

CIVIL SOCIETY LETTER AGAINST DIGITAL TRADE RULES IN THE WORLD TRADE ORGANIZATION (WTO)

March 15, 2019

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 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-à-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 labor 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, labor, 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 of, 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, labor, 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-à-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-à-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 labor 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 labor 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 favor 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 sustainability. 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 behavior 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 favor 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.

Sincerely, (endorsers as of March 17, 2019):

International and Regional Organizations

- | | | |
|----|--|---|
| 1 | Africa Development Interchange Network (ADIN) | ADIN engages with African institutions to ensure that Africa meets its development agenda and carry the voices of the African grassroots in global spaces. |
| 2 | Agencia internacional de noticias Presenza | Agencia de noticias con enfoque de Paz y NoViolencia |
| 3 | Asia Pacific Research Network | APRN develops cooperation among alternative research centres of NGOs and social movements that work on current development issues affecting the people across Asia. |
| 4 | AWID | AWID is an international, feminist, membership organisation committed to achieving gender equality, sustainable development and women's human rights |
| 5 | Basderm Africa | BASDERM AFRICA Limited is an African-based technology consultancy firm leveraging on information technology to solve the African problem. |
| 6 | Building Eastern Africa Community Network | BEACON is a network of churches, church organizations and NGOs in Ethiopia, Uganda, Tanzania, South Sudan and Kenya to promote the rights of small holder farmers in agriculture policies and trade. |
| 7 | CEBS: Comunidad Eclesial de Base | CEBs lucha para una Iglesia circular y un mundo mas justo. |
| 8 | Centre for Human Rights and Climate Change Research | CHRCCR works on promoting research, training, eaducation, advocacy and networking on human rights, Climate Change, sustainable development, financing and other international affairs. |
| 9 | Colectivo Voces Ecológicas COVEC | COVEC es una organización ecológica política cuyo objetivo es promover la defensa de los derechos socioambientales de las comunidades. |
| 10 | Development Alternatives with Women for a New Era (DAWN) | DAWN is a network of feminist scholars, researches and activists from the economic South working for gender, economic, and ecological justice, and sustainable and democratic development. |
| 11 | East Africa Trade Union Confederation | EATUC is a sub regional trade union that bring together over 3.5 Million workers from the East Africa Community. |
| 12 | Education International | EI is the global union federation of teachers and other education employees worldwide, representing 32 million workers through some 400 affiliated trade unions and professional associations in 170 countries and territories. |
| 13 | European Federation of Public Service Unions (EPSU) | EPSU represents 8 million public service workers in central and local governments, health and social services and utilities across Europe. |
| 14 | Friends of the Congo (FOTC) | FOTC is an advocacy organization working in partnership with Congolese to bring about peaceful and lasting change in the DRC. |
| 15 | IBON International | IBON International is a service institution cooperating mainly with social movements and CSOs in all regions of the world, especially in the global South and among marginalised groups on development issues. |
| 16 | Internacional de Servicios Publicos - ISP Americas | La Internacional de Servicios Publicos en Americas esta presente en 33 paises y representa 6 millones de trabajadores en el sector publico |

17	International Trade Union Confederation	The ITUC's primary mission is the promotion and defence of workers' rights and interests, through international cooperation between trade unions, global campaigning and advocacy within the major global institutions.
18	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)	The IUF is an international federation of trade unions composed of 421 affiliated trade unions in 128 countries representing over 10 million workers.
19	International-Lawyers.org	International-Lawyers.Org strives to encourage respect for the rule of international law and equitable development.
20	ISP. Sector Administración Central de Latinoamérica	Reúne a los sindicatos de la administración pública nacional de Latinoamérica afiliados a la ISP (Internacional de Servicios Públicos)
21	Just Net Coalition	Just Net Coalition (https://justnetcoalition.org/) is a global network of civil society actors committed to an open, free, just and equitable Internet.
22	Kilusang Mayo Uno (KMU)	Kilusang Mayo Uno (KMU) or May First Movement is a labor center in the Philippines.
23	Labour, Health and Human Rights Development Centre	LHHRDC works for the promotion, protection and sustainance of human rights, democratic principles of equality, justice and fairnes and furtherance of life of dignity for peoples.
24	Moana Nui	Pacific Islands network organizing for rights in the digital sphere.
25	New South Wales Nurses and Midwives' Association	NEw South Wales Nurses and Midwives' Association union with 64,000 members in the State of New South Wales, Australia
26	Pacific Network on Globalisation	The Pacific Network on Globalisation (PANG) is a Pacific regional network promoting economic self-determination and justice in the Pacific Islands
27	PICISOC	Pacific Regional Internet Society Chapter
28	Public Services International	Representing 20 million public service workers in 160 countries
29	Society for International Development (SID)	
30	Southern and Eastern Africa Trade, Information and Negotiations Institute (SEATINI)	SEATINI works in Southern and Eastern Africa to strengthen the capacity of stakeholders to influence trade, tax and related policies and processes fr improved livelihoods and sustained development in the region.
31	The Oakland Institute	The Oakland Institute is an independent policy think tank, bringing fresh ideas and bold action to the most pressing social, economic, and environmental issues of our time.
32	The Rules Foundation	The Rules is a global network of activists, researchers, writers, coders and others focused on addressing the root causes of inequality, poverty and climate change.
33	Third World Network-Africa	Third World Network-Africa is a Pan-African Organisation working on economic issues at the global and regional levels that impact on Africa's development
34	Unión Universal Desarrollo Solidario	Derechos de los aborígenes, formación y desarrollo de las personas....
35	UNIÓN UNIVERSAL DESARROLLO SOLIDARIO	Somos pregoneros de la labor que vienen realizando las diferentes plataformas de voluntariado y ONG's por medio rtv Escuela Abierta FM y en online desde www.universalproyecto.org y www.escuelaabierta.eu
36	WIDE+ (Women In Development Europe+)	WIDE+ is a Europe-based network of gender and feminist specialists, women's rights advocates, activists, researchers and women's rights and development organizations.

National Organizations

37	CTA Autónoma	Argentina
38	FAECYS	Argentina

39	Foro Ciudadano de Participación por la Justicia y los Derechos Humanos	Argentina
40	Fundación Vía Libre	Argentina
41	Instituto del Mundo del Trabajo	Argentina
42	Australian Fair Trade and Investment Network	Australia
43	Community and Public Sector Union (State Public Services Federation)	Australia
44	Attac Austria	Austria
45	NeSoVe / Network for Social Responsibility	Austria
46	COAST Tust	Bangladesh
47	Fundación Internet Bolivia.org	Bolivia
48	Central Única dos Trabalhadores - CUT Brasil	Brazil
49	CSPB Confederaçao dos Servidores Publicos do Brasil	Brazil
50	Gestos	Brazil
51	Instituto Justiça Fiscal	Brazil
52	REBRIP - Brazilian Network for the Integration of Peoples	Brazil
53	UGT - União Geral dos Trabalhadores	Brazil
54	IDEA	Cambodia
55	Public Service Alliance of Canada	Canada
56	Trade Justice Network	Canada
57	ONG POLITICAS FARMACEUTICAS	Chile
58	Estoi	Colombia
59	federacion de vocales de control region centro y bogota	Colombia
60	FUNDACION DE LA MANO CONTIGO	Colombia
61	OBSERVATORIO DE VICTIMAS	Colombia
62	Observatorio de Víctimas	Colombia
63	Proceso de Comunidades Negras en Colombia. PCN	Colombia
64	A.N.P.E.	Costa Rica
65	Patria Justa	Costa Rica
66	Capitulo Cuba de la Red de Intelectuales, Artistas u Luchadores Sociales en Defensa de la Humanidad	Cuba
67	Ecumenical Academy	Czech Republic
68	Confederacion Nacional de Unidad Sindical (CNUS)	Dominican Republic
69	PACODEVI	DR Congo
70	Centro de Documentación en Derechos Humanos "Segundo Montes Mozo S.J."	Ecuador
71	Red Mujeres Transformando la Economía - REMTE	Ecuador
72	CESTA Amigos de la Tierra	El Salvador
73	Pro Ethical Trade Finland (Eettisen kaupan puolesta ry)	Finland
74	SNESUP-FSU	France
75	SNESUP-FSU	France
76	Health services workers Union of tuc Ghana	Ghana
77	PIGOP GHANA LIMITED	Ghana
78	CECIDE	Guinée
79	Alliance for Sustainable and Holistic Agriculture (ASHA)	India
80	AP vyavasaya Vruthidarula Union-APVVU, India	India
81	Codefuel Technology Pvt Ltd	India
82	Federation of Indian Micro and Small & Medium Enterprises (FISME)	India

83	Gene Campaign	India
84	Hazards Centre	India
85	Indian Social Action Forum	India
86	INITIATIVE FOR HEALTH & EQUITY IN SOCIETY	India
87	Intercultural Resources	India
88	IT for Change	India
89	NAVDANYA	India
90	Tamilnadu Organic Farmers Federation	India
91	Resistance and Alternatives to Globalization (RAG)	Indonesia
92	Pacific Asia Resource Center(PARC)	Japan
93	Phenix Center for Sustainable Development	Jordan
94	Growth Partners Africa	Kenya
95	Kenya Small Scale Farmers Forum KESSFF	Kenya
96	Lebanon Support	Lebanon
97	Stop TAFTA Luxembourg	Luxembourg
98	PFNOSCM	Madagascar
99	PFNOSCM (Plate Forme Nationale des Organisations de la Société Civile de Madagascar)	Madagascar
100	Consumers Association of Penang, Malaysia	Malaysia
101	Sahabat Alam Malaysia	Malaysia
102	ASRAD (Appui Solidaire pour le Renforcement de l'Édification au Développement)	Mali
103	Initiative agricole pour le Sahel (IAS)	Mali
104	IRPAD/Afrique	Mali
105	RMAS	Mauritania
106	association des Consommateurs de l'île Maurice-ACIM	Mauritius
107	National Trade Union Confederation	Mauritius
108	Bia'lii, Asesoria e Investigación, A.C.	Mexico
109	CEFIMAC	Mexico
110	Centro de Promoción y Educación Profesional Vasco de Quiroga	Mexico
111	ETC Group	Mexico
112	Grupo Tacuba	Mexico
113	RMALC	Mexico
114	nauru island association of ngos	Nauru
115	Platform Aarde Boer Consument	Netherlands
116	It's Our Future (NZ)	New Zealand
117	New Zealand Public Service Association	New Zealand
118	CEDECAM	Nicaragua
119	FETSALUD	Nicaragua
120	Movimiento Comunal Nicaraguense	Nicaragua
121	Association Nigérienne des Scouts de l'Environnement (ANSEN)	Niger
122	RODADDHD	Niger
123	CAFSO-WRAG for Development	Nigeria
124	Civil Society Coalition on Sustainable Development	Nigeria
125	Labour, Health and Human Rights Development Centre	Nigeria
126	NANTS	Nigeria
127	Nigeria Private Sector Alliance (NiPSA)	Nigeria

128	Attac Norway	Norway
129	NOOR PAKISTAN	Pakistan
130	Roots for Equity	Pakistan
131	FENTAP	Peru
132	Red Peruana de Comercio Justo y Consumo Ético	Peru
133	WomanHealth Philippines	Philippines
134	WomanHealth Philippines	Philippines
135	Attac Poland	Poland
136	Fundacja Strefa Zieleni	Poland
137	Ole Siosiomaga Society, SAMOA	Samoa
138	Institute for Economic Research on Innovation	South Africa
139	Southern & East African Trade Institute (SEATINI) - South Africa	South Africa
140	EMA-RTV	Spain
141	FSC-CCOO	Spain
142	ULEPICC	Spain
143	National Free Trade Union	Sri Lanka
144	We Women Lanka	Sri Lanka
145	Association for Proper Internet Governance	Switzerland
146	Cartel intersyndical du personnel de l'Etat et du secteur subventionné	Switzerland
147	Public Eye	Switzerland
148	Governance Links Tanzania	Tanzania
149	Governance Links Tanzania	Tanzania
150	Pangani Information Alliance	Tanzania
151	Humanitaire Plus (Togo)	Togo
152	Support for Women in Agriculture and Environment (SWAGEN)	Uganda
153	War on Want	UK
154	Agricipación 19 de Octubre	Uruguay
155	Alliance for Democracy	USA
156	CODEPINK	USA
157	Global Exchange	USA
158	Occidental Arts and Ecology Center	USA
159	Public Citizen	USA
160	Student Action with Farmworkers	USA
161	Trade Justice Alliance	USA
162	United Nations Association of Greater Philadelphia	USA
163	Washington Fair Trade Coalition	USA
164	Vanuatu Association of Non Government Organisation	Vanuatu
165	Vanuatu Human Rights Coalition	Vanuatu
166	Coalición de Tendencia Clasistas (CTC-VZLA)	Venezuela