

Joint Policy Briefs

The WTO Moratorium on Customs Duties on Electronic Transmissions: What is *really* at stake?

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Key takeaways:

- Some World Trade Organization (WTO) members have expressed reservations about the WTO Moratorium on Customs Duties on Electronic Transmissions (the Moratorium), concerned primarily with foregone customs revenues.
- Estimating such revenues requires defining the scope of the Moratorium (i.e., what qualifies as an electronic transmission), and what duty rate should apply (i.e., bound or applied tariffs). Studies with different assumptions on these elements have arrived at widely distinct estimates—from US\$280 million to US\$8 billion.
- Even if we take the higher figure at face value, its relative importance vis-à-vis overall government revenue is low, and foregone customs revenues are concentrated in a small number of countries.
- In addition, instead of looking only at potential foregone revenue, we need to weigh this loss against the collateral costs of imposing customs duties. These include:
 - The cost borne by consumers in importing countries, including the small producers that rely on digital transmissions for the survival and growth of their businesses.
 - The harm to providers of digital products and services, which are increasingly located in developing countries and would see their growth potential curtailed.
 - The negative effect on jobs, as employment in some digitally enabled services grew by about 8% a year in low-income countries, compared with less than 4% in manufacturing and 2% in agriculture.
 - The high administrative costs of levying, assessing, and auditing customs duties on electronic transmissions, which will erode the value of any revenue collected.
 - The uncertainty generated by a non-permanent moratorium, which is bound to deter investment, with detrimental impacts on innovation and economic growth.
- As WTO members deliberate whether to make the Moratorium permanent, there is much more to consider than just foregone customs revenues. The collateral costs are considerable and compelling, as free digital transmissions contribute to business productivity, innovation, national competitiveness, and, ultimately, jobs. This is what is really at stake.

The WTO Moratorium on Customs Duties on Electronic Transmissions

Since 1998, WTO member countries have agreed not to impose customs duties on electronic transmissions.

The Moratorium is not set in stone: every few years governments agree to temporarily extend it at the WTO Ministerial Conference. The last extension occurred in June 2022, and it is due to lapse at the 13th WTO Ministerial Conference in February 2024, unless WTO members decide to make it permanent or temporarily extend it until the following Ministerial Conference.

Some WTO members have expressed reservations about a further extension or a permanent moratorium, primarily concerned about potential foregone customs revenues. These concerns stem from the growth of the digital economy and digital trade and are bound to increase as digital trade continues to grow—from 1995 to 2018, for instance, it went from less than US\$1 trillion to nearly US\$5 trillion, most of it electronically delivered.¹

This policy brief discusses the critical elements to understand the debate, including impacts on economic development and global competitiveness.

¹ OECD unpublished working paper.

What exactly is the Moratorium about?

The Moratorium ensures that WTO members will not impose *customs duties on electronic transmissions*. It clearly applies only to tariffs on cross-border transactions and not to domestic or internal taxes. The definition of electronic transmissions, however, is less clear. Yet it is critical to understand the scope of the Moratorium, which is the basis for estimating the potential foregone revenues.

Generally, electronic transmissions are understood as trade delivered electronically.²

But does the Moratorium apply solely to the transmission (i.e., the delivery of a digital good or service) or also to its content (i.e., the good or service delivered digitally)? WTO members have proposed different definitions, but business has taken note that governments intend it to include both the transmission and the transmitted content.³ In concrete terms, this covers a range of products that are used daily by consumers, such as online shopping and banking applications. It also covers basic tools and communications used by businesses of all sizes and across all industries, for example engineering designs sent by email or customer service support tools.

How does the Moratorium affect customs revenue?

Estimates of the impact of the Moratorium on potential customs revenues vary considerably. This is because there is no agreement on the definition of what should be considered a digital transmission. It is also because it is theoretically possible to assume that the highest possible duty rate will apply in calculating the tariff due. These assumptions get much less attention than the headline figures. But they matter.

As illustration, a 2019 study published by the United Nations Conference on Trade and Development (UNCTAD)⁴ found that “the total potential tariff revenue loss (including physical imports and electronic transmission) for the identified developing countries of the Moratorium will (...) be US\$8 billion”.

This figure is based on two key assumptions.

First, the study considered an inordinately broad scope of products. It included all types of goods that could *potentially* be digitised, for a total of 49 goods, compared to the 30 considered in a similar estimate by the WTO. Certainly, if it is assumed that a wide range of physical goods has been digitised and will remain so in the future, foregone revenue due to a moratorium will be higher.

Second, its calculation is based on the application of bound tariffs, which are the highest possible rates under WTO schedules, rather than applied tariffs, which are often lower and lead to smaller estimates. While one might argue that WTO members could increase tariffs up to the bound, this would most likely result in lower trade, and, therefore, lower customs revenue.

In fact, studies using a narrower list of digitisable goods and applied tariff rates have arrived at much lower figures of foregone revenues, some as low as US\$280 million.

“Don’t muzzle the ox while it is treading the grain—the long-term benefits of a permanent moratorium are much greater than the instant gratification of collecting tariffs”

Jane Kaleha
Founder and Sales Director,
Rehani Fresh Ltd.

² The Moratorium does not apply to goods ordered and paid for electronically but delivered physically. In these cases, rules pertaining to trade in goods (GATT) apply.

³ (Global Industry Statement on the WTO Moratorium on Customs Duties on Electronic Transmissions, 2022)

⁴ (Banga, 2019)

How will it affect overall government revenue?

Even if we were to take the higher figure at face value, its relative importance vis-à-vis overall government revenue is low, and foregone customs revenues are concentrated in a small number of countries.⁵

As calculated by the Organisation for Economic Co-operation and Development (OECD),⁶ potential foregone customs revenue corresponds to about 0.08%-0.23% of government revenue for developing countries. In addition, the largest foregone revenues (in absolute numbers) tend to be concentrated in countries that rely relatively less on customs revenue for their overall government budget.⁷ According to UNCTAD's estimates, just under US\$7 billion of the US\$8 billion of estimated foregone revenues are concentrated in only 15 countries. Seven of those are G20 members, and none is a least developed country.⁸

Is there any harm in taxing digital transactions?

So far, we have established that maintaining the Moratorium will result in some level of foregone customs revenue. A simplistic conclusion would be that developing countries should be able to collect these duties, even if they are not substantial.

But to stop here is misleading and harmful to countries. Instead of looking only at potential foregone revenue, we need to weigh this loss against the collateral costs of imposing customs duties.

1. **Consumers and small producers in the importing countries will bear the brunt.** As any introductory trade textbook will show, tariffs come at a cost, which are usually borne by the consumers in importing countries rather than producers in large exporting countries. This means that consumers in developing countries—including their small producers that use digital transmissions as inputs—will pay the price of the tariffs and, in turn, demand less digitally traded goods and services. This is harmful to developing countries. Research has shown that such inputs can substantially improve productivity and competitiveness. A recent report by the International Trade Centre (ITC) shows that, in regions where the quality of some digitally enabled services was high, 44% of firms in all sectors exported, versus 19% where the quality of services was low.⁹

“Not making the moratorium permanent damages entrepreneurship, particularly small businesses and those led by young people, which are disrupting established models and driving growth”

Victoria Alonsoperez
Founder and CEO, Chipsafer

2. **Trade will suffer.** Even though businesses and consumers in developing countries still rely on imports from developed countries, developing countries are also becoming global providers of digitally enabled goods and services. Digitalisation has opened opportunities for the inclusion of small businesses from developing countries in international trade. Export growth of digitally enabled services in least developed countries, for instance, outpaced that of other services between 2007 and 2019 and was faster than in the rest of the world. This means that companies in developing countries, including low income and least developed, would be harmed by the imposition of customs duties elsewhere on their digital transmissions and see their growth potential curtailed.

⁵ (Evenett, 2021)

⁶ (Andrenelli & Lopez Gonzalez, 2019)

⁷ (Andrenelli & Lopez Gonzalez, 2019)

⁸ (Evenett, 2021)

⁹ (International Trade Centre, 2022)

3. **Developing countries will be negatively impacted, too.** The geography of digital trade is changing: In 1995, OECD countries represented 82% of estimated global digital exports. By 2018, that share had fallen to 73%.¹⁰ Also, the employment outlook in developing economies would suffer. Between 2007 and 2019, employment in some digitally enabled services grew by about 8% a year in low-income countries. In contrast, employment in manufacturing grew less than 4% per year during the same period, while growth in agriculture was only 2%.
4. **Lifting the Moratorium will mean an explosion of costly red tape.** The administrative cost of levying, assessing and auditing customs duties on electronic transmissions would also erode the value of revenue collected. This is particularly relevant when one considers the technical difficulty of assessing such duties, as arguably there is no “border” in cyberspace.

Finally, even if WTO members periodically renew the Moratorium, it should not be assumed that it is costless. The uncertainty generated by a short-term moratorium is bound to deter investment, with detrimental impacts on growth and innovation.

“Governments thinking of taxing digital transmissions create uncertainty, which makes companies like mine less willing to innovate and puts my business at risk.”

Martin Perez

Founder and CEO, Petchef

What to do then?

As countries deliberate whether to make the Moratorium permanent, there is much more to consider than just foregone customs revenues, which are relatively small in any case. The collateral costs are considerable and compelling. Countries will bear burdensome economic and administrative costs to manage and enforce customs formalities on digital transmissions. Tariffs on digital transmissions will result in a direct tax on domestic consumers and businesses reliant on the digital economy, discouraging the use of transmissions that contribute to business productivity, innovation, national competitiveness, and, ultimately, jobs. This is what is really at stake.

¹⁰ OECD unpublished working paper.

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About the International Trade Centre

The International Trade Centre was established in Geneva, Switzerland, as a joint agency of the United Nations and the World Trade Organization dedicated to strengthening the competitiveness of small and medium-sized enterprises to build vibrant, sustainable export sectors that provide entrepreneurial opportunities, particularly for women, young people and poor communities.

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