

WTO MORATORIUM ON E-COMMERCE IN RTAS FROM A HUMAN SECURITY PERSPECTIVE

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Abstract

This paper investigates the WTO moratorium on e-commerce through a human security framework, specifically within the context of the Regional Comprehensive Economic Partnership (RCEP) and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). As the global economy increasingly transitions to digital commerce, it is vital to understand the implications of this moratorium to ensure that the benefits of e-commerce are distributed fairly while protecting individual rights. The primary objectives of this research are to evaluate the economic, social, and political effects of the moratorium on human security and to identify effective strategies for its integration into trade policies. Employing a qualitative methodology, this study reviews pertinent literature, analyzes case studies from RCEP and CPTPP, and conducts policy analysis to examine the interplay between e-commerce and human security. The findings reveal that while the moratorium facilitates market access for small and medium-sized enterprises (SMEs) and fosters economic growth, it also risks intensifying existing inequalities and creating regulatory challenges. Furthermore, issues related to data privacy and cybersecurity are highlighted as significant concerns. These findings emphasize the necessity for policymakers to adopt a balanced approach that prioritizes human rights in tandem with trade facilitation. By incorporating human security considerations into e-commerce discussions, this research advocates for the creation of inclusive digital economies that empower marginalized communities.

Keywords: WTO Moratorium, E-commerce, RTAs, Human rights, Human security.

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Tóm tắt

Bài viết này nghiên cứu lệnh tạm hoãn của Tổ chức Thương mại Thế giới (WTO) đối với thương mại điện tử thông qua khung nhân quyền, đặc biệt trong bối cảnh của Hiệp định Đối tác Kinh tế Toàn diện Khu vực (RCEP) và Hiệp định Đối tác Toàn diện và Tiến bộ xuyên Thái Bình Dương (CPTPP). Khi nền kinh tế toàn cầu ngày càng chuyển mình sang thương mại số, việc hiểu rõ những tác động của lệnh tạm hoãn này là rất quan trọng nhằm đảm bảo rằng lợi ích từ thương mại điện tử được phân phối công bằng và bảo vệ quyền lợi cá nhân. Mục tiêu chính của nghiên cứu này là đánh giá tác động về kinh tế, xã hội và chính trị của lệnh tạm hoãn đối với an ninh con người, đồng thời, xác định các chiến lược hiệu quả cho việc tích hợp nó vào các chính sách thương mại. Sử dụng phương pháp định tính, nghiên cứu này tiến hành tổng hợp tài liệu liên quan, phân tích các trường hợp điển hình từ RCEP và CPTPP, và thực hiện phân tích chính sách để xem xét mối quan hệ giữa thương mại điện tử và an ninh con người. Kết quả cho thấy, trong khi lệnh tạm hoãn tạo điều kiện cho các doanh nghiệp vừa và nhỏ tiếp cận thị trường và thúc đẩy tăng trưởng kinh tế, nó cũng có nguy cơ làm gia tăng bất bình đẳng hiện có và tạo ra những thách thức về quy định. Hơn nữa, các vấn đề liên quan đến bảo mật dữ liệu và an ninh mạng được nhấn mạnh là những mối quan tâm đáng chú ý. Những phát hiện này nhấn mạnh sự cần thiết cho các nhà hoạch định chính sách áp dụng một cách tiếp cận cân bằng, ưu tiên quyền con người song song với việc tạo điều kiện cho thương mại. Bằng cách tích hợp các yếu tố an ninh con người vào các cuộc thảo luận về thương mại điện tử, nghiên cứu này kêu gọi xây dựng các nền kinh tế số bao trùm, góp phần trao quyền cho các cộng đồng bị thiệt thòi.

Từ khóa: Lệnh hoãn áp thuế của WTO, thương mại điện tử, Hiệp định Thương mại khu vực, quyền con người, an ninh con người.

1. Introduction

The WTO's moratorium on e-commerce is a vital regulatory framework impacting global trade dynamics, especially in digital transactions. Initially established in 1998 during the WTO Ministerial Conference in Seattle, this moratorium signifies the collective decision of WTO member states to abstain from levying customs duties on electronic transmissions. Beyond tax avoidance, this initiative aims to facilitate unrestricted data flow across borders, encompassing areas like data privacy, digital infrastructure, and online commerce regulations. The rise of the internet as a commercial platform has revolutionized global trade practices, necessitating governments and international bodies to grapple with e-commerce regulations. Over time, the moratorium has evolved alongside technological progress, adapting to the changing landscape of global trade. Recognizing the economic potential of e-commerce, nations have increasingly focused on the moratorium during trade policy discussions. Recently extended at the 13th WTO Ministerial Conference in 2024, it remains effective until the 14th Ministerial Conference in 2026 or March 31, 2026, whichever comes first. The significance of the WTO moratorium on e-commerce cannot be overstressed, particularly its impact on global trade. E-commerce has become a crucial driver of economic growth, significantly contributing to global GDP and reshaping conventional business models. Amid the COVID-19 pandemic, e-commerce sales surged, underscoring its vital role for businesses and consumers. Facilitating cross-border transactions without additional tariffs is essential for enhancing competitiveness and broadening market access for SMEs. The impact of the moratorium extends beyond economic realms, intersecting with regional trade agreements (RTAs) and their effectiveness. The alignment of RTAs with WTO guidelines on digital trade plays a vital role in promoting cooperation among member states. As countries negotiate RTAs, the moratorium serves as a benchmark for establishing common standards and addressing trade barriers. This study aims to scrutinize the impact of the WTO moratorium on e-commerce from a human security perspective. Human security, focusing on safeguarding individuals and communities from threats, encompasses economic stability, information access, and privacy protection in the digital era. This research

will explore how the moratorium influences economic opportunities, data privacy concerns, and geopolitical trade dynamics. By integrating human security into trade policies, the study advocates frameworks prioritizing individual well-being alongside economic objectives.

2. Conceptual Framework

Human security is a multifaceted concept that prioritizes the well-being of individuals and communities over the traditional focus on state defense. It addresses diverse threats to human dignity, encompassing economic, food, health, environmental, personal, community, and political dimensions (Martin Wählich, 2016; Robinson et al., 2021). The United Nations Development Programme (UNDP) has been pivotal in promoting this paradigm, advocating for protection from pervasive threats to ensure "freedom from fear" and "freedom from want" (Gregoratti, 1990). In 2012, the UN General Assembly adopted Resolution 66/290, defining human security as an approach to help member states address widespread challenges to the survival, livelihood, and dignity of their people (Martin, 2004; Robinson et al., 2021). This resolution emphasizes people-centered, comprehensive, and context-specific responses (Kumar & Dahiya, n.d.; UN Office of Drug and Crime, 2005). The UNDP's 1994 Human Development Report is a milestone, arguing that ensuring freedom from want and fear is the best way to tackle global insecurity.

Human security, grounded in the idea of overall well-being for individuals and communities, diverges from conventional security views by highlighting the importance of social and economic elements in ensuring safety. It challenges the military and state-centric views of security, focusing on social and economic conditions crucial for a secure life. Particularly relevant in addressing issues like poverty, inequality, and marginalization, human security aims to reduce vulnerabilities and protect individual rights. It covers various dimensions such as Economic Security (stable employment and financial access), Food Security (ample, safe, and nutritious food), Health Security (disease protection and healthcare access), Environmental Security (mitigating environmental threats), Personal Security (safeguarding from violence and exploitation), Community Security (promoting social unity and safeguarding cultural identities), and Political Security (upholding human rights for fear-free governance). The complex

link between e-commerce and human security offers opportunities and challenges. E-commerce can enhance human security by boosting market access, income, and job prospects, and providing access to vital services, benefiting underserved regions. It can also improve personal and community security by promoting transparency, empowering marginalized groups, and encouraging their involvement in societal matters. However, e-commerce brings risks like widening the digital divide, data privacy concerns, and environmental impacts such as increased carbon emissions and packaging waste, challenging environmental security. Addressing these vulnerabilities is crucial to maximizing e-commerce's benefits while safeguarding individuals and communities. This study will explore these dynamics within the context of the WTO moratorium on e-commerce, emphasizing the necessity of a holistic approach that prioritizes human security in digital trade policies.

3. WTO Moratorium on E-commerce

The World Trade Organization (WTO) has addressed e-commerce since the late 1990s, resulting in several agreements that highlight the importance of digital trade in the global economy. Central to these discussions are the General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS), which provide a framework for understanding trade in goods and services in the digital context. A pivotal moment was the 1998 WTO Ministerial Declaration on Global Electronic Commerce, which established the groundwork for ongoing negotiations aimed at ensuring e-commerce serves as a catalyst for economic growth. The 1999 Doha Declaration reaffirmed the commitment to a moratorium on customs duties for electronic transmissions, emphasizing the need for a free and open internet to facilitate global trade. The specifics of the moratorium involve member states agreeing to refrain from imposing customs duties on various forms of digital content, including software, music, videos, and cloud services. This measure recognizes the unique characteristics of digital goods that do not fit traditional trade frameworks. The moratorium's scope extends beyond taxation to include regulatory issues such as data localization and cross-border data flow restrictions. By maintaining this moratorium, WTO member states aim to promote a cohesive global digital economy, particularly benefiting developing countries where e-commerce can

significantly drive economic development. While the moratorium presents opportunities for member countries, especially in enhancing market access and supporting small and medium-sized enterprises (SMEs), it also introduces challenges. Member states may face pressures to further liberalize domestic markets, potentially endangering local industries. Additionally, the lack of a universal data privacy framework raises concerns about personal information security, particularly in nations with weaker regulatory systems. Overall, the WTO moratorium is a critical element shaping global trade, requiring careful management to ensure it supports economic growth while promoting human security and inclusivity.

4. Regional Trade Agreements (RTAs) and E-commerce

Regional Trade Agreements (RTAs) are international treaties among multiple countries designed to boost preferential trade relationships by reducing or removing trade obstacles like tariffs and quotas, thus facilitating the movement of goods, services, and capital across borders. These agreements manifest in various forms such as free trade agreements (FTAs), customs unions, and economic partnerships. Prominent examples include the United States-Mexico-Canada Agreement (USMCA), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), and the European Union's trade pacts with several nations. RTAs encompass a wide array of sectors like agriculture, manufacturing, services, and increasingly focus on digital trade and e-commerce.

RTAs play a vital role in advancing e-commerce by establishing structures that simplify cross-border digital transactions, boosting market access for businesses, particularly in digital-oriented sectors. These agreements frequently incorporate specific clauses addressing data flows, cybersecurity, and electronic contracts, essential for e-commerce activities. By ensuring fair treatment of electronic transmissions and facilitating smooth cross-border business dealings, RTAs foster an environment conducive to digital trade. This becomes notably crucial as e-commerce expansion outpaces traditional trade, necessitating updated regulatory frameworks that mirror the realities of the digital economy.

Diverse approaches to e-commerce within RTAs are influenced by participating in countries' economic conditions, regulatory philosophies, and priorities. While

agreements like the USMCA encompass comprehensive e-commerce provisions covering aspects like data localization, privacy, and cybersecurity, others may adopt a more cautious approach reflecting concerns about data security and privacy. For instance, the European Union's agreements prioritize stringent data protection standards in line with the General Data Protection Regulation (GDPR), potentially conflicting with countries emphasizing liberalized trade. Some RTAs may lack substantive e-commerce provisions, posing challenges for developing nations in benefiting from e-commerce due to inadequate regulations or technical capacities.

Two case Studies of specific RTAs: (i) USMCA: Succeeding NAFTA, the USMCA features robust e-commerce provisions prohibiting tariffs on digital products, ensuring free data flow across borders, and safeguarding source code and proprietary algorithms. Emphasizing consumer protection and privacy, the agreement mandates legal frameworks to protect personal data, aiming to foster innovation while addressing security and privacy concerns. (ii) CPTPP: The CPTPP includes significant e-commerce provisions, emphasizing the free flow of data and cooperation among member countries to enhance cybersecurity and combat online trade-related crimes. It stresses the protection of personal information in line with international standards, reflecting a balanced approach addressing diverse member concerns and needs. These case studies highlight the evolving nature of e-commerce provisions within RTAs and their impact on the digital economy. As countries increasingly value e-commerce, the role of RTAs in facilitating digital trade becomes more critical. However, differing approaches to e-commerce underscore challenges in harmonizing regulations across jurisdictions, especially concerning data privacy and security. Recognizing these complexities, policymakers must collaborate to create inclusive frameworks promoting human security in the global digital trade landscape.

5. Human Security Implications of the Moratorium

The WTO moratorium on e-commerce significantly impacts human security across economic, social, and political realms, shaping the landscape of digital trade and its effects on individuals and communities. First, regarding Economic Security: The

e-commerce moratorium benefits small businesses and entrepreneurs by eliminating customs duties on electronic transmissions, enabling them to engage in cross-border trade cost-effectively. This fosters a dynamic entrepreneurial ecosystem, particularly crucial in resource-constrained developing nations, enhancing their competitive edge against larger corporations and fostering innovation. Additionally, the moratorium contributes to job creation, especially in IT, logistics, and digital service sectors. Growing e-commerce activities lead to employment opportunities, particularly benefiting youth and underserved communities. It also encourages investments in digital infrastructure, creating jobs in construction, technology, and maintenance of digital systems, thus bolstering local economies. Second, regarding Social Security: The moratorium improves access to digital services, particularly vital for education and skill development. By enabling a free flow of information and resources, it facilitates broader access to educational resources through online platforms, empowering individuals with skills necessary for engaging in the digital economy and enhancing their social mobility and economic prospects. Despite benefits, the moratorium exacerbates concerns regarding the digital divide and inequality. Disparities in internet access and digital literacy persist, particularly in developing regions, potentially excluding marginalized communities from e-commerce benefits. Addressing these disparities is crucial to ensuring an inclusive digital economy that promotes social security for all. Third, from Political and Community Security perspective: Governance and regulatory challenges in e-commerce can impact political security as countries navigate digital trade complexities. Balancing regulation with free trade imperatives is crucial, as fragmented approaches may complicate compliance for businesses and create trade barriers, potentially leading to conflicts between nations and hindering political stability. The moratorium intersects with data privacy and cybersecurity concerns, necessitating robust regulatory frameworks to protect personal information from breaches, identity theft, and cyberattacks. Neglecting data protection measures can erode trust in online platforms and services, underscoring the importance of integrating data privacy and cybersecurity regulations into the moratorium framework to safeguard human security. In short, the

WTO moratorium on e-commerce has profound implications for human security, offering opportunities for economic growth and access to digital services while raising challenges related to inequality, regulatory complexities, and data privacy. Policymakers must adopt inclusive and equitable strategies to address these challenges, ensuring that the benefits of digital trade are widely shared and individual rights are safeguarded in the evolving digital landscape, enhancing human security in a globally interconnected world.

6. Recommendations

The WTO moratorium on e-commerce presents a unique opportunity to advance human security while facilitating global trade. To maximize the benefits of this moratorium and address its implications, several policy recommendations are essential. These recommendations target both the WTO and its member states, as well as strategies for integrating human security considerations into e-commerce discussions.

6.1. Policy Recommendations for WTO and Member States

6.1.1. Balancing trade facilitation with human security considerations

First, to ensure that the benefits of the WTO moratorium on e-commerce extend to all individuals and communities, it is crucial for WTO member states to adopt a balanced approach that integrates human security into trade facilitation efforts. This balance can be achieved through the following measures: (i) **Inclusive Policy Development:** Member states should engage a diverse range of stakeholders-including civil society, business leaders, and community representatives-in the policy-making process. This will help to identify and address the specific needs and concerns of various groups, particularly marginalized populations who may be disproportionately affected by trade policies. (ii) **Impact Assessments:** Before implementing new trade policies or agreements, member states should conduct thorough human rights impact assessments. These assessments can help identify potential risks to human security, such as increased inequality or threats to privacy, allowing policymakers to mitigate adverse effects proactively. (iii) **Regulatory Frameworks for Data Protection:** Establishing robust data protection and privacy regulations within the context of e-commerce is essential. Member states should implement comprehensive legal frameworks that align with international human rights standards, ensuring that individual rights are protected

while promoting the free flow of data.

6.1.2. Enhancing Cooperation between RTAs and the WTO

Strengthening the relationship between RTAs and the WTO is crucial for creating a cohesive approach to e-commerce that addresses human security concerns. This can be achieved through the following strategies: (i) **Harmonization of Standards:** The WTO should promote the harmonization of e-commerce standards across RTAs to ensure that member states are aligned in their regulatory approaches. This will reduce compliance burdens for businesses and facilitate smoother cross-border transactions, while also addressing human security considerations. (ii) **Capacity Building:** The WTO should provide technical assistance and capacity-building programs to member states, especially developing countries, to help them implement effective e-commerce regulations. This support can enhance their ability to navigate the complexities of digital trade and ensure that human security is prioritized. (iii) **Regular Dialogue and Review:** Establishing a framework for regular dialogue between the WTO and RTA member states can facilitate the sharing of best practices and lessons learned. This ongoing conversation will help to identify emerging challenges in the digital economy and develop collaborative solutions that prioritize human security.

6.2. Strategies for Integrating Human Security into E-commerce Discussions

6.2.1. Developing Comprehensive Frameworks

To effectively integrate human security considerations into e-commerce discussions, comprehensive frameworks need to be established that address the multifaceted nature of human security: (i) **Multidimensional Approach:** Frameworks should encompass economic, social, political, and environmental dimensions of human security. This holistic perspective will ensure that trade policies do not inadvertently compromise individual rights or exacerbate inequalities. (ii) **International Standards:** The development of international standards for e-commerce that incorporate human security principles is essential. These standards can serve as a guide for member states in crafting their national regulations, ensuring that human rights are at the forefront of e-commerce policies. (iii) **Monitoring and Accountability Mechanisms:** Implementing mechanisms for monitoring compliance with human security standards

in e-commerce is crucial. These mechanisms can include independent assessments, stakeholder feedback, and public reporting, ensuring that governments and businesses are held accountable for their practices.

6.2.2. Promoting Inclusive Digital Economies

To ensure that the benefits of e-commerce are broadly shared and contribute to human security, strategies for promoting inclusive digital economies must be prioritized: (i) **Bridging the Digital Divide:** Efforts must be made to address the digital divide by investing in digital infrastructure, particularly in underserved regions. Government and private sector collaborations can facilitate access to affordable internet services and digital tools, enabling marginalized communities to participate in the digital economy. (ii) **Digital Literacy Programs:** Implementing digital literacy and skills training programs is vital for empowering individuals to engage fully with e-commerce. These programs should target vulnerable populations, equipping them with the knowledge and skills necessary to navigate the digital landscape confidently. (iii) **Support for SMEs and Local Businesses:** Policymakers should develop initiatives that support small and medium-sized enterprises (SMEs) in accessing e-commerce platforms. This can include financial assistance, training programs, and resources that help SMEs adapt to the digital economy, ensuring they have the tools to thrive.

The WTO moratorium on e-commerce has the potential to significantly enhance human security while facilitating global trade. However, achieving this potential requires a concerted effort from both the

WTO and its member states to balance trade facilitation with human rights considerations. By adopting comprehensive frameworks and promoting inclusive digital economies, policymakers can ensure that the benefits of e-commerce are equitably distributed. Ultimately, integrating human security into e-commerce discussions will foster a more just and resilient global trading system that prioritizes the well-being of individuals and communities.

7. Conclusion

Regional Trade Agreements (RTAs) are international pacts among multiple countries aimed at enhancing preferential trade ties by reducing barriers like tariffs and quotas, facilitating the flow of goods, services, and capital. Examples include the USMCA, CPTPP, and the EU's trade agreements. RTAs span sectors like agriculture, manufacturing, and services, increasingly focusing on digital trade and e-commerce. RTAs play a crucial role in advancing e-commerce by simplifying cross-border digital transactions, aiding market access, especially in digital sectors. They address data flows, cybersecurity, and electronic contracts vital for e-commerce operations. Varied approaches to e-commerce within RTAs are influenced by economic conditions and regulatory philosophies. For instance, the USMCA emphasizes e-commerce provisions like data protection, contrasting with the EU's stringent data standards. Case studies like the USMCA and CPTPP highlight the evolving e-commerce landscape within RTAs. Harmonizing regulations, especially concerning data privacy and security, is crucial for facilitating digital trade and promoting human security globally.

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