

USTR Reverses Course on WTO Digital Trade Talks, Raising Congressional and Industry Concerns

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The Office of the U.S. Trade Representative on Wednesday, October 25, rescinded its support for e-commerce proposals already advanced in World Trade Organization (WTO) negotiations, undermining the ongoing talks among 90 WTO Members. This resulted in immediate negative reactions from congressional leaders and key industry groups in the digital trade space.

The United States announced the change at a Geneva negotiating session of the Joint Statement Initiative on E-Commerce, the most significant ongoing WTO plurilateral talks. The United States had previously tabled widely supported proposals on the key issues of data flows, data localization, and source code. However, after “pausing” similar proposals in the Indo-Pacific Economic Framework (IPEF) negotiations earlier this month, the United States indicated that it was removing its support for the WTO proposals in order to “provide enough policy space” for debates on the subject.

Sen. Ron Wyden (D-OR), chair of the Senate Finance Committee, blasted USTR’s decision, calling it a “win for China” and saying that the United States was “abandoning our democratic allies” by withdrawing its previous support. Leading industry groups such as the Coalition of Services Industries, the U.S. Chamber of Commerce, and the National Foreign Trade Council also sharply criticized the change in position as giving up the United States’ leadership role in creating digital trade rules for the global economy.

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The United States has advanced proposals on data flows, data localization, and source code that would support the efforts of leading U.S. “big tech” companies to transmit data across borders, without restrictions or limitations such as the need to maintain servers locally or reveal source code. Such rules have been included in free trade agreements such as the U.S. Mexico Canada Agreement (USMCA) as well as the IPEF negotiations and the WTO talks. However, in recent months, Sen. Elizabeth Warren (D-MA) and others have begun to criticize the U.S. approach as too friendly to big business.

Wiley’s Telecom, Media & Technology (TMT) and International Trade practices are well positioned to provide updates and insights on these important digital and e-commerce trade negotiations.