouvrer l'impôt, mais aussi pour dialoguer avec l'ensemble de la collectivité.

Encadré 1

Possibilités d'amélioration du service au contribuable offertes par les nouvelles technologies

Améliorer les normes de service

- (i) Les moyens de communication et l'accès aux informations peuvent être renforcés pour aider les contribuables et améliorer les délais de réponse.

Minimiser le coût du respect des obligations fiscales pour les entreprises

- (ii) Les obligations en matière d'enregistrement et de déclaration pourraient être simplifiées et l'on pourrait promouvoir des normes pour l'acceptation du matériel électronique.

Renforcer le respect volontaire des obligations fiscales

- (iii) L'évaluation et le recouvrement électroniques pourraient être encouragés. On pourrait promouvoir des moyens plus aisés, plus rapides et plus sûrs d'acquitter l'impôt et d'obtenir des remboursements d'impôt.

IV. Les principes généraux d'imposition à appliquer au commerce électronique

L'encadré 2 expose les principes fiscaux généraux largement admis qui devraient s'appliquer au commerce électronique.

Encadré 2
Principes fiscaux généraux à appliquer au commerce électronique

Neutralité

- (i) La fiscalité devrait viser à assurer la neutralité et l'équité entre les différentes formes de commerce électronique et entre les formes conventionnelles et les formes électroniques de commerce. Les décisions devraient être motivées par des considérations économiques et non fiscales. Les contribuables qui se trouvent dans des situations similaires et qui effectuent des transactions similaires devraient être soumis à des niveaux d'imposition similaires.

Efficienc

- (ii) Les coûts de la discipline fiscale pour les contribuables et l'administration devraient être réduits autant que possible.

Certitude et simplicité

- (iii) Les règles fiscales devraient être claires et simples à comprendre de façon que les contribuables puissent anticiper les conséquences fiscales d'une transaction, notamment sur le point de savoir ce qui doit être imposé ainsi que la date et le mode d'évaluation de l'impôt.

Efficacité et équité

- (iv) L'imposition devrait procurer le montant approprié d'impôt à la date voulue. Il faut réduire au maximum les possibilités de fraude et d'évasion fiscales, tout en veillant à ce que les contre-mesures soient proportionnées aux risques encourus.

Flexibilité

- (v) Les systèmes d'imposition devraient être flexibles et dynamiques de manière à suivre le rythme de l'évolution des techniques et des transactions commerciales.

L'application intégrale des principes énoncés à l'encadré 2 exigera d'autres travaux après la réunion ministérielle d'Ottawa.

V. Les problèmes posés par la mise en oeuvre de ces principes généraux

La tâche à accomplir par l'administration fiscale consiste à mettre en oeuvre les grands principes fiscaux définis à l'encadré 2 dans un environnement très évolutif. Dans un certain nombre de domaines, le Comité des affaires fiscales a pu aboutir à des conclusions sur les éléments d'un cadre pour l'imposition qui intégrera ces principes. Ces points sont résumés à l'encadré 3.

Encadré 3

Commerce électronique : Eléments d'un cadre pour l'imposition

Service au contribuable

- i) Les autorités fiscales devraient utiliser la technologie disponible et tirer parti des évolutions commerciales pour administrer leur système fiscal de façon à améliorer en permanence le service au contribuable.

Administration de l'impôt, identification et besoins d'information

- (ii) Les administrations fiscales devraient maintenir leur capacité d'accéder à des renseignements fiables et vérifiables afin d'identifier les contribuables et d'obtenir les informations nécessaires pour gérer leur système d'imposition.

Recouvrement et contrôle

- (iii) Les pays devraient veiller à ce que des systèmes appropriés soient en place pour assurer le contrôle et le recouvrement des impôts.
- (iv) Il faudrait élaborer des mécanismes internationaux d'assistance au recouvrement de l'impôt, notamment des propositions d'insertions dans le Modèle de convention fiscale de l'OCDE.

Impôts sur la consommation

- (v) Les règles d'imposition des échanges internationaux devraient aboutir à l'imposition dans le pays où la consommation a lieu et il faudrait parvenir à un consensus international sur les circonstances dans lesquelles les biens ou services sont considérés comme consommés dans un pays donné.
- (vi) Au regard de l'impôt sur la consommation, la livraison de produits numérisés ne devrait pas être traitée comme une livraison de biens.
- (vii) Lorsque les entreprises et autres organismes acquièrent dans un pays des services et des biens incorporels auprès de fournisseurs à l'étranger, les pays doivent envisager le recours à l'autoliquidation, à l'autoévaluation ou à d'autres mécanismes équivalents si cela permet de préserver immédiatement leur base d'imposition ainsi que la compétitivité des fournisseurs nationaux.
- (viii) Les pays devraient faire en sorte que des systèmes appropriés soient mis en place en collaboration avec l'OMD et en consultation avec les transporteurs et les autres parties intéressées en vue de recouvrer l'impôt sur l'importation de produits matériels, et veiller à ce que ces systèmes ne nuisent pas de manière indue au recouvrement de l'impôt et à la fourniture efficace des produits aux consommateurs.

Accords fiscaux et coopération fiscale à l'échelle internationale

- (ix) L'OCDE estime que les principes sur lesquels reposent les normes internationales qu'elle a élaborées dans le domaine des conventions fiscales et des prix de transfert (avec le Modèle de convention fiscale et les Principes en matière de prix de transfert) sont applicables au commerce électronique, mais il conviendrait de clarifier les modalités d'application du Modèle de convention fiscale à certains aspects du commerce électronique.

Le Comité des affaires fiscales reconnaît aussi que des changements sont en cours dans des domaines tels que l'établissement de normes et de protocoles sur les échanges électroniques, les paiements, l'homologation et les aspects techniques ainsi que la réforme du gouvernement de l'Internet, changements auxquels les administrations fiscales doivent sans doute participer, à la fois individuellement et au sein d'instances internationales comme l'OCDE, de façon à pouvoir mettre en oeuvre les principes fiscaux énoncés à l'encadré 2. Par ailleurs, les administrations fiscales, en collaboration avec d'autres autorités compétentes, suivront de près l'évolution des moyens de paiement électroniques, et en particulier des systèmes non recensés.

Reconnaissant le caractère mondial du commerce électronique, les administrations fiscales intensifieront leur recours aux accords de coopération existants, exploreront les possibilités d'assistance administrative multilatérale et examineront l'application au commerce électronique des recommandations concernant les activités mobiles sur le plan géographique contenues dans le rapport de l'OCDE sur la *Concurrence fiscale dommageable*.¹³

Le Comité des affaires fiscales estime que l'application des conditions cadres exposées à l'encadré 3 permettra aux gouvernements d'exploiter les possibilités et de répondre aux enjeux du commerce électronique, pour aboutir à une approche cohérente au niveau international de l'imposition du commerce électronique.

VI. Actions à entreprendre après la réunion d'Ottawa

La Conférence de Turku en novembre 1997 a lancé les travaux sur la mise en place de conditions cadres pour l'imposition du commerce électronique. La réunion ministérielle d'Ottawa en octobre 1998 poursuivra ce processus. Cependant, il reste beaucoup à faire. Ce rapport a mis en évidence les principes fiscaux généraux qui devraient s'appliquer au commerce électronique et recensé les questions qui se posent en matière d'application, notamment sur les possibilités offertes à l'administration fiscale d'améliorer le service au contribuable grâce à ces nouvelles technologies.

13. Le Luxembourg et la Suisse ne se sont pas associés à la recommandation du Conseil accompagnant ce rapport.

Encadré 4

Actions à entreprendre après la réunion d'Ottawa

Par l'intermédiaire de l'OCDE, et en consultation avec les entreprises, les administrations fiscales s'emploieront à définir les initiatives de fond concrètes qui peuvent permettre d'instaurer et d'étendre les conditions cadres d'imposition décrites à l'encadré 3 et à évaluer la faisabilité et la facilité de mise en oeuvre de ces initiatives, notamment en ce qui concerne les points suivants :

Service au contribuable

- (i) Elaborer un consensus international sur les moyens de simplifier les systèmes fiscaux afin de minimiser le coût de la discipline fiscale, en particulier pour les petites et moyennes entreprises.

Administration de l'impôt, identification et besoins d'information

- (ii) Adopter des pratiques d'identification conventionnelles pour les entreprises pratiquant le commerce électronique.
- (iii) Elaborer des lignes directrices acceptables au niveau international sur les niveaux d'identification suffisants pour permettre que des signatures numériques soient considérées comme des preuves acceptables de l'identité en matière fiscale.
- (iv) Elaborer des obligations d'information compatibles au plan international, notamment en ce qui concerne l'acceptation des déclarations électroniques, la présentation des déclarations, l'accès aux renseignements sur des tiers et d'autres accords d'accès ainsi que les dispositions relatives à la durée de rétention et au recouvrement de l'impôt.

Recouvrement et contrôle

- (v) Elaborer des stratégies et des mesures de discipline fiscale appropriées pour les opérations de commerce électronique, y compris des mesures destinées à améliorer le respect volontaire des obligations fiscales.

Impôts sur la consommation

- (vi) Parvenir à un accord en ce qui concerne notamment la définition du lieu de consommation, les règles relatives au lieu de l'imposition et des définitions des services et des biens incorporels qui soient compatibles sur le plan international.
- (vii) Elaborer des options pour maintenir l'efficacité de l'administration et du recouvrement des impôts sur la consommation au fur et à mesure du développement du commerce électronique.

Accords fiscaux et coopération fiscale à l'échelle internationale

- (viii) S'agissant du Modèle de convention fiscale de l'OCDE, clarifier la façon dont les concepts utilisés dans la Convention s'appliquent au commerce électronique, en particulier :
 - (a) Pour déterminer les compétences fiscales, notamment en ce qui concerne la notion d'"établissement stable" et l'attribution du revenu ;
 - (b) Pour classer les revenus à des fins d'imposition, notamment en ce qui concerne les notions de biens incorporels, de redevances et de services, plus particulièrement pour les données numérisées.
- (ix) Suivre les évolutions et les problèmes rencontrés par l'administration fiscale dans le domaine du commerce électronique, en ce qui concerne l'application des Principes de l'OCDE en matière de prix de transfert.
- (x) Améliorer l'utilisation des accords bilatéraux et multilatéraux existants en matière d'assistance administrative.
- (xi) Examiner les moyens d'éviter la concurrence fiscale dommageable pour le commerce électronique, dans le contexte des recommandations sur les activités mobiles sur le plan géographique accompagnant le rapport de l'OCDE intitulé *Concurrence fiscale dommageable*.

Le Comité des affaires fiscales reconnaît en outre que l'application intégrale des principes sur lesquels reposent ces accords exigera des travaux complémentaires après la réunion ministérielle d'Ottawa. Il admet également que toute disposition fiscale mise en place doit être à même d'évoluer au gré des changements de l'environnement technologique et commercial. Le Comité se félicite de ce que les représentants des entreprises soient disposés à coopérer avec ceux de l'administration pour élaborer de nouvelles approches en vue de la mise en oeuvre de ces principes, et il souhaite collaborer avec les entreprises au niveau technologique comme sur le plan de l'action. Cet approfondissement du dialogue implique la reconnaissance du rôle des administrations fiscales en tant que parties prenantes dans le secteur du commerce électronique et justifie leur participation à la mise au point des normes et protocoles qui sont en train d'apparaître.

Encadré 5
L'après-Ottawa

Pour mener à bien le programme prévu après la réunion d'Ottawa, les administrations fiscales continueront

- (i) De faire avancer le programme de travail du Comité des affaires fiscales, notamment en suivant les évolutions dans le domaine du commerce électronique et les défis qui en résultent pour l'administration de l'impôt, et en maintenant des relations étroites avec la CE et l'OMD.
- (ii) D'intensifier la coopération et les consultations régulières avec le monde des affaires.
- (iii) De développer les contacts avec les économies non-membres intéressées.
- (iv) De présenter des rapports périodiques au Conseil de l'OCDE et, s'il y a lieu, aux Ministres.

ANNEXE 5

**LETTRE DE TUAC AUX MINISTRES DES PAYS MEMBRES DE L'OCDE ET DES AUTRES
PAYS QUI ASSISTENT À LA CONFÉRENCE MINISTÉRIELLE D'OTTAWA**

Aux ministres des pays Membres de l'OCDE et des autres pays qui assistent à la Conférence ministérielle d'Ottawa :

Nous remercions l'Organisation de coopération et de développement économiques (OCDE) et le Gouvernement du Canada d'avoir invité des groupes d'intérêt public à participer à la Conférence ministérielle de l'OCDE "Un monde sans frontières : concrétiser le potentiel du commerce électronique mondial" qui se déroule à Ottawa, Canada, du 7 au 9 octobre 1998 ("Conférence ministérielle d'Ottawa").

Cette invitation reconnaît et confirme le rôle, l'intérêt et la participation des groupes d'intérêt public à l'égard des discussions et négociations internationales actuelles sur le commerce électronique.

En ce qui concerne l'OCDE, en particulier, il y aurait lieu d'établir une Commission consultative sur l'intérêt public, dont la nature et le rôle seraient comparables à ceux de l'industrie au sein du Comité consultatif économique et industriel (BIAC) et des syndicats au sein de la Commission syndicale consultative (TUAC). Ce comité devrait comprendre des représentants de groupes d'intérêt public oeuvrant dans les domaines suivants : droits de la personne et démocratie, protection de la vie privée et des données, protection des consommateurs et accès aux services.

Nous regrettons que l'OCDE n'ait pas donné l'occasion aux groupes d'intérêt public, avant le début de la Conférence ministérielle d'Ottawa, de présenter un document comparable au Plan d'action des entreprises présenté par le BIAC et d'autres groupes. Cela a eu pour effet de restreindre de façon sensible la portée de notre intervention.

La promotion du commerce électronique par l'OCDE et par les gouvernements membres doit être étudiée dans une perspective plus générale, qui englobe entre autres la protection des droits de la personne, la promotion et le renforcement des institutions démocratiques, ainsi que l'offre d'un accès abordable à des services de communication perfectionnés.

En ce qui concerne les quatre thèmes axés sur le renforcement de la confiance des utilisateurs et des consommateurs, mentionnés dans le document pour les participants à la Conférence ministérielle d'Ottawa « Un monde sans frontières : concrétiser le potentiel du commerce électronique mondial », et compte tenu de la perspective générale mentionnée ci-dessus, nous recommandons ce qui suit :

- **Authentification et certification** : Nous recommandons que tous les pays Membres de l'OCDE adoptent et appliquent les Lignes directrices de 1992 régissant la sécurité des systèmes d'information, en particulier les principes relatifs à la démocratie, à l'éthique et à la proportionnalité. L'OCDE devrait aussi étudier les questions relatives à l'authentification et à la certification dans un contexte de protection des consommateurs et de la vie privée. Les politiques et pratiques qui ne tiennent pas compte des préoccupations en matière de protection des consommateurs et de la vie privée finiront par miner la confiance du public.

- **Cryptographie** : L'OCDE devrait promouvoir la mise en oeuvre des Lignes directrices de 1997 régissant la politique de cryptographie et préconiser le retrait de toutes les mesures de contrôle de l'utilisation et de l'exportation des techniques de cryptage et autres techniques qui assurent une meilleure protection de la vie privée. La confiance exige une disponibilité aussi grande que possible des meilleurs moyens qui permettent d'assurer la sécurité et de protéger la vie privée.
- **Protection de la vie privée** : L'OCDE devrait insister pour que les pays Membres conçoivent et mettent en oeuvre intégralement des moyens d'appliquer les Lignes directrices de 1980 sur la protection de la vie privée. Ces Lignes directrices de l'OCDE définissent un cadre indispensable à la confiance des consommateurs à l'égard des transactions en ligne. L'autorégulation n'a pas réussi à établir une relation de confiance adéquate. Nous recommandons aussi l'adoption de mesures destinées à promouvoir l'anonymat et à réduire la collecte de renseignements à caractère personnel, afin d'accroître la confiance des consommateurs.
- **Protection des consommateurs** : L'OCDE devrait appuyer l'établissement de normes minimales ayant trait à la protection des consommateurs, prévoyant entre autres la simplification des contrats, des méthodes de résiliation des contrats, des mécanismes efficaces de règlement des différends, la limitation de la responsabilité des consommateurs, la non-application de clauses contractuelles déraisonnables, des recours aux lois et aux tribunaux de leur pays et la coopération entre les gouvernements afin d'appuyer les recours juridiques. Ces normes minimales devraient prévoir une équivalence fonctionnelle aux mesures de protection actuelles et offrir une protection au moins comparable à celle qui s'appliquerait à d'autres types de transactions.

Nous recommandons aussi ce qui suit :

- **Propriété intellectuelle** : Le cadre de protection de la propriété intellectuelle devrait reposer sur des mécanismes qui minimisent les intrusions dans la vie privée et les restrictions au développement de nouvelles technologies.
- **Réglementation d'Internet** : Les gouvernements devraient favoriser des structures de réglementation d'Internet qui reflètent des valeurs démocratiques, sont transparentes et tiennent compte de l'intérêt des utilisateurs. Les méthodes de normalisation devraient être ouvertes et favoriser la concurrence.
- **Fiscalité** : A la Conférence ministérielle d'Ottawa, M. Charles Rossetti, *Commissioner of the Internal Revenue Service*, des Etats-Unis, a évoqué la possibilité de former un Groupe consultatif de la fiscalité réunissant des représentants des gouvernements et des entreprises. Les groupes d'intérêt public devraient être invités à participer aux travaux de ce groupe consultatif.
- **Emploi** : Les conséquences sur l'emploi doivent être évaluées et prises en compte dans toutes les discussions et négociations.

Le Comité de la politique à l'égard des consommateurs demeure un important point de convergence pour l'étude des nouveaux enjeux entourant les politiques de protection des consommateurs, notamment en ce qui concerne le commerce électronique. Il importe, donc, que le mandat de ce comité soit maintenu et que ce dernier tienne encore des réunions à intervalles réguliers. Signé,

ANNEXE 6**LISTE DES AUTRES DOCUMENTS OFFICIELS DE LA CONFERENCE**

Tous ces documents sont accessibles par la page index du site Web de la Division de la politique de l'information, de l'informatique et des communications [<http://www.oecd.org/dsti/sti/it/index.htm>], de la Direction de la science, de la technologie et de l'industrie. Les documents suivants sont disponibles en format Adobe Acrobat (PDF) sur le World Wide Web aux adresses indiquées.

Documents horizontaux

Plan d'action de l'OCDE pour le commerce électronique

Rapport sur les organismes internationaux et régionaux: Activité et initiatives dans le domaine du commerce électronique

Un plan d'action global préparé par l'industrie du commerce électronique avec des recommandations pour les gouvernements

<http://www.oecd.org/dsti/sti/it/ec/news/ottawa.htm>

Dialogue entre les pouvoirs publics et les entreprises sur la fiscalité et le commerce électronique

Ordre du jour

http://www.oecd.org/daf/fa/e_com/a_ott_e.pdf

Document de travail sur les questions fiscales

http://www.oecd.org/daf/fa/e_com/discussf.pdf

Problèmes fiscaux posés par le commerce électronique: mise en place d'un partenariat

http://www.oecd.org/daf/fa/e_com/futuref.pdf

Joint Declaration

http://www.oecd.org/daf/fa/e_com/jntdec_e.pdf

Revision des commentaires sur l'article 12 au sujet des paiements concernant les logiciels

http://www.oecd.org/daf/fa/treaties/art12_f.pdf

Rapports documentaires

Ces rapports établis pour la Conférence ministérielle d'Ottawa (7-9 octobre 1998) ont été notés par le Conseil de l'OCDE, puis présentés aux Ministres par le Secrétaire général à Ottawa.

Documentation pour les participants (Résumés des rapports)

Les incidences économiques et sociales du commerce électronique - Résultats préliminaires et programme de recherche

http://www.oecd.org/subject/e_commerce/summary.htm

Les rôle des infrastructures de telecommunication et d'information dans le développement du commerce électronique

http://www.oecd.org/dsti/sti/it/ec/prod/tisp_8e.pdf or [tisp_8f.pdf](http://www.oecd.org/dsti/sti/it/ec/prod/tisp_8f.pdf)

Projet de rapport d'accompagnement pour la déclaration ministérielle sur la protection de la vie privée sur les réseaux mondiaux

http://www.oecd.org/dsti/sti/it/ec/prod/reg_11e.pdf or [reg_11f.pdf](http://www.oecd.org/dsti/sti/it/ec/prod/reg_11f.pdf)

Inventaire des mesures de contrôle appliquées aux technologies de la cryptographie

[http://www.oecd.org/olis/1998doc.nsf/linkto/dsti-iccp-reg\(98\)4-final](http://www.oecd.org/olis/1998doc.nsf/linkto/dsti-iccp-reg(98)4-final)

Inventaire des approches en matière d'authentification et de certification dans une société de réseaux mondialisée

http://www.oecd.org/dsti/sti/it/ec/prod/reg_3e.pdf or [reg_3f.pdf](http://www.oecd.org/dsti/sti/it/ec/prod/reg_3f.pdf)

La protection des consommateurs dans le marché électronique

http://www.oecd.org/dsti/sti/it/ec/prod/cp_13e.pdf or [cp_13f.pdf](http://www.oecd.org/dsti/sti/it/ec/prod/cp_13f.pdf)

Faits nouveaux dans le domaine des logiciels éducatifs et du multimedia

<http://www.oecd.org/dsti/sti/it/ec/prod/ceri6e.pdf> or [ceri6f.pdf](http://www.oecd.org/dsti/sti/it/ec/prod/ceri6f.pdf)

Le problème de l'an 2000 : incidences et actions

<http://www.oecd.org/puma/gvrnance/it/y2k.htm>

Les PME et le commerce électronique

<http://www.oecd.org/dsti/sti/it/ec/prod/sme18e.pdf> or [sme18f.pdf](http://www.oecd.org/dsti/sti/it/ec/prod/sme18f.pdf)