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History

It was 1998. We didn't yet have smartphones, but tech companies already knew that data would be the most valuable thing in the future. At that moment, through the US government, they pushed for the "moratorium": a very technical, very boring name for something quite simple — that uploading and downloading data on the internet would be free from customs duties. From that moment on, every time we watch a film on Netflix, a video on YouTube, listen to a song on Spotify, or play a video game on Nintendo, there may be domestic consumption taxes — but no tariffs. This is a fundamental difference. Consumption taxes are paid by consumers. Tariffs are paid by companies, who then decide under their own commercial strategy whether to pass that cost on to the consumer or not. They are also only paid by foreign companies, not local ones. A tariff regime therefore encourages local digital industries and the localisation of data within national borders, among other effects.

None of this was possible to change because the moratorium existed. This rule was renewed every two years alongside another one called the "non-violation complaints moratorium on intellectual property," which allowed countries to take certain liberties with intellectual property without facing legal challenges. This enabled the production of generic medicines — and was also, among other things, what allowed the AI industry to train models on data it didn't own. Both moratoriums were renewed every two years in a quasi-automatic fashion, with little negotiation or objection. Those of us working on these issues watched in despair as countries gave the moratorium away year after year without a second thought. We talked about lost revenue, digital industries, sovereignty, income redistribution. Nothing seemed to move governments.

The truth is that for 28 years the digital industry has demonstrated its capacity to generate enormous inequality: while tech companies have reached market capitalisations never seen before, the rest of the world has not been sharing in the enormous wealth generated by digital industries. And taxation is the most powerful public policy tool for redistributing income.

While nations suffer from tax havens and revenue losses, the world's richest companies are the ones that pay the least in taxes. Big Tech is part of that privilege. How is it possible that so many intangible goods — like electricity — are subject to tariffs and duties, but data, the most prized asset in today's

economy, is not? It seemed unjust. Because it was.

In recent years, we had been watching as more and more countries began expressing doubts about renewing the moratorium. Digital economy and AI were clearly gaining in importance, and countries were noting the need to redefine the moratorium's scope — what it covered, and whether renewal was still warranted. The US refused to negotiate. Already at the WTO Ministerial Conference in Abu Dhabi in 2024, eight countries opposed its renewal. Even so, negotiations led to a renewal without too much difficulty.

But this time was different. The US entered the room with a clear objective: to make the moratorium permanent — while keeping it decoupled from a permanent renewal of the intellectual property moratorium. In other words, doing a favour for Big Tech and Big Pharma, all at once. In the months prior, the US had been gathering allies: many of the trade agreements signed by the Trump administration already included a clause committing the signatory country to support the US position at the WTO. A kind of pre-agreement not to oppose their interests in the future.

The day of the WTO session arrived and the result was clear-cut: 46 countries expressed support for the US position; 57 countries backed extending both moratoriums for two years (as had been the usual practice); 6 supported a four-year renewal; and 16 countries stated they were willing to negotiate but would not under any circumstances accept a permanent moratorium. Trump's plans appeared to be failing.

Even so, the following day a five-year agreement seemed within reach. Countries were gradually yielding, and the US was heading home without exactly what it wanted but satisfied enough with the result. Then Brazil pushed back. Or rather, let's correct the term: it didn't simply push back — it saw a window of opportunity to get something else. If the giant wants something I have, I don't give it away for free; I trade it for something I want. Brazil demanded agricultural concessions for its agro-industry in exchange for signing a two-year moratorium — and that's when everything exploded. The US said five years or nothing. No agreement at the WTO. Basically, it threw a tantrum like a child crying over a box of cereal in the supermarket: either what I want, or nothing for anyone.

Negotiations continued until the early hours of the morning, but to no avail. Brazil held its position and everyone went home empty-handed, letting fall — for the first time — a moratorium that had existed for 28 years.

Winners and losers of the night

Let's start with the losers:

- Big Tech: for years they operated with impunity both in terms of intellectual property and taxation. That is no longer the case. Governments can now implement policies to demand that they stop using data that isn't theirs, that they pay border taxes if they want access to their markets, and that they comply with national law. What we need now are states that actually want to do it.
- The WTO Director-General: for years she backed the US in its decisions, promoted its negotiating agenda, and blocked any meaningful participation by developing countries through what is known in the jargon as “green rooms” — essentially hand-picked negotiating tables where texts are cooked up and then handed to less developed countries to sign without changing a comma. The Director-General wanted the US to leave happy. Instead, she presided over the worst Ministerial Conference in many years, with not a single negotiation closed. On her own continent, she leaves with a bitter pill to swallow.
- The WTO as an institution: Once again it has failed to deliver for either developed or developing countries. The structural inequalities embedded in its rules were never resolved in the Doha Round, and that elephant in the room made itself heard. A new Seattle brewed in the corridors of Yaoundé — without protests, due to government repression that did not even allow banners outside the door, but with an institutional collapse similar to the one Pascal Lamy had to endure in his famous speech announcing there was no point in continuing.

Those with mixed results:

- The US: this could clearly be read as a defeat — except that the country has been trying to destroy the WTO for years. An institution where China increasingly carries weight alongside other BRICS countries is not one that serves US interests, and Washington has long been trying to sabotage negotiations. While Trump's tantrum and leaving empty-handed is plainly a sign of a declining power no longer able to build consensus, it is also true that this was, to some degree, the intention all along.
- Developing countries: while they gained significant space for public policy and leverage to “extract” concessions from the US in the future, they also lost the intellectual property moratorium — which may complicate the production of generic medicines that save countless lives around the world. They secured no agreements on agriculture, WTO reform, or any other agenda item. They left empty-handed, but

with more room to manoeuvre on public policy — room that, unless we work to make it visible, they will likely never use.

The winners:

- China: it increasingly has room to shape the WTO in its own image, presenting itself as a new superpower committed to negotiation, consensus-building, and avoiding confrontation. This positions it well in the current era and in the digital battle ahead.
- Brazil: once again it proved what it can do when it wants to. That it carries the weight of a giant and is not willing to back down. It had already stood up to Elon Musk in the conflict over Twitter/X. Now it has taken on Big Tech's interests once again — and did not yield.
- Organised civil society: There is a network called OWINFS (Our World Is Not For Sale) that has been telling the WTO to “*shrink or sink*” (shrink or sink) since Seattle. This network, which has long fought for a fair trading system, was present in Yaoundé — accompanying delegates and negotiators with technical expertise, pushing until the very last moment to ensure the demands of the Global South were heard. This was not their victory — it belonged to the countries that held their ground. But without years of accumulated groundwork, there would likely have been no delegates with the arguments and conviction to hold firm. The WTO stopped expanding. The outcome points in that direction.

What comes next

It was decided that negotiations will continue in Geneva and that this is not over. A new chapter opens, one in which activity in Switzerland will be intense. The US will push to restore the moratorium by any means while refusing to return the intellectual property one (a demand that Colombia in particular put on the table). If it fails, it will continue advancing through bilateral and plurilateral agreements — which is what works best for the US: wait for a friendly government, lock in an unbreakable deal, and leave the country tied to permanent commitments of subordination.

What is certain is that a window of opportunity has opened. An opportunity to design digital industrialisation policies that can supply other, non-digital industries with critical infrastructure. An opportunity to think of this as a negotiating weapon in a trade war that has been playing out for months. An opportunity to build regional alliances and think about digital development in blocs.

How do we imagine the world of tomorrow? How do we achieve technological diversity? How do we include everyone in the digital economy? Today we can begin thinking through answers to these questions. Until a few days ago, we had less room to imagine.

The question is whether countries will rise to the occasion — and whether we, as civil society, will know how to bring those answers closer to power. The task ahead is enormous: we must make governments see the relevance of this moment, encourage them to design and think through strategies, build alliances with other nations, and imagine digital services they can develop as “infant industries,” protecting them until they are ready to compete in the global market.

A window has opened. Narrow, fragile, and with a clock already running. If we don't seize it, someone else will.