

Abandon talks for big data rules at WTO, say over 300 CSOs

Monday 22 July 2019, by [RAJA Kanaga](#), [Third World Network](#) (Date first published: 12 June 2019).

In the spring of 2019, members of the World Trade Organization (WTO) began negotiations on a binding international framework on what is known as “e-commerce”. The WTO has previously defined e-commerce rather narrowly. Yet as the digital economy develops, the notion of e-commerce has now become much more extensive. The concept now covers what many describe as the “lifeblood of the digital economy” - namely, *control of data*.

As a response to the negotiation, the international network “Our World is Not for Sale” (OWINFS) facilitated a global letter that was sent to all members of the WTO. In the letter, they call for the end of the negotiations, noting that such an international agreement would pave the way for corporations to secure even more rights to privatize and control data. This would thus give the Big Tech corporations and their host countries even more rights to transfer data without restrictions for private profit. They argue that human, labour, consumer, economic, and civil rights must apply equally in the digital sphere without being constrained as “barriers to trade”.

In this month’s “Voices from the South”, *Kanaga Raja* (Malaysia) of Third World Network (TWN) introduces the letter that was endorsed by over 300 civil society organizations in 90+ countries. Both OWINFS efforts, as well as TWNs WTO Monitoring efforts, are supported by Karibu. A version of this text originally appeared in [TWN’s South-North Development Monitor \(SUNS\) #8879](#).

A number of civil society organisations (CSOs) have expressed their **profound and urgent opposition to the proposed negotiations on e-commerce at the World Trade Organisation**, which if concluded, could result in the full liberalization of the entire digital economy, and thus represent a back-door attempt to achieve a “WTO 2.0”.

In a letter to WTO members, the over 300 CSOs from 90 countries across the world underlined that developing countries must develop their own agenda for digital industrialization.

They must not advance the “e-commerce rules” that were developed by transnational companies like Amazon, Google, Facebook, and Alibaba to further their own interests, said the CSOs.

The CSOs urged WTO members **“to abandon their push for digital trade negotiations in the WTO and focus urgently on transforming global trade rules for shared prosperity for all.”**

Some 55 international and regional CSOs have signed onto the letter including amongst others the ACP Civil Society Forum; Arab NGO Network for Development (ANND); East Africa Trade Union Confederation; Focus on the Global South; Global Alliance for Tax Justice; Global Policy Forum; IBON International; International Trade Union Confederation; Just Net Coalition; LDC Watch; Public Services International; Southern and Eastern Africa Trade, Information and Negotiations Institute

(SEATINI); Tax Justice Network Africa; Third World Network-Africa; and the Transnational Institute.

A host of national organisations have also signed on to the CSO letter.

“The proposed rules represent a grave threat to development, human rights, labour, and shared prosperity around the world, and are the opposite of the policies needed to rein in the power of Big Tech.”

- Civil Society Letter Against Digital Trade Rules in the World Trade Organization (WTO)

The letter was facilitated by [Our World is Not For Sale \(OWINFS\)](#), and it includes 11 central conclusions for advocacy and action:

1. There is a need for **appropriate democratic governance on data, not unlimited power over data** by Big Tech.
2. Data policies that put **public interest first** are essential for economic development and prosperity in all countries.
3. **Strong consumer protections, privacy, and rights would be jeopardized** by “e-commerce” rules.
4. Digital policies must promote **decent jobs for shared prosperity**; they **should not reduce workers’ power**.
5. **Anti-monopoly regulations and actions are urgently needed**, in jurisdictions outside of the WTO.
6. Digital liberalization would decimate development and **increase poverty in developing countries**
7. **Digital Industrialization is urgently needed** to foster development and Small and medium-sized enterprises.
8. **Fairer taxation would be severely constrained** by proposed e-commerce rules in the WTO.
9. There is a need for policies to promote innovation, small businesses, and security, **not more patent monopolies**.
10. Countries need policy space; the **e-commerce agenda is promoting harmful total liberalization**.
11. There is a need for **a new agenda for digital economic policies**, and for the global economy.

The rules proposed by Big Tech transnational corporations (TNCs) go far beyond “e-commerce” and have implications for all aspects of domestic as well as the global economy, even for countries not participating, notes the letter.

The full text of the CSO letter is reproduced below, or can be downloaded here:

Letter from 315 CSOs from 90+ countries against Digital Trade talks in the WTO, April 1, 2019: [English](#), [Spanish](#), [French](#)

Civil Society Letter Against Digital Trade Rules in the World Trade Organization (WTO)

Dear WTO Members,

“Technology can stimulate development and help build sustainable livelihoods, but the right policies are essential to ensure that countries, workers and consumers everywhere can benefit.

But some countries have declared their intent to rewrite the rules of the global economy, to give giant technology corporations, the largest companies in the world, new “rights” to profit – while limiting public interest oversight and benefits from the new economy for everyone else – by commencing new negotiations on “e-commerce” in the WTO.

The rules proposed by Big Tech transnational corporations (TNCs) go far beyond “e-commerce” and have implications for all aspects of domestic as well as the global economy, even for countries not participating.

We are writing to express our profound and urgent opposition to these proposed negotiations which, if concluded, could result in the full liberalization of the entire (digital) economy, and thus represent a back door attempt to achieve a “WTO 2.0”.

While the rhetoric surrounding “e-commerce” highlights the opportunities for developing country entrepreneurs, having binding rules on the still-emerging digital economy would severely constrain the ability of countries to develop their economies in the future.

It would accelerate the global disadvantaging of workers and small enterprises in all countries vis-a-vis large corporations that characterizes the current global economy.

It would enable Big Tech to consolidate its exploitative business model, including gaining rights to access markets globally; extracting and controlling personal, social, and business data around the world; locking-in deregulation and evading future regulation; accessing an unlimited supply of labour stripped of its rights; expanding its power through monopolies; and evading the payment of taxes.

The proposed rules thus represent a grave threat to development, human rights, labour, and shared prosperity around the world, and are the opposite of the policies needed to rein in the power of Big Tech.

1. We need appropriate democratic governance, not unlimited power over data by Big Tech.

Democracy and sustainable development depend on the free flow of information, and we strongly believe in freedom of expression. But this is different from unregulated collection and cross-border transfer of, data by TNCs. Big Tech ‘s surveillance capitalism is harming democratic functioning in our media, knowledge, culture, transportation, agricultural, judicial, commercial, health, and other sectors, and damaging our democratic processes.

Public debates increasingly focus on the need to reduce the power of Big Tech through stronger regulations on the national and international level, but proposed e-commerce rules – including their top goal of unrestricted “free flow of data” – could pre-empt such efforts in the appropriate agencies.

2. Public interest data policies are essential for economic development and prosperity in all countries.

At this point, most countries (and most people) don’t properly grasp the value of data, the most valuable resource, so governments are too easily allowing it to be collected indiscriminately and transferred outside their countries by TNCs.

Just as in previous centuries, when developing countries lost control of the capacity to properly take advantage of the wealth-creating potential of commodities, there is a danger of repeating those same mistakes now with data, leading to digital colonialism and the exacerbation of the serious problem of increasing inequality around the world.

All countries, and especially developing countries, need to harness the value of data for domestic entrepreneurs, but also for community economic development in the public interest. Thus, they must maintain the policy space to tailor policies on governance of data, including potentially maintaining data locally or regionally when that might be in the national or community interest.

Proposals in the WTO to give Big Tech the right to unregulated cross-border data transfers, to ban countries from being able to require domestic data storage, or to use local servers would severely constrain the ability of developing countries – and all who are not Big Tech – to ensure that their citizens benefit from digitalization.

3. Strong consumer protections, privacy, and rights would be jeopardized by “e-commerce” rules.

Strong policies for digital user protection are needed, including around matters of privacy and data protection. Citizens have rights to privacy and consumers have rights to have our data protected and not abused by giant TNCs for private profit, or by governments against our human rights in the digital space.

The proposed WTO rules would give corporations unlimited rights to transfer data to whatever jurisdiction they please and would privilege commercial rights over consumer protections and citizens’ privacy rights in ways that cannot be fixed by rules in the WTO itself.

Human, labour, consumer, economic, and civil rights must apply equally in the digital sphere without being constrained as “barriers to trade”.

As companies increasingly use artificial intelligence (AI) such as in hiring and firing, and governments increasingly use it in functions such as judicial sentencing, we also need strong algorithmic accountability frameworks to ameliorate gender and racial discrimination and bias, not restrictions on access to source code and algorithms as in the proposed rules.

4. Digital policies must promote decent jobs for shared prosperity, not reduce workers’ power.

Inclusive digital industrialization for shared prosperity must focus on decent job and livelihood creation and associated social and economic rights.

UNCTAD’s Trade and Development Report has shown that workers are losing their share of global production vis-a-vis capital, partially because capital has used its surplus wealth to rewrite the rules to allow it to extract increasing profits.

Automation and trade policies have weakened workers’ bargaining power, and the proposed “e-commerce” rules would further erode workers’ rights and power vis-a-vis giant digital corporations and lead to increasing inequality and precariousness in many sectors.

As more women enter the digital economy, we object to how “gender” and “women’s economic empowerment” are being used in the WTO to push anti-development policies which will reduce power of women workers.

New rules that reinforce structural inequalities between and within countries will not be acceptable just because of a gender or labour clause.

The most important strategy to ensure widespread and inclusive benefits from digitalization is a commitment to job creation towards full employment, focused on equity, including strong labour

rights and decent work and working conditions for all workers; gender equality; workers' data rights; and comprehensive and portable social protection including for platform workers.

5. Anti-monopoly regulations and actions are urgently needed, in jurisdictions outside of the WTO.

Nearly all digital trade is dominated by a few global players from the United States and China in ways that are not simply disrupting and re-organizing economic activity but leading to digital domination. An ever-larger source of Big Tech's profit-making is derived from buying competitors and avoiding regulation.

In addition to creating new and strengthening existing anti-monopoly regulations, governments must consider breaking up companies engaged in harmful monopoly practices. Until this occurs, it would be foolish to tip the scale in favour of the technology monopolists' power even further by agreeing to their proposals in the WTO.

6. Digital liberalization would decimate development and increase poverty in developing countries.

In order to trade, developing countries have to produce and increase the value captured from production.

If digital trade is expanded without first improving productive capacities in developing countries, as well as closing the digital divide through improvements in physical infrastructure and interconnectivity, and adopting enforceable norms for privacy, data protection, and economic data rights, developing countries will simply be opening their economies even further to foreign imports.

Linking into e-commerce platforms will not automatically increase exports but can lead to further erosion of domestic market shares.

Thus, liberalization in the digital sphere, without the required domestic investments to improve productive capacities, will destroy jobs and further informalize them, decimate micro, small and medium enterprises (MSMEs), and severely constrain future development.

These threats to economic sovereignty and future development prospects from premature digital liberalization would be greatly amplified if the rapidly evolving digital economic space is governed by rules that were developed by TNCs for their own profit-making around the world.

7. Digital Industrialization is urgently needed to foster development and MSMEs.

Instead of digital liberalization, what is needed around the world is a development-focused digital industrialization strategy.

In Africa, this is reflected in the Agenda 2063: The Africa We Want vision. Digital industrialization indicates the need for investment in countries' technical, legal and economic infrastructure and policies to develop and support domestic digital businesses and platforms and build capacities to use domestic data in the public interest; to strategically promote domestic MSMEs including through technology transfer and national data use frameworks; to ensure universal benefits of the digital economy through full employment policies; to ensure proper taxation and investments to close the digital divide; to advance consumer welfare and privacy through enforceable consumer protection measures; to ensure public interest regulation of the digital economy and sound competition practices; and more.

Specific policies are required to protect the small actors, traders, farmers, small service providers, workers, etcetera that are threatened by new globally organized digital models. Much of this can be accomplished through domestic policies that should be developed with appropriate stakeholder input, as well as through regional integration.

But “e-commerce” rules in the WTO are intended to specifically restrict the ability of countries to implement most such policies.

8. Fairer taxation would be severely constrained by proposed e-commerce rules in the WTO.

“E-commerce” proposals in the WTO include at least five mechanisms to limit tax liabilities for Big Tech, not just by prohibiting appropriate taxation but also by banning requirements that companies have a local presence in countries where they operate. But giant technology companies should contribute to the national tax base, just as do local or non-digital companies.

Digital players are taking advantage of the mobility and intangibility of digital goods and services to avoid tax and create an uneven playing field.

Tax rules that allow digital TNCs to artificially reduce taxable income or shift profits to low-tax jurisdictions in which little or no economic activity is performed should be tackled and must not be codified by digital trade rules.

Appropriate taxation is essential for investments in development-focused infrastructure and good quality and accessible public services, including social infrastructure that can reduce unpaid and poorly paid care work in the home mostly carried by women.

This is all the more important given that the build-up of debt (both public and corporate) in recent years is once again raising concerns about its sustain ability.

Developing countries will not be able to achieve the Sustainable Development Goals (SDGs) without expanding fiscal supports to achieve quality accessible public services in education, health, social care, access to water, electricity, and more.

9. We need policies to promote innovation, small businesses, and security, not more patent monopolies.

UNCTAD has highlighted that all countries which successfully industrialized used infant industry protections. Since developing countries, and particularly Least Developed Countries (LDCs), still need to industrialize, they need to be able to use protections for nascent industries, including through active policies of technology transfer.

The international system of rules governing patents and copyrights have resulted in an incalculable transfer of wealth from the global South and consumers everywhere to a tiny set of hyper-protected patent and copyright-holding TNCs in a few countries.

Extreme protections for “intellectual property” (IP) stifle innovation, reduce freedom and creativity, promote monopolies, and facilitate tax avoidance. They also reduce our security against hacking, as source codes and algorithms treated as trade secrets could evade regulatory oversight.

Proposals in the WTO under the name of “e-commerce” would further entrench systems of IP maximalism and should be rejected, especially for LDCs that are not required to implement them. Instead, we need proven policies that promote innovation, unconstrained by anti-development

extreme IP monopolies.

10. Countries need policy space; the e-commerce agenda is promoting harmful total liberalization.

“E-commerce” is being used as a Trojan horse for other proposals that would expand liberalization including the removal of tariffs (on information technology products); liberalization of various services; and allowing foreign companies to compete for government procurement contracts of all ministries.

They are proposed to apply even to LDCs who do not have to liberalize goods or services in the Doha Round.

These proposals include issues which developing countries successfully stopped from being negotiated in the Doha Round. “E-commerce” should not function as a back door for anti-development rules that have already been rejected.

11. We need a new agenda for digital economic policies, and for the global economy.

Developing countries must develop their own agenda for digital industrialization. They must not advance the “e-commerce rules” that were developed by TNCs like Amazon, Google, Facebook, and Alibaba in their own interests.

Other models can more equitably distribute the benefits of the digital economy while reinforcing human rights.

All countries likewise urgently need policies to constrain the behaviour of these corporate behemoths, not to further entrench their outsized monopoly power.

A pro-development outcome cannot be achieved in e-commerce talks because the rules and policies needed for digital industrialization are the opposite of WTO rules, which give companies rights while constraining the role of the state in regulating.

Civil society has argued that the global trade system must provide countries sufficient policy space to pursue a positive agenda for development and job-creation, and must facilitate, rather than hinder, global efforts to ensure food sovereignty and true food security, sustainable development, access to affordable medicines, and global financial stability.

It must privilege global agreements on human rights, the environment, and SDGs over corporate profit.

This pro-development agenda is being shoved aside in the WTO in favour of Big Tech’s interests through the “e-commerce” talks.

We thus urge WTO members to abandon their push for digital trade negotiations in the WTO and focus urgently on transforming global trade rules for shared prosperity for all.”

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