



After Doha: What The WTO Is Not Talking About

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The World Trade Organization (WTO) will shortly convene its 4th Ministerial Conference in Doha, Qatar. The goal is to launch a new round of multilateral trade negotiations. It remains to be seen whether the Doha meeting succeeds. The betting is that the participants cannot afford a failure such as happened in Seattle two years ago.

Slightly less than a decade ago, I played a small part in the implementation of the Uruguay Round and the birth of the WTO. As a Senate trade policy staffer, I had fly-on-the-wall view of the pushing and shoving. At the time, I could not help but think that I was witnessing the last major trade round. I may be proven wrong. But, regardless of whether a new round is launched and successfully completed, it will be outdated before it begins. As we engage in the first war of the 21st century, we may be entering into the last trade negotiations of the 20th Century.

This is not to say that the negotiations are unimportant. There are numerous areas, ranging from agricultural subsidies to the dispute settlement process, that need to be addressed. These are, however, the loose ends of trade in the Industrial Age – not the emerging issues of the Information Era.

Trade negotiations have long since gone beyond tariffs and quotas. They have even gone beyond issues of trade-distorting practices such as subsidies and non-tariff barriers. As trade and international commerce have expanding and evolved, negotiations are more and more focused on issues of harmonization of commercial rules and regulations. The WTO system is now in the position of resolving disputes between internal regulatory systems. Thus, we have seen the rise of a number of issues such as investment, competition policy, labor standards and environmental protection. All of these issues are on the table, more or less, at Doha.

Not on the table is a comprehensive look at policies toward information and other intangibles. We are moving to a knowledge economy. Knowledge is both an increasingly important input into the production process and an end-use commodity in and of itself. As the role of information increases in both our economic and social systems, issues of control of information will become increasingly central to our policy and political debates. Parts of the issue are included in the WTO agenda, such as: Trade-Related Aspects of Intellectual Property Rights (TRIPS); the work program on electronic commerce; trade and investment; and the proposal for a new discussion on technology transfer. Missing from the discussions is the recognition of the interconnection between these areas.

Government policy and activities with respect to knowledge and information covers a number of areas: intellectual property rights (IPR); privacy policies; regulation of content and freedom of speech; data protection and security; access to government information and freedom of information; “right-to-know” policies. The intellectual foundations for these policies come from a number of different traditions, which often conflict with one another. Cutting across all of these various information management regimes is the fundamental tension between proprietary rights and public rights – that is, between the aspects of knowledge, information and data as a private commodity and that of knowledge, information and data as a public good.

This tension is often most viable in the area of intellectual property rights where the competing needs of scientific and technological research for sufficient proprietary rights to create incentives for action and the need for information exchange as the building blocks for that action. For centuries, patent laws and the practices and customs of scientific inquiry have sought to strike a balance between these two competing goals.

The tension manifests itself in all area of information management. For example, who owns the data about my DNA? What information is my personal property that I may sell, disclose or withhold according to my choice? Likewise, what is the larger community’s rights? What information is of such importance to the community as a whole that its disclosure should be mandated (e.g. details of toxic waste sites), should be allowed to be sold (e.g. micro-weather data), or should be withheld/censored (e.g. child pornography)? The issue centers on what information is and should be private, what information is and should be proprietary and what information is and should be public.

In the U.S., we are beginning a discussion of these broader issues under the rubric of an “information commons.” Yet, these are issues that by their very nature are global. The WTO may or may not be the best venue for discussion. However, the decisions that get made during the next round on issues such as TRIPS and electronic commerce will affect the entire information commons approach. We should at least be cognizant of that outcome, as it will have a major impact on shaping the environment in which business will operate in the future.