

25 March 2019

Ministry of Foreign Affairs & Trade  
Private Bag 18901  
Wellington 6160

RE: WTO e-commerce negotiations

Dear Sir/Madam

The American Chamber of Commerce in New Zealand Inc. (AmCham) would like to submit the following in relation to the WTO e-commerce negotiations.

AmCham has been promoting trade, investment, tourism and education links between the United States of America and New Zealand for over 50 years. Our membership is diverse and is made up of many of the US Fortune 500 companies and leading NZ corporates representing turnover well in excess of \$50 billion and over 100,000 employees.

We work closely with many organisations, governmental and business, in both countries as well as with our counterparts in the Asia-Pacific region and this network provides our members with access privileges other organisations are unable to provide.

In submission

1. AmCham appreciates the leading role that New Zealand has played on digital trade issues within the WTO;
2. AmCham recognizes that New Zealand was an active participant in the Joint Statement Initiative (JSI) exploratory discussions on e-commerce following the 11th WTO Ministerial Conference (MC11) in Buenos Aires and that it was one of 76 WTO Members at Davos to declare an intent to enter formal negotiations on an e-commerce agreement;
3. AmCham notes the importance to New Zealand of an e-commerce trade deal given that services now account for more than 30% of New Zealand's exports, compared to 16% five years earlier, and that export industries are increasingly relying on online technologies to get their goods to customers overseas;
4. AmCham encourages the Ministry to pursue a high-ambition and commercially meaningful agreement at the WTO, by advocating for:
  - A prohibition on requirements to store data locally in the absence of a legitimate public policy objective;
  - A prohibition on requirements to maintain computing facilities in a country as a condition for doing business there;

- A prohibition on forced technology transfers;
- A prohibition on the mandatory disclosure of encryption keys, source code, and/or algorithms;

A prohibition on a requirement to use certain rules, technical standards, or communication protocols;

- A permanent prohibition on customs duties and customs processes for all electronic transmissions, whether they are commonly considered digital products or digital services;
- Safe harbour provisions for intermediaries to prevent them from being held liable for content created by third parties;
- Access to a free and open Internet;
- Full market access and national treatment so that all those involved in the provision of e-commerce-related services – retail and wholesale, warehousing, logistics, advertising, electronic payment services, transportation, computer related services, and value-added telecommunications services, among others – can compete on a level playing field;
- Streamlined procedures for the simplified processing of low-value shipments; and
- Use of simplified harmonized tariff codes and reduced number of declaration elements for low-value items.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mike Hearn', followed by a long horizontal line extending to the right.

Mike Hearn  
Executive Director  
Email: [mike@amcham.co.nz](mailto:mike@amcham.co.nz)