

Congress of the United States
Washington, DC 20515

June 9, 2022

The Honorable Katherine Tai
United States Trade Representative
600 17th Street NW
Washington, D.C. 20508

Dear Ambassador Tai:

We are writing to express our strong support for the moratorium on customs duties for electronic transmissions, which World Trade Organization (WTO) Members will consider extending at next week's twelfth Ministerial Conference (MC12). For over two decades, the moratorium has promoted digital trade and spurred growth in the technology sector, supporting economies, jobs, and communication worldwide. To continue these important benefits, the Office of the U.S. Trade Representative (USTR) must ensure the moratorium's extension—and press for it to be made permanent.

America is the global leader in digital commerce, and the current bipartisan, bicameral effort to finalize legislation to make the United States more competitive internationally places focus on maintaining U.S. leadership in innovation generally and digital commerce, in particular. These domestic efforts to promote U.S. competitiveness in digital commerce must be complemented by appropriate international initiatives to support digital trade, particularly at the WTO.

To that end, USTR must insist that the moratorium on customs duties for electronic transmissions continue. Since 1998, WTO Members have maintained a moratorium on customs duties for electronic transmissions of digital products and services. This moratorium has supported a corresponding explosion in trade in digital goods and services, as well as the good jobs that this trade supports. Republican and Democratic Administrations alike have fought to renew the moratorium and make it permanent.

Digital trade plays a critical role in the U.S. economy, which has been growing faster than traditional trade in goods and services since 2005. In fact, in 2019, the digital economy accounted for 9.6 percent of U.S. gross domestic product (GDP) and supported 7.7 million U.S. jobs, or 5.0 percent of total U.S. employment. Ending the moratorium now would adversely impact the global economic recovery and disrupt numerous critical U.S. supply chains.

Further, the moratorium also supports the open internet, the free flow of information, and other digital trade principles that the United States has long supported. Tariffs on electronic transmissions could be used to facilitate or provide cover for data localization practices, which could not only inhibit economic growth but also may facilitate dangerous uses of government surveillance and censorship.¹ Maintaining a permanent moratorium supports not only our economic interests, but also our values.

¹ See Lindsey R. Sheppard, Erol Yayboke, and Carolina G. Ramos, *The Real National Security Concerns over Data Localization*, CSIS Briefs (July 23, 2021), available at <https://www.csis.org/analysis/real-national-security-concerns-over-data-localization> (“When citizen data—from Google Maps searches to Instagram likes to TikTok posts—is forced to be stored on local servers, governments have greater opportunities to use these data to gain greater control over the population. From Bangladesh to China to Russia and beyond, this manipulation enhances and strengthens the modern digital surveillance and censorship state.”).

The moratorium has broad support from WTO members, and, indeed, 56 WTO Members have also accepted obligations outside of the WTO framework that restrict customs duties on electronic transmissions.

The practice of extending the moratorium from one ministerial conference to the next makes the policy the subject of continual political negotiations. Accordingly, the United States must demonstrate leadership not only by calling for the moratorium to continue, but also by pushing to make it permanent.

In addition to the moratorium, the United States must also support an affirmative agenda to strengthen the global digital economy. The United States should encourage Members, at MC12, to redouble efforts to move the Joint Statement Initiative negotiations on electronic commerce forward. Additionally, the United States should consider the possibility of pursuing a further expansion of the WTO Information Technology Agreement (ITA)—an “ITA-3.”

In 2015, more than 50 WTO members concluded ITA-2, which expanded the coverage of ITA to 201 additional products, many of which were developed after 1996. Since 2015, dozens of new, high-technology goods have been commercialized, and a potential ITA-3 could reduce barriers to trade in these products. The United States remains a global leader in innovation, and new U.S. semiconductor production facilities that a number of manufacturers plan to bring online in the coming years will only improve the ability of the United States to export even more high-technology goods powered by semiconductors. Accordingly, the United States should consider how a potential ITA-3 could advance our economic interests and engage with interested WTO Members to give an ITA-3 serious consideration.

In sum, as you work at MC12 to ensure the WTO remains relevant and constructive, it is imperative that—much like America’s innovators— you persevere against hurdles and move forward to propel the United States and the world into a brighter and more prosperous future.

Sincerely,



Ron Wyden
Chairman
Committee on Finance



Mike Crapo
Ranking Member
Committee on Finance



Kevin Brady
Ranking Member
Committee on Ways and Means