

Canada-U.S.:  
Free Data Services Zone?

by William Drake

Do not quote without the permission of the author.  
©1985 Columbia Institute for Tele-Information

Columbia Institute for Tele-Information  
Graduate School of Business  
Columbia University  
809 Uris Hall  
New York, NY 10027  
(212)854-4222

CANADA-U.S.:  
FREE DATA SERVICES ZONE?

by  
William Drake

Columbia University

Reprinted from Transnational Data Report, Vol  
VII, No. 586, 1985.

This paper is part of the Research Working Paper Series, not for citation, quotation, reproduction or distribution without written permission. All papers represent solely the author's view and not necessarily that of the Research Program or its affiliates.

# Canada – US: Free Data Services Zone?

by WILLIAM DRAKE  
Columbia University, New York

Trade in data and data services is an increasingly important dimension of the TDF-issue area. With the growth of international on-line data-base services and related market-based practices, a new bundle of concerns has become prominent in the complex international policy process. One of the most important proposals in this field is the Royal Bank of Canada's call for formal trade negotiations between Canada and the United States.

The two-pronged proposal, initiated by Royal Bank President Rowland C. Praeger and elaborated in a technical paper by trade expert Rodney de C. Grey (*see box*), would establish rules for privacy and for trade, the latter being based on General Agreement on Tariffs and Trade (GATT) arrangements for trade in goods (*see box*). The bilateral and multilateral implications of the proposal were the subject of a recent conference at Columbia University, New York, called 'The Management of Transborder Data Flows: US - Canada and Beyond,' sponsored by the Canadian Studies Programme of Columbia University and the Canadian Institute of International Affairs in Toronto. The conference brought together 17 speakers and over 60 participants in one of the most extended discussions to date between academics and the business communities on TDF policy. These deliberations may contribute to the initial positions each country takes when formal negotiations between the two governments begin this autumn. It is expected that one of the first sectors to be considered will be trade in information and computer services.

The Royal Bank proposal comes at a time when the TDF debate may be reaching an important turning point. After several years of largely exploratory discussions in multilateral fora, there are new signs that more concrete actions and the broadening of the discussions are imminent. The Organization for Economic Cooperation and Development (OECD) seems closer to issuing a Statement of General Intent, perhaps based on the American idea of a 'Data Pledge'; the Intergovernmental Bureau for Informatics (IBI) was to debate universal principles at its June meeting; the International Telecommunication Union (ITU) is pondering its role in the wake of the International Telecommunications Users Group (INTUG) initiative; other Third-World fora, such as the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) are increasing their involvement; and a bevy of country case studies are expected through the United Nations Centre on Transnational Corporations (UNCTC). There are also significant changes taking place in the structure of the underlying telecommunications services and equipment markets, as the pressures unleashed by American deregulation reverberate internationally. In this context, the forceful articulation of a user-oriented perspective on TDF's trade dimensions is very significant indeed.

As the multilateral context heats up, the bilateral Canadian – US context appears propitious for the pursuit of concrete

agreements. While the internal organization and orientation of United States policy may be undergoing some change, its general regulatory philosophy and bargaining stance remains unaltered. Things look quite different, however, north of the 49th parallel. After several years of searching for a mildly nationalistic 'Third Option' to macroeconomic dependence, Canadian policy makers appear to be accepting the inevitable and embracing an American-oriented trade-led growth strategy. Canada's Trade Minister Gerald Regan is having regular discussions with the US Trade Representative William Brock about the liberalization of four sectors, including data services. And as the realities of economic cycles merge with the upcoming electoral cycle, the successful management of 'North-South' relations could become an important issue. All this may add up to a more explicitly liberal strategy in TDF, as witnessed by Canada's position at the last OECD meeting on users' 'right of access' to data and data services (*TDR* Vol VII No 1 January/February 1984).

More important than the timing of the proposal is, of course, its substance. The trade dimension is in some senses a microcosm of the larger effort to reach agreement on TDF. The concerns of the field and the Royal Bank proposal for its management can be said to be threefold. First, there are *conceptual* problems involved in defining the specific technologies, market segments and practices that are the object of the policy process; as all recognize, these are made difficult by the complexity and interrelatedness of both the issues and the extant or potential arrangements governing them. Second, there are problems posed by incompatible regulatory *philosophies*; these involve state and corporate preference orderings about the ultimate ends of communications policy and the means for their achievement, and are particularly difficult because of the conflict between nationally and internationally optimal solutions. Finally, there are *tactical* problems present even when the above are resolved; these involve the selection of negotiating fora (bilateral *vs.* multilateral), issues for negotiation (narrow specification *vs.* issue-linkage), timetables and negotiating stances to be adopted when searching for a negotiating focal point where alternative approaches can meet. As the discussion at Columbia University illustrates, the Royal Bank proposal is quite significant in terms of all three categories.

## Industry debates proposal

Presenting the Royal Bank proposal was James C. Grant, Vice President for Strategic Planning and Retail Banking at the Bank and Canadian representative to the OECD's Business Advisory Committee and the International Commerce Commission group on TDF. In his keynote address, Grant carefully delineated the criteria for choice of trade instruments, maintaining that as all participants sought to maintain certain core values, 'what we face is simply an argument about method.' Addressing fears about TDF's possible negative effects, Grant recounted the case of an American airline company that recently moved south of the border its offices and terminals that serve Canadian customers. 'I have no doubt the move made sound business sense,' he said. But, 'it may not be good politi-

cal sense. If it became a trend, if technology was perceived as generally promoting the removal of jobs from Canada on an overall basis, it is easy to see government moving vigorously to stop that . . . I frankly see no evidence that the example I mentioned is a symptom of any kind of trend. But the fears are there; and they could easily be whipped up by critics with goals of their own.' Turning his attention to such critics, Grant said that, 'some would slam the borders shut and create a monopoly in domestic markets - a kind of hothouse in which to nurture the delicate sprouts of exotic business enterprise. I think the world proved once and for all in the 1930s what an unmitigated disaster protectionism can be, and it has taken 40 years plus under the GATT to try and undo those errors.'

Dividing the field conceptually into hardware (computers and telecommunications equipment), software (application programmes and processing services) and information services, he said that policies based on the negative tariff protection of their suppliers were short-sighted. To the extent that any support is required, this should be in an agreed form of positive subsidization. Philosophically, then, a user orientation is in the general rather than particular interest, since 'this issue does not concern just (suppliers') large current customers. It concerns every business, because increasingly, every business can take advantage of new technological developments as data processing capacity drops in cost and as new applications are conceived.' Tempered by realism, the proposal calls not for fully free trade, but for 'the establishment of rules concerning unimpeded access to markets for Canadian and American suppliers; and the harmonization of privacy protection in each country. In general, rules are needed to protect sensitive national interests.'

If agreement in principle can be found on such substantive concerns, the tactical problem of transforming desire into action remains. It is 'terribly important,' Grant said, 'that we pick from within the range (of concepts) some areas or items on which to begin negotiations, and that together our two nations use that to begin defining some of the basic principles and/or rules for treatment of service flows. If we involve all the goods and services - and remember new ones appear virtually every day - the negotiating challenge would be, I suggest, well nigh impossible. In any case, the time frame would become unacceptably long.' He suggested that one area where agreement might be easily reached to begin the cooperative habit was the movement of intra-corporate data. 'Most would agree, I believe, that unimpeded flows of this kind of information are essential for both small and large companies in managing their business. Using that single example, the negotiators would seek agreement on the rules under which access to information could be denied by national governments. Since it is a relatively easy category to define, I believe this area of traded computer services could serve as a useful starting point.'

Explicitly linking the bilateral and multilateral contexts, Grant said that, 'we are not embarking on a two-nation protectionist agreement, but rather on a path toward freer trade. We must look at opening up North America only as a first step toward opening up the world. Given our two nations' impressive history of cooperation and problem-solving, we have the ability to demonstrate to others that such an agreement is not only possible, but that it will provide the best means of ensuring future international prosperity.' The problem, he said, is that 'we are, in effect, writing the rule book with the ball already in motion.' Yet the need is urgent, as 'in the absence of any international agreement, there is a real danger that countries will act unilaterally to restrict the kind of information that can be sent, processed or stored abroad out of a concern for access to data, privacy and national sovereignty. Without agreement, the result could be an array of restrictive rules and regulations, ranging from tariff and non-tariff barriers to government attempts to register, tax and monitor all data banks . . . If we adopt codes of conduct, this could be the first step toward reassuring countries that multinational activities in terms of flows of data are managed in defined and acceptable ways. Such codes have to address the prime concerns - sovereignty, privacy, economic dependence and so forth.'

Generally supportive of the proposal was Joan E Spero, Vice President for International Corporate Affairs at American Express, a user firm that has taken a leadership role in calling for application of GATT rules to TDF. Spero greeted the members of what she jokingly called the 'TDF Mafia', and said that she supported the proposal's philosophical orientation. Because TDF is the 'lifeblood of virtually every major economic activity,' she said, 'users need an assured, predictable international regime that will guarantee the freest possible flow of information across national boundaries and that will prevent governments from arbitrarily changing the rules of the game.' Further, the 'rules of the game must be sufficiently flexible to allow, in fact to encourage, innovation in and application of new technologies. At this stage in the game, there is no predictability in the policy environment, either in the US or in Canada or really anywhere else in the world.' At American Express, 'we see real problems not just on the horizon, but in front of us.'

Citing the prevalence of competitive informatization strategies that 'challenge the prevailing system of relatively free flow of information,' Spero said that, 'from a user's perspective, these measures are becoming very real barriers to trade, barriers that stifle competition, increase operating costs, reduce productivity and in the end lead to higher costs for consumers of our goods and services.' Further, she worried that 'the effects of these restrictions on information flows are not likely to remain confined to any one country. Trade barriers, regardless of their motivation, have a way of provoking retaliation that can spread the negative effects of protectionism internationally.'

While Spero supported the proposal's approach, she was concerned about certain conceptual ambiguities and the potential political barriers to its enactment. It is difficult to define the threshold for 'limitation of barriers' as the proposal suggests, or to define 'relatively unimpeded flow' with precision. And although 'the very process of being in negotiation could itself act as a deterrent to any future barriers,' she suggested, 'Canada is not likely to let its data-related activities fall significantly behind those of its major trading partners . . . . I think we would be kidding ourselves if we expected the results of a bilateral agreement to be absolutely free trade in information services. The goal, then, should be, in my view, to set terms for the departure from the agreement that are as limited and consistent as possible.'

Spero explored the tactical problems the proposal might pose, noting that a broader regime would get 'first prize in the user's perspective. We have to consider whether negotiations of a bilateral agreement will undermine any prospects for a future GATT multilateral agreement on information services or on services in general. Will it be a precedent for a North-American free trade area? Will it lead to blocs or can it be internationalized or multilateralized?' Spero admitted that GATT procedures 'may have to be radically adapted for an information regime, but they may provide some guidelines. It will not be easy, either, to come to some mutual definition of national treatment or to put together what Rod Grey calls the "parcel of rights" that will provide guaranteed access.' Currently, 'as a possible element of this grand plan, and it is a very ambitious plan, many users and policy makers are also exploring the possibility of sector-specific codes for telecommunications and information, which might come under the GATT, and the inclusion of telecommunications, information and services in existing GATT codes, for instance in the government procurement code or the subsidies code.'

Another corporate official who questioned the tactical dimensions of the initiative was Robert Mathieson, a Division Manager at AT&T who has been active in the TDF discussions of the US - Canada Committee of the Chamber of Commerce. Noting that the Chamber seeks to 'prevent frictions from arising in a political spectrum,' he said that previous bilateral satellite and border broadcasting disputes had been settled by taking a more 'technical' approach. Mathieson feared that there was insufficient agreement on 'first principles' either in the bilateral or OECD contexts to facilitate constructive discussions; that election-year pressures on both sides of the border could make any negotiations hostage to competition between political parties, so 'political priorities are liable to influence how the deal is cut;' and that it might become a bargaining chip in the four-sector trade talks. 'What are the risks of trade-offs being made in specialty steel for computers, or for perhaps beef, for trade in computer services?' he asked. If a lack of progress cools enthusiasm in one set of negotiations, this mood could spill over into the others. Mathieson favoured 'picking it up in '85 or '86,' and suggested that in light of divergent opinions, 'first Canadian industry talk it out amongst themselves before they enter into a dialogue with government.' This slower, disaggregated approach was later endorsed by Harry B DeMaio of IBM.

That Canadian industry might not be of one mind on the subject was made clear in a controversial presentation by William H Loewen, President of the Canadian Independent Computer Services Association. Loewen, in an emotional speech, said that 'a dogmatic approach to free trade simply makes no sense for Canada.' Turning to the initiative, Loewen said that 'with greatest respect, we disagree with almost every assumption

and premise from which the Royal Bank's proposal was derived and we find this supporting argument naive and unconvincing at best and distorted and contradictory at worst . . . . Both the Royal Bank and our Government seem to fail to realize that we already have free trade in computer services, that it is costing a growing number of jobs, and that computer data should not be treated in the same way as tangible goods' because of its effects across all economic sectors.

Further conceptual disagreement stemmed from the argument that while commodity imports involve now, one-time costs, 'importation of services involves long-term contract considerations. Once locked into these services, they take on a permanency that eliminates the normal competitive market forces.'

Loewen also depicted the Royal Bank's claim that data protectionism would reduce the market transfer of technology to Canada as 'a denial of Canadian entrepreneurial spirit.' Instead, 'if the data are stored and processed in a foreign country, we will lose the technology. All that we will have in that scenario is terminals imported from the United States, probably, to be compatible with United States data banks.' Further, 'there is no longer the need for a New York corporation to have a Canadian head office. It has become as easy to service Vancouver from New York as it is to service Seattle from New York. The border no longer matters. When you recognize how much of Canadian business is US-owned, the tremendous vulnerability to loss of computer-related jobs becomes obvious.'

Loewen was equally worried about the role of the United States, quoting Burroughs Chairman Michael Blumenthal to the effect that 'TDF is largely an issue of the US versus the world.' What 'everyone but the Royal Bank seems to realize is that the importation of services could drastically reduce economic activity in every country except the United States. That is why every country is resisting such a move.' Further, Northern Telecom and Mitel's hardware successes aside, 'a number of Canadian data-processing companies have weakened themselves very, very seriously by trying to move into the American market, for example. We would have a much stronger industry in Canada now if it weren't for those moves, which really don't hold much promise for Canada.' Dependence on the US would also make Canada hostage to that country's foreign policy. Without judging that policy, he averred, 'there has been sufficient evidence of treaty violation in order to bring political pressure to bear on other governments (e.g. Dresser France), both friendly and unfriendly, to suggest that data should neither be processed nor stored outside territorial boundaries. We would not want either the reality or the appearance of being held hostage to our own data.'

Loewen said: 'Basically, we're asking the Government to declare, now that restrictions will be put in place, that there will be no agreement on trade in government services, and that after a suitable period of study of the importation of services that is presently taking place and a suitable examination of those services, which has been resisted by our telephone companies for some reason, proper rules would be developed that would allow the transborder data flow that needs to take place to do so. Canadian data, in our opinion, must be processed in Canada.' Unfortunately, the negotiating momentum toward liberalization 'continues to move very, very fast. The signs are, on the Canadian side, minds have already been made up. I don't know just what the trade-off is or who's got the influence that's made up the minds so quickly. But from a subject that's been thrown around since 1972, and warnings have existed since then . . . suddenly the issue has been sort of pushed into the background . . . the Royal Bank has come up with its position, and the Canadian Government's position is almost identical, as nearly as I can see.'

### **Governments receptive but cautious**

Whether or not Loewen's view is representative of Canadian opinion, it does highlight the political difficulties states face in mediating between the sometimes competing demands of users, suppliers, trade unions and other pertinent interest groups. Not surprisingly, government representatives to the conference were generally receptive to the proposal's logic, but cautious and reluctant to judge its political chances of becoming policy.

This attitude was reflected in the presentation of Robert Johnstone, Canada's Consul General in New York and a trade expert formerly with the Ministry of External Affairs. Johnstone demonstrated the difficulties of moving quickly to intergovernmental agreements by contrasting trade in goods with trade in services, noting that unlike the former, the latter is an extremely heterogeneous category, lacks any internationally recognized organizing principles, and is characterized to a far greater degree by market-distorting, non-tariff barriers. These conceptual problems aside, Johnstone applauded the proposal's philosophy and decision to build on extant regime rules, and took issue with tactical assessments such as that of Mathieson which doubt its political feasibility. Multilateral and bilateral talks are not mutually exclusive, he said, especially since, 'from a Canadian perspective, any negotiation with an international context is largely about a negotiation within a multilateral context with our major trading partner, the United States.' Further, 'I don't see any reason to fear that the discussion of TDF issues will get distorted or thrown off balance because of an urgent political sense that something's got to be done.'

A similar, balanced and careful approach was taken by Peter Robinson, Canada's Special Adviser on International Aspects of Informatics for the Department of Communications and the head of the OECD's expert group on TDF. Robinson pointed out that policy discussions are made difficult because many Americans have misconceptions about the supposedly 'protectionist' nature of Canadian policy, and that these are perpetuated through repetition without substantiation by otherwise well-informed sources.

In particular, he took issue with the frequently reported claims that the Government had denied the Vancouver Real-Estate Board access to American data-processing facilities, and that the Bank Act of 1980 requires the processing of *all* bank data in Canada, thereby imposing extremely high costs on foreign subsidiaries. Robinson's dismissal of the latter claim was supported in the subsequent discussion both by an American official involved, and by a representative of a multinational bank that had adjusted to the initial inconvenience and was now finding it less expensive to process data locally.

Robinson also noted that in light of the Dresser France and other cases, the American record on 'free flow' was not quite perfect either. This said, he applauded the trade-oriented philosophy of both the initiative and of current OECD work, arguing that employment of the broad concept of 'TDF' can lead to competing normative concerns and a misplaced emphasis on the 'flow' dimension of the phenomena. On the other hand, he said, it is tactically dangerous to completely disaggregate the 'TDF' concept, since either bilateral or multilateral trade negotiations required an appreciation of differences in underlying telecommunications regulations and in national approaches to intellectual property and extraterritoriality.

For their part, the American officials were equally measured in offering their general support of the proposal. Kathryn Hauser, an economist at the Office of the US Trade Representative, depicted the current bilateral relationship in relatively benign terms. She said that it is being well managed through the ongoing technical meetings between telecommunications authorities dubbed the 'Niagara Process', and the four-sector trade discussions, and is complemented by the American initiative in the GATT. Prospects for additional formal procedures were mixed, she said, because conceptually, 'I really don't think we know right now what the bottom line for Canada should be. I don't think we know what our bottom line should be.' This and a lack of Congressional authorization means that 'we have a long way to go before we are ready to negotiate anything.'

Describing her efforts to canvass American corporate opinion about problems encountered with Canada, Hauser said that in reality most problems were rather minor, often involving a simple unfamiliarity with the requisite regulatory procedures. In fact, she said, 'we basically have free trade or free flow of information across borders . . . and we have had for a number of years.' Since the Canadian and American Governments are largely of one mind in both the bilateral and multilateral contexts, negotiation of a formal agreement 'would simply codify the *status quo*.' Indeed, she stated, a 'more important' and precedent-setting development is the current negotiations between the US and Israel for a comprehensive free-trade area.

The similarities and differences between the proposal and current American actions were also highlighted by Virginia Schludt, Staff Director of the Sub-committee on International Operations of the House Foreign Affairs Committee. In particular, Schludt examined the pending Reciprocal Trade Investment and Services Industries Development Act, which is designed to create open international markets for American trade and investment in services and to foster international

agreements which promote that end. As in previous bills, barriers to such flows are to be identified and loosened through diplomacy to ensure data transfer and access rights and a 'right of establishment' or investment. While the former is similar to the proposal's 'right of presence', Schlundt noted, its exclusion of the latter and European non-acceptance would prove problematic in formal negotiations. However, Schlundt was optimistic because the legislation foregoes some of the aspects of previous bills that have troubled American trade partners in the past, such as rigid definitions of restrictions, obligatory retaliation and alarmist language. Further, the Act requires that TDF policy be in conformity with the overall diplomatic objectives of the US, rather than be formulated purely in terms of domestic commercial priorities.

### International context important

Whereas bilateral disagreements tended to be more tactical than substantive, the conferees indicated that both are potentially contentious in the more diverse international realm. Speaking in favour of liberal bilateralism was Eli Noam, Director of the Research Programme in Telecommunications and Information Policy at Columbia Business School, and

author of a forthcoming book on European PTI's. Noam argued that the conceptual and philosophical differences between North America and the Continent are so great as to preclude the establishment in the short term of meaningful multilateral agreements. Despite changing technological and marketing possibilities, he suggested, the PTI's view the new TDF issues through pre-teleomatic lenses: they see themselves as protectors of the public against private monopolies, providers of essential cross-subsidized services and, increasingly, as architects of industrial policies. The result is often restrictive and anti-competitive policies designed primarily to preserve the 'grand coalition' of PTI's, suppliers and labour that he dubbed 'the Postal Industrial Complex'. Their biggest fear is 'the spectre of international, largely American, integrated telecommunications companies that provide communications, data processing, data bases, marketing and links with other data bases,' said Noam. 'Those companies would presumably be aggressive, innovative and flexible - in short, everything the PTI's are not.'

Aside from harming large users and foreign suppliers, European governments are 'harming themselves' by lessening the vitality of the economies they are trying to protect. Dismissing 'smoke-screen' arguments that the issues are too complex for immediate action and require long international negotiations for harmonization, Noam concluded that 'bilateralism has a greater chance of success than multilateralism,' and the Royal Bank initiative is therefore a sensible one.

A rather different position was taken by Karl Sauvart of the United Nations Centre on Transnational Corporations. Sauvart began from the premise that GATT, ITU and other rules do not add up to a comprehensive and internationally accepted TDF regime, and that in this 'public-policy void', destructive unilateral actions are becoming more frequent. However, conceptually 'we don't know very much about what TDF are, what their importance is, what their impact is, and therefore any framework which would be negotiated now is likely to be unsatisfactory and possibly can stifle the initiatives of the market.'

Sauvant argued for a two-step approach that would first 'demystify' the issues and then promote evolutionary policy harmonization. While the Royal Bank proposal contributes to both ends, he said, 'bilateral agreements on trade in data and data services cannot be a substitute for a multilateral approach.' Further, although the proposal includes procedures for third-party attachment, 'other potential participants may not just accede to the rules negotiated by the United States and

Canada, but rather would want to participate in the formulation of the rules themselves, and in particular would like to make sure that their special circumstances are fully taken into account.'

Perhaps the most conceptually oriented presentation was made by political scientist Peter F Cowhey of the University of California at San Diego. Cowhey examined the proposal in the context of the 'future of international trade', arguing that the trade issues cannot be and have not been strict liberalism *vs.* mercantilism in the postwar world. Maintaining that monetary value leads governments to give primacy to equipment rather than to services, he said that any agreement concerning the latter must be constructed with regard to its impact on the former. Given the prevalence of extensive equipment regulations, 'people will not accept the classic GATT principles in the future for organizing trade systems, at least in the new areas that they consider to be high economic and political stakes.'

Further, as a result of the unusually state-structured organization of suppliers and users, Cowhey and fellow political scientist Jonathan David Aronson (who summarized the conference) argued in a discussion paper that, 'it is possible to remove most of the formal obstacles to international trade in computer services without achieving competition comparable to that achieved in goods.' The tactical implication, he concluded, is that the proposal is useful but cannot preclude all types of bilateral disputes, and as a precedent 'may be relatively inapplicable to large parts of the world market.' Eventually, given their roles in many of the relevant markets and fora, the concerns of developing countries will have to be centrally incorporated into discussions of a broader regime.

### Questions remain

It is clear that the Royal Bank proposal is one of the more well-reasoned and specified, action-oriented contributions yet offered in the TDF discussion. What is less clear is whether there is sufficient conceptual, philosophical and tactical consensus for its approach to gain widespread adherence. Indeed, the above discussion seems to suggest that if it will be difficult to rapidly aggregate and harmonize all the relevant interests bilaterally, it may be impossible to do so internationally.

Almost all the speakers addressed the conceptual problem of the complex interdependence and blurring of boundaries between the components of the TDF issue area, but the problem remains far from resolved. The decision to view the policy realm in fragmentary or holistic terms has concrete implications for the delimitation of the bargaining space in which ne-

negotiations can take place. For example, as Robinson, Noam and others suggested, the national differentiation of underlying telecommunications regulations and market structures may affect policy responses to narrowly defined problems such as trade in data and data services. Thus while the conferees found few legislatively formalized restrictions on access and flow, policies on resale and sharing, volume- and distance-sensitive pricing, network standards and interconnection and a variety of potentially conflictual issues may need to be discussed.

Noting the unity of content and carriage concepts, Oswald Ganley, Executive Director of the Programme on Information Resources Policy at Harvard University, said that, 'it is just not legally or otherwise possible to differentiate. So how are we going to have a neat little negotiation on computer goods and services separate from telecommunications?' Ganley suggested that 'sooner or later' the discussion would have to turn to the less easily harmonized dimensions if the concerns of the public and private sectors alike are to be resolved.

Philosophical differences may be even more difficult to define, for as the conference suggests, TDF is fundamentally a problem of political economy. As such, technically rational ideas cannot be pursued without due consideration of the interests and power of the competing players. The growing assertiveness of users may increasingly be offset by that of other groups with different preference orderings, and governments are inevitably forced to mediate between them in choosing policies.

The problem, then, is not just competing general values such as equity and efficiency, but the specific distribution of *intra-*

and *inter-national* costs and benefits that result from public choices. And just as late industrializers have in the past pursued state-led strategies in order to solidify suitable places in the international division of labour, so too, are late informatizers today less likely to forgo state-led strategies amidst wrenching international economic change. Negotiators therefore need to devise mechanisms that allow those key sectors that would benefit from liberalization in the short term to do so, yet ensure that the long-term burden of adjustment costs for other groups are not so great as to reduce indigenous control to unacceptable levels. Given the conflict between domestically and internationally optimal solutions, it remains unclear what sort of liberal regime rules will allow states to embed their interdependence linkages in the public power and surveillance necessary to do this.

Finally, the tactical dimension, like the conceptual, remains plagued by complexity and linkages. While some industrial groups may prefer narrowly defined, limited membership agreements that are quickly and cleanly arrived at, TDF issues are so salient that the mere act of raising them brings forth the articulation of new and competing interests. It may be that as formal arrangements must be politically bargained, less juridically defined solutions will become necessary in the short term. Even if the Royal Bank proposal is eventually enacted, something more than 'political will' and extant liberal commitments will be required for third parties to adopt the approach as their own. Otherwise, it is possible that such an agreement could reconfirm previous convictions that North-American and other players simply do not speak the same language. ■