

The WTO Moratorium on Customs Duties on Electronic Transmissions; why it matters

With the 13th WTO Ministerial Conference, MC13 scheduled for 26-29 February 2024, the Confederation of Swedish Enterprise is urging WTO members to extend or make permanent the WTO Moratorium on Customs Duties on Electronic Transmissions.

WTO Members have maintained a moratorium on customs duties on electronic transmissions since 1998, renewing it during each two-yearly WTO Ministerial conference. The primary goal of this moratorium agreement was to establish a duty-free environment for digital trade, which for many years has helped reduce uncertainties and deliver a predictable and non-discriminatory digital trade landscape. Digitally delivered products and services have increasingly become a vital component of global trade. With an average annual increase of 8.1 percent rate over the last two decades, it has outpaced the growth of any other categories in global trade.¹ In order to avoid hampering this development, it is essential that digital trade is kept open and duty free.

However, this moratorium is not permanent, and any continuation requires unanimous support from all WTO members at each Ministerial meeting. The most recent renewal took place in 2022, and it is set to expire at MC13 unless WTO members agree to renew it once again.

Challenges and Concerns

In recent years, a number of WTO members - notably India, Indonesia and South Africa - have questioned the economic relevance of the moratorium, arguing on the basis of potential forgone customs revenues. This debate raises concerns that not all members will choose to support renewing the moratorium at the upcoming WTO MC13, which could adversely affect global trade, economic growth and sustainable development.

Lack of Consensus

It should be noted that there are uncertainties surrounding the moratorium. In particular, fundamental concerns surround the lack of consensus on the definition of electronic transmissions and on the scope of the moratorium. WTO Members have not agreed on whether to treat electronic transmissions as goods or services, nor whether the moratorium applies to content or to the carrier medium. Without the moratorium, this uncertainty can lead to tariffs being applied to digital products such as software, movies, videos, emails and other digitally enabled services. This in turn creates a fragmented and uncertain business environment.

The lack of consensus on the definitions also complicates the process of identifying and measuring the revenue implications of the moratorium. Differing assumptions about these critical elements have led to widely varying estimates. Those countries arguing in favour of suspending the moratorium claim that it negatively impacts their economic interests. This is despite studies showing that any customs revenues foregone directly attributable to the moratorium are small; on average around 0.01-0.33% of overall government revenue in developing economies.² In addition, approaches such as VAT for

¹ [Why Digital Trade Should Remain Open \(imf.org\)](https://www.imf.org/en/Topics/Trade/Digital-Trade)

² [Understanding the potential scope, definition and impact of the WTO e-commerce Moratorium | en | OECD](https://www.oecd.org/en/topics/e-commerce/2022/04/understanding-the-potential-scope-definition-and-impact-of-the-wto-e-commerce-moratorium)

collecting revenues from digital trade - which are non-discriminatory and domestic - have been shown to distort trade less than alternatives of tariffs or customs duties.³

Why is the moratorium important?

Institutional significance for the WTO

First, allowing the moratorium to fall would be a significant and historical setback for the WTO. It would - for the first time since the WTO's establishment - enable member countries to impose tariffs, a practice that the organisation was created to prevent. In terms of optics, it would be a disastrous development.

Creating a favourable trade environment

The absence of tariffs and trade barriers in the digital economy has incentivized businesses to invest in new technologies and services, benefiting not only the growth of the digital economy but also productivity and the quality of products and services. Tariffs on electronic transmissions would directly increase costs for both domestic businesses and consumers reliant on the digital economy. This in turn discourages the use of electronic transmissions, which for many years have contributed to business productivity, innovation, competitiveness, and consumer welfare. Therefore, when discussing the moratorium, it is crucial to consider more than the foregone customs revenues. The collateral costs of imposing customs duties on electronic transmissions will be substantial, with adverse effects on global trade.

This will affect all companies, irrespective of their size or location

Developing countries' often rely heavily on digital trade as a method of accessing the global market, and the growth of the digital economy has assisted their efforts to become part of global trade. By allowing duty-free access to digital goods and services, the moratorium reduces trade barriers to entry, enabling countries to make fuller use of digital technologies for economic growth and development. Many developing countries specialise in providing digital services, such as software development and IT outsourcing. Imposing tariffs on electronic transmissions, and the increased administration costs that would come with this, would not only hinder the competitiveness of these sectors but would also impede their ability to attract foreign investment and create jobs.

For MSMEs (micro, small and medium-sized enterprises), SMEs and female-owned businesses, the moratorium is a powerful aid to accessing global markets. These companies often lack the resources and infrastructure to navigate complex international trade regulations and tariffs. By making use of the leverage of cheaper digital inputs, digital platforms and e-commerce channels, the moratorium provides these businesses with the opportunity to compete globally.⁴

Furthermore, research has shown that companies with the ability to engage in digital trade are more likely to export their products and services internationally, increasing their revenue and growth opportunities. This is particularly true for MSMEs and SMEs.

³ [IMF Notes Volume 2023 Issue 005: Fiscal Revenue Mobilization and Digitally Traded Products: Taxing at the Border or Behind It? \(2023\)](#)

⁴ [Digital Trade for Development](#)

The moratorium needs to be made permanent

The uncertainty stemming from a short-term moratorium is likely to create an uncertain business environment, one which could have detrimental repercussions on incentives for investment and business internationalisation, in turn constraining the global economy. WTO members therefore need not only to extend the moratorium, but to make it permanent.

In conclusion, a failure to renew the moratorium would undermine the progress made in digital trade. Instead, it would introduce trade barriers and fragmentation within the digital economy. The moratorium is essential for enforcing an inclusive and competitive global economy; its extension is vital to the prosperity of businesses, regardless of their size, sector or location.