

## ***The WTO Ecommerce Moratorium: What it is, and how the conflict around it matters***

Norbert Bollow, 20 May 2026.

Most news media are full of very superficial reports, most of which are about events that will almost certainly have no importance at all in the long run.

In the middle of all that noise, it is easy to overlook news items which are actually important, but somewhat difficult to make sense of.

At the end of March, in Yaoundé, Cameroon, the 14<sup>th</sup> Ministerial Conference of WTO, the World Trade Organization, ended in a stalemate, the main point of conflict being about what is called “the ecommerce moratorium”, which is a ministerial declaration from 1998(!). For a good summary of what happened there in Yaoundé see [1]. WTO officials said that they expected negotiations about the topic to continue in Geneva in May, but so far at least, nothing like that is happening and there isn’t anything about it officially on WTO’s agenda. The stalemate is simply continuing.

WTO’s failure to make a decision on this moratorium has actually changed its status; it is now officially expired, as it had always only been a temporary moratorium, specified to be valid until the next WTO Ministerial Conference (these usually take place every two years), at which time it might be extended by means of a consensus decision. There was usually little doubt that the moratorium would be extended without much debate between country representatives, but now the US government tried to bully the rest of the world with a demand for making the moratorium permanent, while Brazil insisted on extending it at most for another two years and on adding a way for countries to opt out of it.

In this article I want to discuss what the moratorium actually means and how that matters. This will allow me to propose a plausible explanation for why after 28 years there is now a serious conflict erupting around it.

The negotiated text of the ministerial declaration with the ecommerce moratorium, copied directly from the authoritative source [2], is as follows:

### **Declaration on global electronic commerce**

Adopted on 20 May 1998

*Ministers,*

*Recognizing that global electronic commerce is growing and creating new opportunities for trade,*

*Declare that:*

*The General Council shall, by its next meeting in special session, establish a comprehensive work programme to examine all trade-related issues relating to global electronic commerce, including those issues identified by Members. The work programme will involve the relevant World Trade Organization ("WTO") bodies, take into account the economic, financial, and development needs of developing countries, and recognize that work is also being undertaken in other international fora. The General Council should produce a report on the progress of the work programme and any recommendations for action to be submitted at our third session. Without prejudice to the outcome of the work programme or the rights and obligations of Members under*

*the WTO Agreements, we also declare that Members will continue their current practice of not imposing customs duties on electronic transmissions.*

*When reporting to our third session, the General Council will review this declaration, the extension of which will be decided by consensus, taking into account the progress of the work programme.*

If taken at face value, this decision of WTO's second ministerial conference in 1998 reads as eminently reasonable. With ecommerce being in its infancy at the time, what could be said against "a comprehensive work programme to examine all trade-related issues relating to global electronic commerce" mandated to "take into account the economic, financial, and development needs of developing countries", etc, etc?

However, there was never any chance of WTO processes examining issues honestly and with fairness towards developing countries. As described e.g. in [3], that has been an unchanging characteristic of WTO since its inception, and it was a major trigger for the protests and conflicts of 1999.

Therefore, all the lip service at WTO to the concerns and needs of developing countries should be considered to be pure *bullshit*. I use this word not as a crude general expression of negativity, but because it is the commonly-used term for what I mean: Both among many business people and in technical communities, "bullshit" refers to communications from a business which are clearly not true, but which can easily be believed by people who don't really think about the matter, or who lack the necessary background knowledge for being able to do so. Bullshit isn't necessarily false, it can also be meaningless. Bullshit isn't necessarily lies, sometimes it is actually believed by the company spreading it. Many companies use marketing materials which contain a lot of bullshit in this sense. Bullshit is also a significant component in a lot of lobbying, and in that way it influences international negotiations including those at WTO. At the same time, negotiators and other diplomats are also not immune to the same psychological patterns and temptations which also drive the widespread presence of bullshit in business communications.

Almost completely hidden within the heap of bullshit is the half-sentence which contains the moratorium itself: "*we also declare that Members will continue their current practice of not imposing customs duties on electronic transmissions*". That is not only implicitly justified by the bullshit work programme of ostensibly examining the various issues with particular attention to the needs of developing countries, it also otherwise reads as innocent enough. In fact it might be seen as nearly self-evident, since at first sight at least, there does not appear to be any reasonable way in which countries could impose customs duties on electronic transmissions. On their own, internet protocol datagrams, which is what is transmitted across borders, normally do not have a commercial value on the basis of which customs duties could be assessed. The commercial value is created at a higher layer, and it often arises to a significant extent through network effects.

While the practical and economic impacts of AI technologies are going to depend on whether those technologies will turn out to be as useful and impactful as many believe them to be, or predict them to become, and on what the relevant national regulations and corresponding enforcement practices will be, the network effects in relation to the advertising-oriented forms of ecommerce are now obvious and well-understood:

So far, the most significant aspect of ecommerce is that businesses win customers for their products while paying for ads, with much of that advertisement money going to US companies.

It's very typical for the business that buys the ads and for their customers to be in the same country. Then the advertisement itself is not something that customs duties could reasonably apply to, as the country where the communication (that takes the form of an advertisement) comes from is the same as the country where it is intended to go to. The value which the US company provides access to also doesn't really cross the border, because that value consists in the fact in the country where the business is located which buys the ad, many potential customers are using e.g. a social network operated by a US company, or even e.g. local news websites that use e.g. "Google ads" to "monetize" their content.

It is precisely because of those network effects that very significant money flows out of the various countries to those US companies, and the ecommerce moratorium is part of what effectively denies countries the opportunity to potentially take action that might establish economic incentives for more online ad services and the like to be provided locally (reducing the amount of money that is drained from their economies), and/or to use some kind of tax to improve government finances (and thereby improve the ability of the government to provide for essential needs of their populations such as e.g. good public schools).

Now I am aware that many authors, when trying to describe the impact of the ecommerce moratorium, present it as applying specifically to cross-border downloads and streaming services. Under that interpretation, the moratorium would not be relevant to the international ambitions of US-based companies in fields like AI, or ad-oriented ecommerce including social media. However, these authors typically do not address the context of that ministerial declaration as a whole which is clearly about the ecommerce ecosystem as a whole, nor do they discuss the context of deceptive bullshit which is designed to hide the significance of the moratorium as a major concession from all other countries to the US (which allows the major US-based internet businesses to maintain their international dominance).

In any case, business lobbyists are clearly interpreting the moratorium as applying to digital services in general, see e.g. [4].

Their main argument is that the ecommerce moratorium has been a key part of what has been keeping international business aspects of the digital realm less complex than it could otherwise easily have become.

Of course I agree that such complexity in and of itself is not a good thing, and generally big companies are generally more easily able to deal with complexity of their business environment than SMEs. However, the lack of international complexity is also what has made it relatively easy for a small number of one country's companies to dominate an important aspect of the economy of all countries of the free world.

Furthermore, what would a reasonable government do if it wanted to reduce how US dominance of a particular sector of ecommerce is draining money from the country's national economy? The straightforward approach would involve some kind of tariff-like policies aimed enabling the emergence of a national or regional ecosystem in that sector. An ecosystem consisting of local companies. Providing digital services locally, without dependencies on foreign commercial services, is in fact possible by making good use of Free and Open Source Software (FOSS).

It is specifically such tariff-like policies which the ecommerce moratorium is specifically aimed at preventing.

However, even if the ecommerce moratorium is not renewed at WTO, that will not end the international bullying where the US bullies all other countries that would consider establishing any

obstacles to the domination of the digital realm by US companies. The loss of the moratorium only means that the US diplomats and other business lobbyists have lost one of their arguments.

In addition, the US has already indicated that they're now seeking a so-called plurilateral agreement, to be negotiated outside of the WTO, as another tactic aimed at effectively recreating the ecommerce moratorium and making it permanent.

The outcome of a large struggle is almost never decided at a single point in time. Even in the context of wars, the idea of decisive battles is more myth than reality. That applies even more strongly to struggles which are not in the realm of physical violence, but in the realm of technology and economics and restrictions on what is politically possible.

But there must be a reason for why the US is now suddenly demanding a permanent ecommerce moratorium, why they've insisted so strongly that the customary practice of again and again extending the moratorium for two years at a time is now not good enough. They've even been willing to allow the non-permanent moratorium to expire at WTO over this demand for a permanent moratorium!

I think that the reason is the internationally increasing opposition against effectively unregulated US-dominated AI technologies.

I believe that their strategy is that they want to lock in a permanent moratorium while it still appears to be politically feasible to do so — if not globally via WTO, then at least as a plurilateral agreement with most countries.

[1] Jane Kelsey: *Inside the WTO, a global trade body on the precipice*. 7 April 2026.  
[https://owinfs.org/2026/Kelsey\\_precipe.pdf](https://owinfs.org/2026/Kelsey_precipe.pdf)

[2] WTO: *Declaration on global electronic commerce*. 20 May 1998.  
[https://www.wto.org/english/tratop\\_e/ecom\\_e/mindec1\\_e.htm](https://www.wto.org/english/tratop_e/ecom_e/mindec1_e.htm)

[3] Deborah James, interviewed by David Solnit:  
*Our World Is Not For Sale: 25 years of fighting the WTO*. 28 Nov 2024.  
[https://owinfs.org/2024-11-28\\_OWINFs](https://owinfs.org/2024-11-28_OWINFs)

[4] International Chamber of Commerce:  
*Keep the digital economy open and affordable for everyone*. Accessed 20 May 2026.  
<https://iccwbo.org/global-insights/trade/multilateral-trade-wto/wto-e-commerce-moratorium/>