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Internet and International Co-operation

3.1 INTRODUCTION

In the next millennium, we are faced with many challenges: Globalisation, post-GATT trade liberalisation and growing international. With the recent economic turmoil in East Asian countries the danger of economic recession is making the tasks of national economic planners policy makers harder. The relentless growth in technologies and the convergence of telecommunications, broadcasting and information technology changing the way we live, learn, communicate, work and entertain. We are today a revolutionary change in our society as our economies and fabrics are being reshaped.

Michael Dertouzos, Director of Massachusetts Institute of Technology (MIT) Computer Lab, predicts that by the year 2007 there will be between half a to one billion interconnected computers. Millions of people all over the world will use the network systems for buying, selling, freely exchanging and doing a wide range of information work. The network movement - "by the Internet will become, he predicts, fully integrated into our and we shall be part of a huge Network economy.

US Vice-President in his address at the ITU Plenipotentiary Conference Minneapolis on the 12th October 2000, spoke about researchers in MIT, Boston, adding a third sensation to virtual reality: not just sight and sound - but touch. By using an electronic thimble, we can touch an object on a computer and it immediately appears as a hologram next to us.
If we run our mouse over it, the object can become rough or smooth -whatever the computer means that in a few short years, the blind will be able to feel a computer image, and armchair tourists will be able to run their hands over the smooth sandstone of Stonehenge or the smooth marble of the Taj Mahal. Information has become the most critical resource for social and economic development for every nation.

These include the extent to which a digital signature is recognized and accepted what constitutes an "offer" and an "acceptance" on the Internet; whether the "law of origin" or the "law of destination" should apply in Internet ,and what effect this proposed treaty would have on other , treaties and existing bilateral agreements. NASSCOM Urges Indian Laws to Comply With EU Requirements

Mr. Dewang Mehta, President of the National Association of Software and Service Companies (NASSCOM), at the Mar 28 Indo-EU Summit in Lisbon warned that current Indian data privacy ,regulations may complicate business opportunities for Indian businesses in the L.European Union. The European Union requires that foreign companies doing business involving the transfer of personal data from the EU must comply with the data protection adequacy requirements contained in the '1995 Data

Protection Directive. While India already has strong copyright and cyberlaws place, Mr. Mehta declared that immediate action WCJS needed to strengthen privacy laws in India. While an initial EU deadline for compliance expired on Mar. 30, an extension has been granted until January 1, 2002 in part to accommodate, the EU-US "safe harbor" data protection trade negotiations.

Mr. Mehta, in Mar 29 in interview with Business Line, an Indian financial daily, said the European market access was a top priority for Indian companies. As one of its goals, NASSCOM hoped Indian workers could fulfill at least 50 percent of the European high-tech labor shortage. NASSCOM estimated that Indian software exports the EU would increase to US $7 billion and that total India-EU trade would surpass $12 billion by 2005..
NASSCOM Study Demonstrates Indian Software Export of 57 Percent

The National Association of Software and Service Companies (NASSCOM) released the results of a survey indicating that the Indian IT software and services industry in 2000 grossed US $5.7 billion during 2000-2001, and that Indian software exports grew an incredible 57 percent in the same time frame.

Mr. Rob Durie, Executive Director of the Australian Information Industry Association (AliA), on Mar 21 warned that the definition of Datacasting outlined in the Digital Television legislation currently before the Senate in Australia, is far too prescriptive and will have the effect of impeding technological breakthroughs by small innovative Australian firms.

Japan Information Service Industry Association (JISA) has published a new English-version industry report, The IT Services Industry in Japan 2001. It contains useful information that could help us understand the IT services industry in Japan. With many tables and figures, it explains not only the overview of Japan's IT services industry but also its market trends.

3.2 WORLD CONGRESS ON INFORMATION TECHNOLOGY 2000 (WCIT 2000)

"Best Ever" World Congress Draws 1,790 Participants from 86 Countries. The 2001 World Congress on IT was a resounding success in terms of content, speakers, attendance and media coverage. Termed by many as "the best World Congress ever", the event was officially opened by Newly-elected R.O.C. President CHEN, Shui-bian, who emphasized Taiwan's wish to become a "Green Silicon Island," and wished that "future generations will enjoy not only highly developed technology, but also a clean, healthy environment."
The event was attended by an incredible 1,790 high level private and public sector delegates from 86 countries. 195 were from the U.S. 157 from Japan, 71 from Malaysia, 57 from Australia, 44 from Singapore and many more from countries around the world. There were 110 international members of the media, spanning 13 countries, including many of the best-known networks - such as SSC, Bloomberg, CNBC, CNN, the Asian Wall Street Journal and others. 350 local media representatives further added to a world-class coverage of the event.

A total of 30 world-renowned speakers gathered in Taipei, including John Chambers, President and CEO of Cisco Systems, who informed the audience that, "[the Internet] is going to change every aspect of our lives."

"Carly Fiorina", President and CEO of Hewlett Packard reminded the audience, "We can fail to achieve the promise of this revolution if we fail to remember that this revolution is about people."

Bill Gates, Chairman and Chief Software Architect of Microsoft said that what needs to be done, "is to change the Internet to be more of a platform, not simply a presentation network." In all, speakers at the WCIT2000 set forth the blueprint for the future of IT - making a better world.

At a special transition ceremony, the World Congress also saw the inauguration of George Newstrom as the new Chairman of the World Information Technology and Services Alliance (WITSA), replacing Robert Laurence after eight years of dedicated service for the IT industry.

The conclusion of the event also saw the transition of the World Congress from Taiwan to Australia. Alan Baxter, Chairman of the next World Congress on IT, which will take place in Adelaide on February 27 to March 1, 2002, promised to continue the tradition of excellence demonstrated by the Taipei host organization in 2000 and Fairfax, Virginia in 2001.
Alan Baxter, Chairman of the WCIT2002, was extremely impressed by the "active cooperation" among the government, IT industry, and individual attendees.

George Newstrom, new Chairman of the World Information Technology and Services Alliance (WITSA), commented that the WCIT2000 was "one of the most successful" in the history of the event. Mike Evans, Chairman of the European IT Services Association (EISA), claimed that the 'WCIT2000 was the best conference ever" in terms of quality and delivery services. ASOCIO President Neville Roach exclaimed that the WCIT2000 was one of "the most global events ever".

3.3 ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT (OECD)

OECD Report Demonstrates "Digital Divide" Between Wealthy Economies

A new study by the Organization for Economic Cooperation and Development (OECD) on local Internet pricing and e-commerce put the popular concept of the "digital divide" in a new light.

While the notion is commonly associated with the technology discrepancies that exist between rich and developing countries, the Feb 26, 2001 report entitled "Local Access Pricing and E-Commerce" found that pricing of Internet access had a significant impact on the growth of Internet usage and content. Internet access charges and pricing structures were found to be one of the greatest obstacles facing users and potential users. The report demonstrates significant variances between the 29 rich OECD member countries.

Some of the findings from the report include facts such as:

"The penetration rate of Internet hosts for the United States is three times the average for the OECD area, seven times that of the EU area and just over eight
times that of Japan. In March 2001, the United States added three times more secure servers than the rest of the OECD in total. This meant, on a per capita basis, that the United States added 10 times more secure servers, for that month, than the rest of the OECD. At the same time usage of the Internet in the United States and a small number of other countries with pricing structures favourable to Internet access, as reflected in average online times, is far longer than counterparts in other OECD countries. This is encouraging the development of new content and services, including multimedia services supporting electronic commerce, at a much faster rate than in countries where pricing is not favourable to electronic commerce”.

International Conference on Legal Rules for Cross-Border E-Business
On September 11 and 12, the Internet Law and Policy Forum (ILPF) will hold its second major international conference on the important jurisdiction issues related to cross-border electronic commerce. The event, which will take place in San Francisco, will provide an advanced overview of fundamentals, detailed expert analysis of particular topics - including on ADR mechanisms and the Draft Hague Convention-, and practical advice on the legal rules which govern a government's authority to enforce its rules outside its borders.

Internet Censorship on the Rise
More Serious than Previously Thought Possible In what may be the most comprehensive study on Internet content and access censorship to date, the New York based human rights organization Freedom House earlier this year released a report indicating that the popular notion that the Internet transcends government censorship efforts may be far off the mark.

In fact, the report, dubbed "Censor Dot Gov: The Internet and Press Freedom 2001" concludes that governments have been innovative and largely successful in efforts to curb Internet access and in regulating content. Covering 186 countries, the report found that about 80 percent of the world population is located in countries with less than free press.
Moreover, Internet censorship may be growing and is becoming increasingly sophisticated. The most extreme case is Myanmar (formerly Burma), where people must report computers to the government and web access is completely prohibited (illegal use of modems is punishable by 7 to 15 year prison sentences). The last private e-mail provider in Myanmar was seized by the government in December 1999.

On a regional basis, Africa was the most restrictive, with only 6 countries categorized as "free", while 17 were "partly free" and as many as 30 had severe restrictions on Internet access and content. In the Middle East, only Israel was considered truly "free", Kuwait and Jordan were in the middle category while all the 11 remaining countries were listed in the "not free category". In Asia, six countries were also identified as "free" while four had some restrictions and another 14 imposed severe censorship. 18 of 27 countries in Eastern Europe had modest or severe Internet restrictions. However, in Western Europe, none were listed in the "not free" category and only one was "partly free". The report listed 17 Latin-American countries as being censorship-free, while another 14 had modest restrictions and two (Cuba and Peru) imposed severe Internet restrictions.

According to the report, governments have several different approaches to imposing Internet censorship:

- **HIGH-COST** telecommunications infrastructure limits participation;

- **LAWS AND LICENSING**: More than 20 countries, including Myanmar, Cuba, North Korea and Iraq prohibit or severely restrict their people's Internet access;

- **FILTERING AND BLOCKING SCHEMES**: Several countries force Internet service providers (ISPs), whether government run or influenced, to install such technology. The report identifies China as a case-in-point, severely limiting content: in particular as regards access to foreign news sites. Dissidents are imprisoned, web sites are shut down, and servers based abroad have been subject
to government originated denial-at-service attacks. Other countries in this category are Iran and Saudi Arabia.

- **ONLINE SURVEILLANCE:** Governments, such as Russia, force ISPs to install surveillance equipment enabling authorities to access just about all online traffic, including web browsing, e-mail, Internet relay chat and instant messaging. Online surveillance also was said to have a significant tendency to promote self-censorship. In the case of Russia, the successor to the KGB does not need court orders to initiate surveillance. Technological progress also means more affordable and easier government access to sophisticated methods for controlling information. Even developing countries, such as Vietnam, were said to monitor closely e-mail and other Internet traffic.

The **Internet Corporation for Assigned Names and Numbers (ICANN)** at its July 16 Board Meeting in Yokohama agreed to an action plan for adding several new domain names by the end of the year. The decision to expand the number of generic Top-Level Domain names (gTLDs) was necessary in part to broaden the domain name space in light of the rapidly growing number of web sites. Most of the country codes were established in the mid-1990s, but no new domain suffixes, such as .com, .org, and .net, have been approved since the late 1980s.

In adopting the framework for adding new domain names, as presented by ICANN's Names Council (NC) on April 18/19, 2000, Internet users and organizations submitting applications will need to demonstrate that the new domains maintain the Internet's stability, in particular as regards their ability to prevent registry or registration-system failures that will negatively impact domain name holders. Applications will also need to demonstrate how the introduction on new names will add to the diversity in the name space, whether they are fully open top level domains, restricted or chartered with a limited scope, noncommercial, or personal domains. New domain names must enhance competition for registration services at the registry and registrar levels, must add to the utility of the domain name system (DNS), and must meet previously unmet types of
needs. ICANN also requires that applicants demonstrate adequate intellectual property rights protection, and asks for a U.S. $50,000 application fee to cover the evaluation and approval process.

Both WITSA and twelve of its member associations are members of the BC, and in fact, helped nominate three business representatives to the Names Council (NC) - DNSO's executive body- in 1998. A new round of elections for the NC representatives will take place in November, 2000. ICANN was formed in September 1998 to oversee certain Internet technical management functions that were previously managed by the U.S. government or by its contractors and volunteers. Specifically, ICANN is in the process of assuming responsibility for coordinating the management of the Internet Domain Name System, the allocation of Internet protocol address space, the assignment of protocol parameters, and the management of the root server system.

The Internet Corporation for Assigned Names and Numbers (ICANN) on Mar 7, 2001 announced that it had cleared two important obstacles which had threatened its future as the designated technical coordination body dedicated to preserving the operational stability of the Internet: Its legal underpinnings were confirmed by the investigative arm of the U.S. Congress and what is believed to be the first lawsuit against it was dropped. The General Accounting Office on Mar 7 released a much anticipated report which confirms the legality of ICANN's formation as well as the U.S. Department of Commerce's process for transferring the domain name system controls to ICANN. In addition, the report found that ICANN's attempts to collect fees to cover its costs were not unlawful On Mar 7, ICANN also released its second status report to the U.S Department of Commerce.

ICANN also announced on Mar 7 that Afternic.com, a New York based domain name site for auctioning of previously registered domain names, had dropped its lawsuit against ICANN. Afternic.com had been denied a request for registrar accreditation by ICANN due to a perceived conflict of interests and a fear of resulting cyber squatting problems. As part of the agreement reached, ICANN on Mar 7 accredited extractive, a separate
violation of U. S. trademark laws regardless of what country the owner lives in. The domain name owners being sued in this case originate from 56 countries.

Member countries of the World Trade Organization (WTO) may agree to resume their e-commerce related work program. The program had previously been disrupted by preparations for the failed 2001 Seattle Ministerial conference and the subsequent confidence building measures.

General Council Chairman Kare Bryn at a Mar 17 formal meeting asked member governments to agree to continue discussion among its subsidiary bodies on trade related issues related to electronic commerce. Bryn asked the Goods Council, Services Council, Trade Related Aspects of Intellectual Property (TRIPS) Council and the Committee on Trade and Development to issue updates to the reports released in light of the Seattle Ministerial last year. The four subsidiary bodies were asked to present progress reports by December.

However, Bryn withdrew his earlier proposal to also set up an ad hoc task force on e-commerce, which would have addressed certain horizontal issues not covered by the four subsidiary bodies, such as the controversial issue of classifying digitally delivered products as "goods" or "services". The decision not to go ahead with the proposal was made after the EU, Brazil and other countries objected. The Chairman may reintroduce the proposed initiative again in the next few months, if sufficient consensus is achieved.

The re-launch of the e-commerce program will also not include a discussion on whether the moratorium on imposing duties on electronic transmissions is still valid. That moratorium had been agreed at the second WTO Ministerial in Mar 2001 and was due to expire with the conclusion of the third Ministerial in Seattle. Countries such as the U.S. believes that the moratorium is still in force because the Seattle Ministerial was suspended rather than adjourned and because the delegates did not decide to terminate the moratorium at that time. Other countries, including Pakistan, Mexico and several others
argue that the moratorium has technically expired because the Seattle Ministerial for all practical purposes was concluded, however unsuccessfully.

**Key Trade Official Warns Against "Hybrid" E-commerce agreement.**

In a Mar 14 interview with Total Telecom, David Hartridge, Director of the World Trade; Organization's services division, warned strongly against recent suggestions made by government trade negotiators at informal meetings in Geneva, that a separate "hybrid" agreement on e-commerce replace commitments already made in existing trade agreements, such as the General Agreement on Trade in Services (GATS) and its 2000 Annex 011 Negotiations on Basic Telecommunications. While some governments appear to believe the current agreements do not adequately address the particular issues arising from the rapidly changing online trading environment, Mr. Hartridge cautioned that a hybrid e-commerce agreement would call into questions the hard-won liberalization commitments already made by WTO members regarding telecommunications; e.g. guaranteed market access around the world.

**A separate agreement on e-commerce**

Hartridge called on governments to include e-commerce issues in a broad context at the next WTO summit -which may take place in 2001.

At the summit, governments should "clarify" how existing agreements specifically apply to e-commerce. Ecommerce related provisions, to the extent they are needed, should be sector specific. Hartridge indicated that some new requirements may be considered, including on privacy protection standards and jurisdiction rules, but warned that WTO was ill equipped to address detailed standards setting, such as electronic signatures and harmonization of encryption.

To the extent that WTO consider new areas of involvement related to e-commerce, the main objective should be that any new requirements facilitate e-commerce rather than hamper it. In the event that a new general round of services negotiations is not agreed,
Hartridge suggested that the dispute panel establish that the GATS commitments apply to all modes of trade, including ecommerce.

Mr. Hartridge's views have been applauded by many representatives of the IT industry. In February, 2001, members of the world Information Technology and Services Alliance (WITSA) met with U.S. Ambassador Rita Hayes, Japanese Ambassador Koichi Haraguchi and European (commission Ambassador Roderick Abbott and outlined the IT industries priorities for the ongoing services negotiations as well as the WTO's e-commerce work program.

WITSA members also met with negotiators from Argentina, Australia, India, and Venezuela. Some of the key recommendations presented to the negotiators included making permanent and binding the 2001 Moratorium on Customs Duties on Electronic Transmissions, making sure that existing WTO obligations are technology neutral, that governments refrain from enacting new measures that impede the growth of e-commerce, and reaffirming the importance of liberalizing the basic telecommunications infrastructure. WITSA also issued two policy papers ahead of the 2001 Seattle WTO Ministerial, outlining industry views and priorities for the next round of multilateral trade negotiations.

"Digital Divide" Becomes a Top Priority at the U.N.

In what was called the most ambitious effort by the United Nations to take the lead in discussing Information technology, the High-Level Segment of the UN Economic and Social Council (ECOSOC) on Mar 5-7 launched the ECOSOC 2001 conference as part of its new "Information Technology for the World" campaign the conference was attended by government leaders from around the world as well as top representatives from the World Bank, the International Monetary Fund (IMF), and the World Trade Organization (WTO). Ministers examined several issues related to the "digital divide", including Internet access, training local language content, information security, privacy, and copyright issues. Notably, World Bank President James Wolfensohn announced the launch of a Global Development Gateway, a common information base that would join
international organizations, governments and grass root groups, allowing anyone easy access to formation on the initiatives undertaken in the various fields. The intention of U1P conference was to approach the theme of "digital divide" from a broad developmental perspective, and to highlight the contribution that Information Technology can make to meet the challenges of globalization for the benefit of all.

Separately, the U.N. launched a seminar on information and communications technology on Mar 10-12 in New York As part of UN's efforts to develop partnerships with the private sector, the seminar was intended to mobilize investment toward developing countries - targeting telecom companies, Internet companies, satellite companies, broadcasters, potential investors, fund managers, etc. Coined "Seminar on Mobilization of the Private Sector in order to Encourage Foreign Investment in IT Towards Developing Countries", the seminar was also organized in conjunction with several other international organizations and agencies, including: The World Bank, the Overseas Private Investment Corporation, The Inter-American Development Bank, and the US Department of Commerce. The seminar was timed to coincide with the high-level segment (meeting) of ECOSOC 2000.

The meetings come in the wake of a June panel report ordered by the UN General Assembly, recommending that governments, international organizations, voluntary groups and foundations provide U.S. $500 million and the private sector another $500 million to improve Internet access and other new technologies in developing countries.

The "International ICT Action Plan" aims to provide Internet access within "a half day's walk" to the entire world population by 2005. The report, which will be reviewed at the Mar 22-23 G-8 meeting in Okinawa, also recommended that world creditors write off one percent of debt of developing countries that spend at least 1 percent of their budgets on information infrastructure improvements. The report (document E/2000/55) will be considered at the United Nations Millennium Assembly, opening in September.
3.4 WORLD BANK ANNOUNCES GLOBAL DEVELOPMENT GATEWAY

At a Feb 5 conference on the "digital divide", World Bank President James Wolfensohn announced the launch of a Global Development Gateway, a common information base that would join international organizations, governments and grass root groups, allowing anyone easy access to information on the initiatives undertaken in the various fields.

In accordance with a Feb 19 concept note, the Gateway is intended to serve the needs of a broad array of stakeholders, including developing countries, the donor community, civil society in a broad sense of the term, the private sector and other key partners while still in a development stage, services could include online training modules. research findings, best practices and ideas, case studies, procurements services, information and development projects, funding, commercial opportunities, product reviews, news, jobs, and directories. Pilot Country Gateways are already operational in Georgia, the Kyrgyz republic, and Romania). Gateway features will include:

- Aid Effectiveness Exchange;
- Civil Society Forum;
- Marketplace;
- Government Forum; and
- Country Gateways

A start-up phase will take place between April 2001 and June 2002. According to the plan, all major technical components, related services and the support organization are scheduled to be fully operational during a phase 2, to take place from July 2002 to June 2003. New study demonstrates that Trade Liberalization Reduces Poverty. On Mar 19, the Secretariat of the World Trade Organization (WTO) released a new study which concludes that trade liberalization has a very positive impact on poor countries' efforts to catch up with well-to-do countries.
The report, dubbed "Trade, Income Disparity and Poverty" found that trade liberalization, while not itself sufficient to eradicate poverty, is a must for any developing country aiming at improving its economic standing and long-term prosperity. The report mentions "success-stories" such as South Korea, which achieved a very solid economic standing following decades of nurturing trade and industry: While, 30 years ago, South Korea was as poor as Ghana, now it is as rich as Portugal.

- Poverty is a tremendous problem, as demonstrated by the fact that as many as 2.8 billion people subsist at less than U.S. $2 per day;
- Trade helps the poor: The poor tend to benefit from overall economic growth while trade tends to boost economic growth.
- While living standards in developing countries on average do not catch up to rich countries, there is a big difference in economic performance between developing countries that are relatively open to trade and more protectionist and closed markets. Developing countries that perform well tend to be open to trade;
- Trade liberalization is generally a strong positive contributor to poverty alleviation, and helps raise living standards even for the poorer population segments within, a country. Trade liberalization "allows people to exploit their productive potential, assists economic growth, curtails arbitrary policy interventions and helps to insulate against shocks.
- While trade liberalization hurts some people in the short run, their problems can be managed through social safety nets and job retraining. The fact remains that trade reforms benefit many more people. A separate speech on the same topic by WTO Director General Mike Moore, entitled "Trade, Poverty and The Human Face of Globalization was delivered at London School of Economics in Mar 16.
3.5 G-7 MINISTERS AGREE ON PRINCIPLES TO PROMOTE IT

Taxing E-commerce in a meeting running up to the Mar 22-23, 2001 G-8 Heads of State and Government Summit, G-7 finance ministers on Mar 8 agreed on a set of principles to promote IT. In a report from the meeting in Fukuoka in Japan, the Ministers emphasized IT's huge potential for increasing economic growth and for reducing unemployment. Strong encryption and a secure infrastructure for e-commerce were named top priorities, as well as consumer protection measures pertaining to the Internet.

The ministers recognized that the bridging of the technology gap was crucially important for the developing economies, and that this could best be achieved by removing regulatory barriers to enable competition in key IT sectors, by retraining workers, implementing competition policies to ensure the spread of IT and fair competition and the need for an open international trade system. However, the Finance Ministers also agreed to the principle that e-commerce ultimately should be taxed in the same way as other trade.

In as much as such taxation does not present an unnecessary burden that may inhibit the spread of e-commerce and IT. The Ministers also conceded ecommerce is difficult to police, especially as regards digital products and services (e.g. downloadable music and information services) of the report, dubbed "Impact of the IT Revolution on the Economy and Finance" stated that conventional taxation principles, such as neutrality, equity, and simplicity, should underlie the taxation of e-commerce.

The report emphasized that taxation should not be discriminatory against any forms of commerce and that existing tax rules, for the most part, sufficiently could implement these principles for e-commerce. Finally, the G-7 finance ministers agreed to the principle that consumption taxes applied to the Internet should be based on where the consumption takes place (without providing any definitional clarifications). The Ministers supported
the OECD Committee on Fiscal Affairs' (CFA) ongoing work on taxation and its applicability to e-commerce.

3.6 INTERPOL AND CYBER CRIMES

In a joint Mar 29 press release, Interpol and Atomic Tangerine, an independent U.S. venture consulting firm, announced what may become an "early warning system" for information security. If an accord is reached, Interpol, the organization that groups 178 national police forces, will provide intelligence on hacking, stolen goods, fraud and other dangers to corporate health to a private Web site to help businesses defend themselves against global cyber crime. In the partnership, Atomic Tangerine would make available to Interpol relevant information it gathers from extensive monitoring of the Internet by computers and its team of researchers. The partnership, if implemented would mark the first time Interpol's enters into, an agreement with the private sector to fight cyber crime.

The proposed partnership comes in light of the increasingly complex and fluid world of the Internet on its implications for information security. The idea of the intergovernmental-private sector partnership originated from an Internet. Defence Summit in Silicon Valley in May, where Interpol Secretary-General Raymond Kendall called on the private sector to defend itself because "government agencies do not have the technology to do the job", Both Interpol and AtomicTangerine has announced that any information released to legitimate users through a partnership would be free of charge and would not intrude upon individual privacy. In an interview with the Associated Press, Kendall would consider various legal implications and hoped to make a decision on the proposed pact by mid-October.

Survey Find Computer Hacking Will Cost U.S. $1.6 Trillion in 2001 According to a new survey conducted for Price water house Coopers, computer hacking will result U.S. $1.6 trillion this year; probably the highest number ever estimated. The survey, conducted by Information Week Research covered almost 5,000 IT professionals in 30 countries. The survey adds further evidence that information security has become a top priority in the
world of Internet and ecommerce. Earlier this year, the Federal Bureau of Investigation (FBI) announced that 9 of 10 companies have reported computer security breaches since March 2001. According to the FBI, most damage is caused by computer Viruses, stolen computers, and employees misusing Internet privileges at work. However, more serious crimes, such as outside computer penetration, fraud, sabotage, and denial-of-service attacks, are on the rise.

3.7 CONCERNS ABOUT EU PROPOSAL TO TAX E-COMMERCE

On Mar 1, the European Commission proposed changes to an existing draft directive which would oblige foreign companies to pay value added taxes (VAT) on products and services delivered digitally over the Internet to end-users in the EU; e.g. downloading of compact disks, software, videos or computer games supplied in digital form. The amended draft legislation was said to be necessary as a means to create a level playing field since EU companies already are subject to VAT for the same services under existing legislation. While the draft directive only applies to the sale of "services" -not "goods. all items delivered over the Internet are classified by the EU as "services" and are thus covered by the proposed legislation.

Under the proposed rules foreign companies with digital sales exceeding 1000,000 euros inside the EU would be required to register in an EU member state of choice Depending on which member state is chosen, the VAT to be paid currently ranges between 15 and 20 percent. The draft legislation is still far from being finalized and is facing strong opposition from several EU member states which dislike the idea that companies can freely register with the EU country applying the lowest tax rate, constituting a de facto discrimination against and undue burden on other member countries, Foreign companies, including in the U.S. have protested the draft measure, insisting that such taxes would inhibit the growth of e-commerce. Opponents have also pointed out that the measure, if ultimately approved, cannot be implemented due to the absence of technologies allowing authorities to determine when a customer is located in the EU or elsewhere.
The European Commission has announced that it is exploring technical solutions, including the use of customer credit card billing address information. However, credit card companies have not yet agreed to disclose information of this sort.

Opponents are also concerned that the draft EU legislation may instigate host of disparate national efforts to implement incompatible Internet tax measures. Instead, opponents argue that the EU should await the final results of the OECD Committee on Fiscal Affairs' (CFA) ongoing work on taxation and its applicability to e-commerce. The GFA is expected to finalize its work by early 2001.

The European Commission, however, insists that it is not introducing any new rules on Internet taxation, but is merely extending existing VAT requirement to the Internet, in accordance with the OECD guidelines agreed at the October 2000 second e-commerce ministerial conference ("Taxation Framework Conditions"). Most significantly, the Commission argues, the 2001 OECD rules concluded that

(a) the supply of digitized products should be treated as services not goods, and

(b) consumption taxes (such as VAT) should result in taxes at the place of consumption rather than at the rate of the supplier's base

Both elements are at the heart of the proposed legislation. As an exception to this rule the proposal requirement that foreign companies register and pay VAT in accordance with only one EU country's regime of choice.

Opponents accuse the draft EU measure of breaching two 2001 OECD tax guideline principles pertaining to tax neutrality and that no new taxes on the Internet are needed. The European Commission, however, insists that extending VAT to the Internet does not constitute a "new" tax, and that the principle of neutrality is closely observed. However, opponents point to the fact that, while the current proposal does grant any exemptions from the VAT requirements, online sales of electronic books and newspapers will be taxable while "offline" sales of books, magazines and newspapers often are not.
The draft legislation is only applicable on digital sales to end-customers, the business-to-business market. Only about 20 percent of services supplied digitally are thus affected. Physical goods sold to customers in the EU are not covered by the draft legislation, but is already subject to VAT through existing legislation, even when ordered over the Internet.

The draft EU legislation does not specify methods for collecting VAT from online sales. The responsibility for collecting VAT remains with the 15 EU Member States. However, the European Commission has stated that it will work closely with the OECD and non-EU stakeholders in developing workable solutions. EU also has indicated it remains committed to work with OECD on finalizing discussions on issues that were not resolved at the 2001 Ottawa e-commerce ministerial, including on defining "place of consumption", and internationally compatible definitions of services and tangible property.

The U.S. and some other countries are disputing the EUs method of classifying all items delivered digitally over the Internet as services. Opponents point to the fact that, under the EU regime, any products that can be delivered digitally are classified as "services" rather than "products".

For example, a music CD would be considered a product when mailed through a post office, but the music would be taxed as services when downloaded over the Internet. Since products fall under different international trade rules (GATT) than services (GATS), there have been voiced some concerns that what is essentially the same product will be subject to different legislation and market access rules (e.g. there are different national treatment requirements for services; goods may be subjects to tariffs).

The World Trade/Organization (WTO) is currently considering a proposal to restart its analysis on the issue of classification of products and services (see separate article on WTO's ecommerce program).
It is not known how soon the proposed legislation, in current or amended form, can be ratified and implemented. Commission officials have indicated that if the relative simplicity of the proposed rules contained in the current draft is left largely intact, approval may be within reach in the foreseeable future. However, if a series of amendments are introduced and complicating the measure, the process of adoption could take far longer - perhaps years.

According to the European Commission, the current draft legislation as well as other e-commerce legislation to be introduced later this year could serve as a model for international adoption and use. In September, the Commission intends to issue a proposal for electronic invoicing standards.


While having been largely at the forefront on e-commerce promotion in Europe, the U.K. government has recently faced opposition by some industry, trade unions and consumer groups for its implementation of two tax measures and draft legislation on Internet traffic surveillance. According to opponents, the legislation threatens to send e-commerce businesses and Internet service providers out of the U.K., and three major ISPs declared in Mar that they may move their servers elsewhere.

The surveillance bill, known as Regulation of Investigatory Powers (RIP), would force U.K. based ISPs to install equipment and software that would connect to the internal secret service (M15) and would grant government authorities the ability not only to track unlimited Internet traffic, but also to unscramble data through a key escrow provision. Opponents claim that the bill would make the U.K. the only country besides Russia to
have a full range of Internet monitoring laws - e.g. the U.S. and some other countries have imposed certain requirements enabling Internet surveillance, but do not impose key escrow schemes. Besides privacy concerns, industry is concerned about implementation costs, which the British Chambers of Commerce at one point claimed could be reach 73 billion euros.

In recent past, however, a series of amendments to the bill have satisfied some opponents and have reduced the potential economic burden on the ISPs. Additionally, the U.K. Home Office has recently indicated that they are considering reimbursing some of costs associated with the implementation of the bill. The Computer Software and Services Association (CSSA) favors a two month moratorium on the Bill to give the parties on both sides of the debate a chance to cool off.

Two tax measures have also caused a great deal of concern among industry in the U.K.: The IR35 tax measure has caused many legitimate IT consultants to believe they have to pay taxes as if they were permanent employees.

While apparently misguided, the law that took effect in April has caused a significant number of highflying consultants to flee the country. Similarly, legislation to force either employers or employees to pay a 12.2 percent social-security tax on profits made by employees exercising their stock options has been strongly opposed by many businesses, including market leaders such as Cisco Systems. Criticism of the U.K. government comes in the midst of Labor's otherwise aggressive e-commerce strategy.

In 1999, U.K. was one of the first countries to implement digital signatures legislation. The Blair Government has also acknowledged the importance of e-commerce by appointing.

France to Set Up Internet Advisory Body Including Government, Industry and Users The French government is currently considering a plan to set up a forum consisting of 15 committee members as well as industry representatives and Internet users. Dubbed the
"FDI", the body would have a budget of FFr 10 million and would be responsible for looking at various legal issues related to the growth of the Internet and e-commerce. While analyzing problems and making recommendations, the new body would have no sanctioning powers.

Disregarding the European Parliament's Mar 5 rejection of the "Safe Harbor" accord that will allow participating U.S. businesses continued access to personal data from Europe, the EU Internal Market Commissioner Frits Bolkestein on March 13 announced that the European Commission would formally adopt the transatlantic agreement in a matter of days. However EU's Ambassador to the U.S., Gunter Burghardt, on March 14 indicated that it might be necessary to consider re-opening negotiations with the US on certain provisions of the agreement referred to by the European Parliament. A formal letter in this regard will be sent to the U.S. Department of Commerce by end March.

The European Parliament (EP) in a 2/9 to 259 vote on Mar 13 ejected the draft agreement as "inadequate" in light of the stringent requirements contained in the 1995 EU Data Protection Directive, and accused the Commission of overstepping its powers with the conclusion of the agreement with the US requesting that the draft accord be sent back to the negotiation table. However, the EP was only consulted on procedures, making its resolution on substance non-binding. Nevertheless, the EP's rejection of the trade accord was a first of its kind and put EU's executive body in a political dilemma. In addressing the EP on Mar 13, Commissioner Bolkestein "took note" of Parliament's concerns and promised to "monitor carefully" the implementation of the accord. That move may result in further confrontations between the Parliament and the Commission before the European Court of Justice.

The Safe Harbor agreement was reached following nearly two years of negotiations between the U.S. Department of Commerce and the European Commission, and was agreed by EU Member States at a Mar 30 meeting of the Article 31 Committee on data privacy. The safe harbor accord will not constitute a treaty, but is a de facto set of agreed
privacy guidelines for U.S. businesses that want to conduct business with EU counterparts.

U.S. companies will need to self-certify that they abide by the principles contained in the safe harbor accord. In accordance with the accord, they must self-certify their compliance with the safe harbor principles annually, or no longer be part of the safe harbor system. However, companies also need to register with an independent third party enforcement authority, such as TrustE or the Better Business Bureau (BBB Online).

The EP's requests included: that the Commission draft contracts for use by EU citizens in filing suits in the U.S. over alleged privacy violations (requiring a significant change in U.S. jurisprudence); that Europeans be granted an automatic right to have safe harbor complaints investigated by all "independent public body" similar to the data-protection commissioners operating in accordance with the Directive in EU countries; that the free movement of data cannot be authorized until all the components of the safe harbor system are "up and running" (requiring U.S. companies to make millions of dollars in investments to implement the safe harbor provisions with no degree of certainty whether will actually be approved).

Acting Under Secretary Robert S. LaRussa of the U.S. Department of Commerce at a Mar 21 industry briefing indicated that the earliest target for implementation of Safe Harbor is May 2001. When European Commission formally adopts the agreement, EU Member States will have a 90-day period to incorporate the principals contained in the agreement before it can enter into force.