

Ecommerce and WTO

Ecommerce provide more opportunities for trade.

What is electronic commerce according to WTO?

The WTO Work Programme on Electronic Commerce defines “electronic commerce” as the “production, distribution, marketing, sale or delivery of goods and services by electronic means.”

Work program on ecommerce

In 1998, at the Second Ministerial Conference, adopted a Declaration of Global Electronic Commerce. After the declaration, a work programme on ecommerce was adopted in September 1998.

The Work Programme covers all issues related to trade arising from global e-commerce, including enhancing internet connectivity and access to information and telecommunications technologies and public internet sites, the growth of mobile commerce, electronically delivered software, cloud computing, the protection of confidential data, privacy and consumer protection.

Periodic reviews of the programme are conducted by the General Council based on reports from the WTO bodies responsible for implementing the programme.

Ministers considered the Work Programme on Electronic Commerce Ministers at their Ministerial Conferences in Geneva 1998; Doha 2001; Hong Kong 2005; Geneva in 2009; Geneva 2011; and Bali 2013, Nairobi and Buenos Aires (2017).

But at Nairobi and especially at Buenos Aires, there were notable discussions on widening the scope of the existing work programme.

A review of the work program and moratorium are expected at the 12th MC. Developing countries including India opposes the expansion of ecommerce agenda because of the development concerns.

Moratorium on digital trade – developed vs developing

An important component of the current ecommerce work programme is that there is a moratorium regarding customs duties on ecommerce.

What is WTO's moratorium on ecommerce duties?

The WTO e-commerce moratorium, which bans countries from imposing customs duties on electronic transmissions, dates back to 1998 when ministers at the Second Ministerial Conference adopted the Declaration on Global Electronic Commerce. Buenos Aires MC decided to extend the moratorium till the 12th MC.

This moratorium was originally set to last for five years (1995–99), but it has been extended a number of times since then in the absence of agreement by members on what the scope and modalities.

The moratorium allowing information flows to remain duty-free facilitated dramatic expansion in the depth and breadth of digital trade. At the same time, it allowed capable countries to increase trade without attracting duties from the importing countries.

Ecommerce at Buenos Aires

A major issue of conflict at the Buenos Aires MC was the topic of ecommerce. Here, the developed countries led by EU, Japan, Switzerland etc. tried to introduce more liberalization than the existing work programme on ecommerce contains. At the MC, the WTO had four areas to work with on ecommerce:

1. Future of the existing work program on ecommerce
2. Moratorium on customs duties on digital transactions

3. New negotiations on ecommerce, and

4. Setting up a work group on institutional structure to support ecommerce

The advanced countries and some other developing countries supported ecommerce negotiations. Several of them viewed that a global rule for government ecommerce activities is needed.

The argued that digital trade will benefit MSMEs and less developed countries according to them.

At the same time, several countries pointed out that liberalization in digital trade will backfire because of the digital divide between countries which are utilizing these opportunities and those which can't utilize them.

India's stand

India was against fast-tracking of e-commerce trade. The Indian delegation at Buenos Aires objected to bring ecommerce discussion at the MC and indicated that the country is not ready to go beyond the existing work programme.

Ecommerce is a new issue and decision on it should be considered only after getting consensus on issue like food security related public procurement.

India in its submission, maintained that time has not reached for starting discussion as many countries can't fully understand the implications of binding rules.

Besides, India and South Africa opined that zero duty on e-transmission could result in higher revenue losses for developing countries.

As more products, are digitalized and delivered through e-platforms, moratorium on customs duties will led to revenue losses.

Experts from developing countries believe that the developed countries have a very thick edge in the case of digital enterprises.

Hence, because of this asymmetry, any decision can hurt the development interest of the poor countries.

India also opposed linking of ecommerce with MSMEs.

Update July 2020

India and South Africa's communication to the WTO General Council argues that the moratorium on e-commerce is "equivalent to developing countries giving the digitally advanced countries duty-free access to [their] markets," and jeopardizes achievement of the SDGs.

In March 2020, both circulated a communication to members of the World Trade Organization (WTO) General Council, arguing that the WTO moratorium on customs duties on electronic transmissions has "catastrophic" impacts on developing countries' economic growth including:

- tariff revenue losses;
- impacts on industrialization;
- impacts on the use of digital technologies like 3D printing in manufacturing;
- employment and achievement of SDGs.

According to a UN Conference on Trade and Development (UNCTAD) article, in 2017 alone, the potential tariff revenue loss to developing countries due to the moratorium was USD 10 billion.

The article further notes that removal of the moratorium could provide policy space for developing countries to regulate imports of electronic transmissions and generate annual tariff revenue of up to 40 times greater than that in developed countries.

Supporters of moratorium extension

In another communication, a group of WTO members highlighted “the overall benefits” of duty-free electronic transmissions.

A communication from Australia, Canada, Chile, Colombia, Hong Kong, China, Iceland, the Republic of Korea, New Zealand, Norway, Singapore, Switzerland, Thailand, and Uruguay, circulated in June 2020, highlights a paper by the Organisation for Economic Co-operation and Development (OECD) titled, ‘Electronic Transmissions and International Trade: Shedding New Light on the Moratorium Debate.’ The members state that, according to the paper, “the overall benefits” of duty-free electronic transmissions “outweigh the potential forgone government revenues” due to the moratorium. The members recommend that these findings be considered in the current discussions on the extension of the moratorium.