

Brussels Declaration on Trade and the Internet

February 22, 2016

We are an expert group of stakeholders representing Internet users, consumers, innovative businesses, cultural institutions, and scholars. We recognize the considerable social and economic benefits that could flow from an international trading system that is fair, sustainable, democratic, and accountable. These goals can only be achieved through processes that ensure effective public participation.

Modern trade agreements are negotiated in closed, opaque and unaccountable fora, that lack democratic safeguards and are vulnerable to undue influence. These are not simply issues of principle; the secrecy prevents negotiators from having access to all points of view and excludes many stakeholders with demonstrable expertise that would be valuable to the negotiators. This is particularly notable in relation to issues that have impacts on the online and digital environment, which have been increasingly subsumed into trade agreements over the past two decades.

The procedural deficits that define modern trade agreement negotiations have resulted in instruments that are unduly deferential to the interests of a narrow class of established industry stakeholders, and fail to address the needs of broader affected communities. This stands in stark contrast to the more open Internet governance process norms, to which the governments that negotiate trade agreements also notionally subscribe, which if fully realized would be better adapted to incorporate the values of these communities, such as free expression and cultural facilitation, into trade policies.

Any international rulemaking process that affects the online and digital environment should adhere to human rights and good governance obligations to actively disseminate information, promote public participation and provide access to justice in governmental decision-making. In particular, countries should:

- respect, promote and fulfill articles 19 and 25 of the International Covenant on Civil and Political Rights in ensuring pro-active dissemination of information, including the regular release of draft proposals and consolidated texts, to enable stakeholders to be fully informed and to meaningfully participate in the negotiation process;
- provide ample opportunities for meaningful involvement and collaboration with civil society representatives, including through on-the-record public notice and comment and public hearing processes—at least equivalent to that normally required for other public rulemaking processes—at relevant points during the generation of government positions;
- apply freedom of information principles to the development and negotiation of government positions;
- require balanced representation on any trade advisory bodies or processes, including implementation bodies, and require that they reflect all interests potentially affected and generally operate in open forums subject to public observance and access to documentation;

- take affirmative measures to engage organizations and experts representing Internet users and consumers;
- ensure that the resulting agreements support realization of the targets of the United Nations 2030 Agenda for Sustainable Development, and that processes which evaluate their impact should contribute to Agenda 2030's implementation review processes.

Given public concern about trade, which seems to be rising in many democracies, all democratic states should be modernizing their trade policy making process in the interest of building public trust. The ideas expressed here can provide a road map and a means to hold these governments accountable.

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